

**THE HISTORICAL AND CONTEMPORARY SOCIOLINGUISTIC STATUS OF  
SELECTED MINORITY LANGUAGES IN CIVIL COURTS OF  
ZIMBABWE**

by

PATSON KUFAKUNESU

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SUPERVISOR: PROF D E MUTASA

CO – SUPERVISOR: PROF M KADENGE

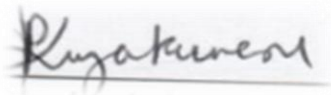
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## DECLARATION

**Student Number: 5576-597-1**

I, Patson Kufakunesu, hereby declare that The Historical and Contemporary Sociolinguistic Status of Selected Minority Languages in Civil Courts of Zimbabwe is my own work and it has not previously been submitted for assessment to another university or for another qualification.

Signature

A handwritten signature in black ink, appearing to read 'Kufakunesu', written over a horizontal line.

Date: 4 August 2017

## **ABSTRACT**

This study examines the historical and contemporary sociolinguistic status of three minority languages, namely Shangani, Kalanga and Tonga in Chiredzi, Plumtree and Binga respectively within the civil courts of Zimbabwe. This research problematizes the issue of language choice and usage in civil courtroom discourse by native speakers of the languages under study. The background to this research endeavor is the historical dominance of English, Shona and Ndebele in public institutions as media of communication even in areas where minority languages are dominant, a situation that has resulted in minority languages having a restricted functional space in public life. Respondents in this research included native speakers of the languages under study who have attended civil courtroom sessions either as accused persons or complainants, members of rural communities including community leaders, court interpreters stationed at Binga, Chiredzi and Plumtree magistrates' courts and members of the Judicial Services Commission (JSC). Data was also collected from minority language advocacy groups including Tonga Language and Cultural Committee (TOLACCO), Shangani Promotion Trust (SPAT) and Kalanga Language and Culture Development (KLCDA) using semi-structured interviews. In addition, participant observation of civil courtroom proceedings involving native speakers of Kalanga, Tonga and Shangani was done. Documentary analysis of colonial and postcolonial language policies in Zimbabwe was also done. Data was analyzed using Critical Discourse Analysis (CDA) and Ecology of Language theories. The findings for this research revealed that historically, language policy making in Zimbabwe has impacted negatively on the functional roles of Shangani, Tonga and Kalanga in civil courtroom communication because of the lack of implementation clauses in national constitutions. Furthermore, language attitudes that were analyzed in conjunction with a number of factors including age, demographics, naming of provinces, awareness of constitutional provisions on language and language-in-education policies were found to be key determinant factors influencing the sociolinguistic status of Kalanga, Tonga and Shangani in civil courtroom discourse. Court interpreting and initiatives by language advocacy groups also impacted on the sociolinguistic status of the languages under study in civil courtroom interaction.

## **KEY TERMS**

Linguistic rights, language planning, language policy, status planning and courtroom discourse, minority language, official language, court interpreting, court interpreter, multilingualism, indigenous language.

## **DEDICATION**

To my late father Agositino Chuma Kufakunesu whose passion for education has been a source of inspiration throughout my academic career.

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# CHAPTER 1

## INTRODUCTION

### 1.1 BACKGROUND TO THE STUDY

The main aim of this study is to critically evaluate the historical and contemporary sociolinguistic status of selected indigenous minority languages in courtroom discourse in civil courts of Zimbabwe. This research problematizes the issue of the conversational interaction involving linguistic minorities in Zimbabwean civil courts. The study specifically analyzes how the accused and complainants whose first languages are Kalanga, Shangani or Tonga convey their messages through interpreters whose duty is to facilitate communication within the courtroom. This research also seeks to interrogate the sociolinguistic status of the above mentioned minority languages focusing on their role in facilitating communication between complainants and accused persons on the one hand and the judiciary officers like magistrates on the other hand in civil court cases in Zimbabwe. Examining courtroom verbal exchanges between minority language speakers and interpreters is expected to highlight the communication problems minority language speakers encounter in conversational interaction within the courtroom as well as interrogating the level to which courtroom interpreters in Zimbabwe 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 Zimbabwe and the impact they have had on the use of minority languages as media of communication in formal domains of life with a bias towards courtroom discourse.

In a nutshell, the main objective of this research is to analyse the issue of linguistic rights for minority language speakers in Zimbabwean civil courts. According to Ndhlovu (2008:61) “linguistic diversity is indeed a sociolinguistic reality in ... Zimbabwe”. This implies that linguistic rights for speakers of different languages including minority languages must be upheld in all spheres of life particularly formal domains. Given the fact that minority languages have been marginalised for a long time in Zimbabwe, there is a need to critically examine their functional status in public domains like the courts especially given the provisions of the current

constitution which recognises them as official languages. This should entail analyzing communication problems faced by minority language speakers during civil courtroom procedures, examining court interpreters' capacity to translate messages conveyed using minority languages and analysing the language policy of the judiciary within the context of language planning and policy developments in Zimbabwe. In addition, there is a need to examine initiatives by the judiciary in order to find out the possibilities of making sure that linguistic rights for minority language speakers are guaranteed. All this is done in order to help the researcher establish the functional roles of Kalanga, Tonga and Shangani in civil courtroom communication. This gives an indication of the extent to which linguistic rights for minority language speakers are guaranteed in civil courtroom interaction in Zimbabwe, thus revealing the sociolinguistic status of the languages under study in civil court judicial proceedings.

The background to this study is the multilingual nature of Zimbabwe whose 16 languages have all been officialized in accordance with the provisions of the Constitution of Zimbabwe Amendment (No 20) of 2013 which says, 'the following languages: Shona, Chewa, Chibarwe, English, Kalanga, Khoisan, Nambya, Ndau, Ndebele, Shangani, Sign language, Sotho, Tonga, Tswana, Venda and Xhosa are the officially recognised languages of Zimbabwe.' Before these constitutional provisions were promulgated, "English was the only recognized national official language i.e. the official language while Ndebele and Shona (were) the official national languages i.e. national languages" (Ndlovu, 2013:14). Six languages including Kalanga, Tonga, Sotho, Venda and Shangani were the official minority languages with the rest just referred to as minority languages.

The motivation to choose Kalanga, Shangani and Tonga as the focus of this study is as a result of the fact that the communities where these languages are spoken have been at the forefront advocating for the recognition of the rights of minority language speakers in Zimbabwe to the extent that language associations which include the Tonga Language and Cultural Committee (TOLACCO), Zimbabwe Indigenous Languages Association (ZILPA) and Venda-Tonga-Kalanga Languages and Culture (VETOKA) have been formed. In addition, all the three languages have active language associations advocating for the development and promotion of each respective language. TOLACCO, SPAT and KLCDA represent Tonga, Shangani and Kalanga languages respectively, thus it becomes crucial to investigate the impact of the efforts

by these civil groups on the functional roles of the languages under study in public institutions like the civil courts. Furthermore, the languages under study are cross-border languages whose fortunes in public life are likely to be affected by their sociolinguistic statuses in the neighbouring countries.

Initiatives like having collaborative research activities, documenting and developing minority languages as well as the training of writers from minority language groups (Nyika 2007) have been put in place to ensure that these languages are relatively intellectualized and they are now used as media of instruction in primary school as well as being studied at some of the tertiary institutions which include Joshua Mqabuko Nkomo Teachers' College and Masvingo State University in the country. The same languages have also found space on radio programs at one of the country's radio stations. Such developments motivated the researcher to investigate the language choices of Tonga, Shangani and Kalanga in civil courtroom interaction.

The languages that generally historically used to facilitate courtroom discourse in Zimbabwe include English, Shona and Ndebele with court officials who include magistrates, judges and prosecutors conversing in English while the accused and complainants were also allowed to convey messages in English. However, in cases where the accused and complainants opted not to converse in English, they were allowed to use either Ndebele or Shona with the court interpreter translating the messages into English for the benefit of court officials. Minority languages have slowly been finding functional space as media of communication in the courts of Zimbabwe with the advent of independence. However, they seem to have a rather peripheral role in comparison to English, Shona and Ndebele even in geographical areas native speakers of the minority languages in question have numerical dominance. Given the multilingual nature of Zimbabwe, whose 16 languages have recently been officialised, an investigation of the linguistic rights for minority language speakers in formal domains of life in general and the civil courts, in particular, is needed. It is, therefore, of critical importance to have a thorough examination of the experiences of minority language speakers in real, practical contexts in order to have a well informed understanding of the factors that influence the language attitudes and choices of native speakers of Kalanga, Tonga and Shangani in civil courtroom interaction.

According to Usadolo (2010: 4), "linguistic human rights, in the context of court interpretation are very important, because they provide a vehicle through which accused persons are able to

express themselves in defence of their other rights which may have been violated”. To underscore the critical importance of linguistic rights in courtroom discourse, Usadolo (2010:4) further argues that “the courtroom is considered to be a sensitive social institution because matters that come before it sometimes mean the difference between freedom and captivity, or, in some cases, life and death, for the accused person brought before it”. This clearly explains the critical importance of making sure that in courtroom communication accused persons and complainants are allowed to articulate issues using their native languages instead of other languages which may make it difficult for them to competently express themselves. An analysis of courtroom discourse in Zimbabwe’s civil courts within the context of the history of language planning and policy efforts in Zimbabwe unravels the impact of language legislation on the sociolinguistic status of Shangani, Tonga and Kalanga in public life in general and civil courtroom discourse in particular.

The new constitution of Zimbabwe has provided a foundation for the equality of all citizens in judicial matters by officializing all languages spoken in the country. Given these constitutional provisions, there is a need to find out whether or not minority language speakers have now embraced their native languages as media of communication in the courts including how often they are used. If they are playing a peripheral role, there is a need to examine the possible causes for this scenario given the fact that officializing a language entails increasing its functional base to all formal domains of life including the courts. It is also important to also investigate what the judicial authorities of Zimbabwe as represented by the Judicial Services Commission (JSC) are doing in order to realign court procedures in terms of language use with the proclamations of the new constitution. This brings to the fore the critical role of court interpreters in a multilingual environment and the need to critically analyze what efforts are being made to make sure that court interpreters are equipped enough with the requisite skills so that they are able to competently translate messages conveyed using minority languages within the context of courtroom interaction. This study thus interrogates some of the problems encountered by court interpreters as they facilitate communication in civil court cases involving Kalanga, Tonga and Shangani speakers in civil courtroom discourse.

## **1.2 STATEMENT OF THE PROBLEM**

Courtroom discourse practices in both pre-independence and post-independence Zimbabwe have seen Shona and Ndebele, the majority indigenous languages spoken in the country as well as English being the dominant media of communication. Such language practices have largely ignored the fact that besides English, Shona and Ndebele, there are 13 minority languages spoken in the country. Minority language speakers have been disadvantaged for a long time since they have had to communicate using the majority languages in courtroom conversations at the expense of their native languages. Even though the majority of minority language speakers may have learnt Shona or Ndebele in school, these languages remain second languages to them and not every one of them can have a native like proficiency in the languages such that using them in highly sensitive environments like the courts can be a source of communication problems for them. In addition, the accused and complainants in the lower courts like the civil courts which are the context of this study are generally poor, cannot afford legal representation and the environment of the courtroom is both unfamiliar and intimidating to them. Consequently, denying such people the opportunity to converse using their mother tongue in courtroom exchanges creates a risk for them to fail to correctly convey their messages for interpreting by the interpreter and probably losing cases they could have won. With the constitution of Zimbabwe now recognizing 16 official languages, it has become an issue of critical importance to examine how judicial procedure in Zimbabwean courts has tried to embrace the multilingual nature of the country focusing on minority languages in an effort to uphold the language rights of minority language speakers.

This study brings to the fore the question of how “...multilingualism can be managed to ensure that African languages don’t remain passive constituents of policy” (Kamwangamalu, 2000: 58). It highlights the crucial sociolinguistic phenomenon of linguistic diversity, a resource which is supposed to benefit communities instead of being viewed as a problem. As such, this study challenges governments, communities, language associations and linguists to contribute either individually or collectively to the revitalisation and protection of linguistic rights for minority language speakers especially in public life. An analysis of language practices in the civil courts was, therefore, expected to reveal whether there are any measures that are being taken by institutions like the courts to make sure that the use of minority languages in formal domains such as civil courts is promoted in order to cater for linguistic rights for minorities.

### **1.3 AIM OF THE STUDY**

The aim of this research is to examine the trajectory Kalanga, Tonga and Shangani have gone through in terms of functional role in civil courtroom discourse in colonial and postcolonial Zimbabwe.

#### **1.3.1 OBJECTIVES OF THE STUDY**

- 1) To analyse factors that have contributed to the current sociolinguistic status of Kalanga, Tonga and Shangani in civil courts of Zimbabwe.
  
- 2) To examine the language choices of the native speakers of Shangani, Kalanga and Tonga in the civil courts.
  
- 3) To evaluate the initiatives of minority language associations and their overall impact on the promotion of Kalanga, Tonga and Shangani in public life in general and the civil courts in particular.
  
- 4) To establish the impact of court interpreting on the functional role of Kalanga, Tonga and Shangani in civil courts of Zimbabwe.
  
- 5) To examine the issue of linguistic rights for the speakers of the languages under study within the context of civil courtroom interaction.

#### **1.3.2 RESEARCH QUESTIONS**

- 1) What factors have historically influenced the sociolinguistic status of Kalanga, Shangani and Tonga in the civil courts of Zimbabwe?
  
- 2) To what extent have these factors influenced the language choices of Tonga, Kalanga and Shangani native speakers in civil courtroom interaction?
  
- 3) What has been the contribution of minority language associations to the sociolinguistic status of the languages under study in civil courtroom communication?



4) To what extent has court interpreting impacted on the functional role of the languages under study in civil courts?

5) What has been the impact of the sociolinguistic status of Kalanga, Shangani and Tonga on linguistic rights for the speakers of these languages?

## **1.4 JUSTIFICATION**

The majority of the studies examining the question of linguistic rights for speakers of indigenous languages in Africa in general and Zimbabwe in particular have had a slant towards the education domain (Magwa, 2010; Mavunga, 2010; Ndlovu, 2011; Nyika, 2008; Ogechi, 2003; Nkomo, 2008; Mutomba, 2007; Muchenje, Goronga and Bondai, 2013; Batibo, Mathangwane and Tsonope, 2003). In these studies, researchers have generally expressed concern over the failure by governments to initiate and implement language-in-education policies which are aimed at the revitalisation of minority languages in order to ensure that they can be used as media of instruction in schools thereby promoting the linguistic rights of minority language speakers. Not much literature has focused on the use of minority languages in other formal domains of life especially the courts from a Zimbabwean perspective. To the researcher's knowledge, Svongoro, Mutangadura, Gonzo and Mavunga (2012) and Makoni (2014) have interrogated the issue of the use of indigenous languages in the courts specifically focusing on how the cultural backgrounds of laypersons in alleged cases of rape and gender respectively impacts on courtroom discourse. The respondents in these studies were native speakers of Shona and Ndebele respectively, the majority indigenous languages in Zimbabwe. The present researcher has expanded the analysis of linguistic rights for native speakers of indigenous languages in Zimbabwe to examining factors contributing to communication problems encountered by minority language speakers in courtroom communication during trials in civil courts. This study reveals unique problems given the fact that minority languages in Zimbabwe are not as developed as Shona and Ndebele.

The issue of linguistic rights in the courts is of critical importance to complainants and accused persons. These laypersons that are brought to the courts over alleged crimes should be able to articulate issues in such a way that what they say during court proceedings is clearly understood

by court officials. Given the sensitive nature of the courtroom environment, there is a need for them to be given the opportunity to use the languages they are highly competent in. This implies that failure by minority language speakers to use their own languages in the courts especially civil courts in which most of them may not be having legal representation may affect the way they convey messages in the courts. Therefore, there is a need to critically examine the problems minority language speakers could be encountering when they converse in civil courtroom interaction given the language choices at their disposal.

Findings from this study are expected to challenge different stakeholders including government, language communities, linguists and civil society to realise the need to initiate programs for the revitalisation of minority languages as well as promoting their effective usage in other formal domains of life like the courts. This makes it possible for the speakers of these languages to be able to access government programs and information as well as providing the platform for them to meaningfully participate in development procedures (Muthwii and Kioko, 2003). It is against this background that an examination of the historical and contemporary sociolinguistics status of indigenous languages in courtroom discourse is done. This eventually challenges government, civil society, linguists as well as minority languages communities to come up with initiatives to promote and develop minority languages to the extent that they could also be used more effectively in formal domains like the courts thereby protecting the linguistic rights of minority languages speakers.

Of significance is the fact that the act of officializing a language should go beyond policy pronouncements which are on paper. Faingold (2004:11) says “an official language is a language that a government uses for its day to day activities in the fields of legislation, judiciary, public administration and teaching.” This implies that a language which has acquired official status should be used in all formal domains of life. Now that in the Constitution of Zimbabwe, 16 languages spoken in the country have been declared official, it becomes crucial to find out the situation on the ground regarding the use of the different languages especially minority languages in public institutions in order to find out how these languages can be revitalised and be used more widely for the benefit of their speakers.

## **1.5 BRIEF LITERATURE REVIEW**

Courtroom communication using minority languages has been and remains a thorny issue in most countries all over the world, especially, in Africa. Most African countries are multilingual in nature and as a result the need for court interpreters to be fluent in both indigenous majority and minority languages remains a cause for concern. Language planning and policy pronouncements which have largely been influenced by the colonial past have not helped matters. Trudell (2000:4) says, “for a variety of reasons, the official language policies of most post-independence African nations instated the colonial language-English, French, Portuguese-as the official language of government, business and education” .Usadolo (2010:220) also described the same scenario saying, “since the end of colonialism, many countries in Africa have adopted their colonial masters’ languages for commercial and administrative functions and reduced their own to languages used in the community level.”This has resulted in colonial languages practically dominating all the formal domains of life including courtroom discourse at the expense of indigenous languages especially minority languages (Kamwangamalu, 1997, 2000; Magwa, 2010; Moyo, 2010; Muthwii and Kioko, 2003; Nhongo, 2013). Kamwangamalu (2000:56) argues that even after a constitutional provision that allowed the use of any one of the country’s languages in the courts, South African court officials seemed to have been reluctant to embrace multilingualism in the courts as evidenced by a judge in a Durban court who denied a Zulu speaker a request to be tried in Zulu “... arguing that doing so would ‘throw the province’s courts into chaos’ ”. This explains the predicament native speakers of indigenous languages especially linguistic minorities find themselves in notwithstanding the positive and ambitious language policy provisions in some countries.

The anti-transformational attitude displayed by the above mentioned judge does not auger well with whatever efforts are put in place by the government through legislation, speakers of indigenous languages and other stakeholders to ensure that African languages find space in facilitating judicial proceedings. It becomes even more detrimental to the prospects of promoting indigenous languages in public life especially given the fact the that a judge, a key figure in the administration of justice and is expected to play a crucial role in the implementation of constitutional provisions for the use of indigenous languages in the courts saw no sense in the usage of the languages.

Even after crafting language policies whose objective was to uplift the status of indigenous languages, studies (Kamwangamalu, 2000, 2009; Magwa, 2010) have generally revealed that language practices in formal domains like the courts have continued to favour ex-colonial languages. In his study, Kamwangamalu (2009:133) found out that “...language policies in most African countries have succeeded only in creating space, on paper at least, for the promotion of indigenous languages in higher domains...(but) they have failed to implement the policies and sever ties with inherited colonial language policies” because of ideological complexities. Kamwangamalu (2000) examined the status and use of languages in South Africa following South Africa’s constitutional provisions which officialized all languages used in that country. The researcher concluded that language practices in some of the country’s institutions like the media specifically television, education, the government and administration reflected an unofficial hierarchical ranking of languages with English at the top followed by Afrikaans and African languages at the bottom. In addition, Kamwangamalu (2000:58) argued that “...the language consumer would not strive to acquire the knowledge of African languages, for currently these languages are not marketable and have no cachet in the broader political and economic context.” This argument resonates well with Cooper (1989) who attributes failure for language planning models to lack of proper marketing for the languages in question that is whether acquiring a language can open up job opportunities and give consumers access to employment. In this study, the researcher critically analyzes these arguments in order to find out whether the same arguments could also explain the problem of failure to uphold linguistic rights for minorities.

Minority language speakers in Zimbabwe have for a long time not had an opportunity to use their native languages when communicating within the context of the courtroom even in cases where they can hardly express themselves in either English, Shona or Ndebele and this has had a knock on effect on their linguistic rights. In an effort to critically analyse situations like this, Erasmus (1999: vii) argued that “if linguistic human rights are not respected, minorities and marginalized groups cannot truly participate in negotiations concerning their fate”. Usadolo (2010) also weighed in saying “when linguistic human rights are not guaranteed to groups who are linguistically handicapped with regard to the use of dominant language(s), such groups are equally deprived of voice to articulate and demand other rights.” This implies that minority language speakers are not only at a disadvantage in courtroom communication but they are also

discriminated against in other domains of life since they may not be able to adequately articulate their other concerns of life using languages which are not their mother tongue.

Most studies on minority languages in Zimbabwe have generally focused on the question of the language-in-education policy (Nkomo, 2008; Magwa, 2010; Mavunga, 2010; Ndlovu, 2011). Mavunga (2010) examined teachers' and parents' attitudes towards the use of Shona as a medium of instruction from grades 1-3 in a Tonga-speaking community. This study revealed that a handful of parents and teachers were against the use of Shona as a medium of instruction whilst the majority were of the view that Shona should continue to be used so that children would continue to be part of the wider society. From his research on mother tongue education in the official minority languages in Zimbabwe, Ndlovu (2011) found out that despite the fact that the government of Zimbabwe had declared that 6 minority languages including Venda, Tonga, Nambya, Kalanga, Sotho and Shangani were to be used as media of instruction in schools located in communities where they were spoken, very little was being done to implement this policy. Magwa (2010: 157) "...argued strongly for the recognition and use of all indigenous languages in the country in both the private and public spheres." The findings by Magwa (2010) revealed that English has continued to be the language of the media, education, law and administration in post-independence Zimbabwe.

While acknowledging the contribution made by the above mentioned researchers to the debate on the promotion and protection of minority language rights in education, there is a need to expand the debate to other domains of life like the courts especially considering that minority languages in Zimbabwe have now attained official status. The findings of the present research are expected to bring to the fore the question of the levels of commitment the Zimbabwean government, minority languages communities and minority languages advocacy groups have in making sure that minority language speakers' right to use their native languages in higher domains of life in general and the civil courts in particular are guaranteed.

According to Ndhlovu (2007), "... language policies that deliberately seek to suppress some languages would be in violation of the right to language". In line with this assertion, Mazrui and Mazrui (1998: 115) argued that the idea of right language to refers to "... the right to use the language one is most proficient in ...". It is in the light of this that the Zimbabwean government might have realised that there was a need to make sure that all languages spoken in the country

are accorded official status. However, the need to investigate whether there are any initiatives to 'turn the grand plan into action' (Kamwendo, 2006:62) remains critical hence the present study which seeks to examine civil courtroom discourse involving minority language speakers in Zimbabwean courts.

Researchers on the language question in Africa (Mooko, 2006; Moyo, 2010; Ndhlovu, 2008; Nyika 2007, 2008) have raised concerns over the peripheral role of indigenous African languages in public life. They have argued that language policies in Africa seem to have achieved very little in uplifting the status of African languages especially those spoken by minorities in public life. This has resulted in failure by institutions to protect and uphold linguistic rights for minorities in public domains of life.

Some of the studies done by Zimbabwean researchers focusing on the use of indigenous languages in courtroom discourse include Svongoro, Mutangadura, Gonzo and Mavunga (2012) and Makoni (2014). Svongoro et al (2012) carried out a linguistic analysis of courtroom discourse focusing on selected cases of alleged rape in Mutare. The study specifically examined the language used by court officials and lay persons during court sessions with a clear focus on "... linguistic and socio-cultural factors that motivate the choice of certain lexical and syntactic features" (Svongoro et al 2012:117). Using Critical Discourse Analysis (CDA), Conversational Analysis and Text Linguistics as tools of analysis, the researchers found out that courtroom communication is characterised by the use of euphemistic and sexually explicit verbal exchanges. Courtroom officials' discourse is laden with highly complex syntactic structures and discipline specific legal lexical items which make them stand out as an identifiable professional outfit. This kind of language has, according to the researchers has been a source of power for courtroom officials since lay persons can hardly understand what messages are being conveyed.

Grabbau and Gibbons (1996) bemoaned the high levels of injustice which are a result of incompetence demonstrated by court interpreters in cases involving linguistic minorities in the courts. These researchers argue that, "nearly 32 million people in the US use English as their primary language. Of that number, 43,9% speak English "less than very well" and the language barrier is affecting the court system by impeding the swift, effective delivery of justice." (Grabbau and Gibbons 1996:2). This scenario clearly depicts the predicament minority language speakers can find themselves when expressing themselves in such highly sensitive contexts like

the courtroom hence the need to critically examine courtroom discourse involving minority language speakers in civil court cases in Zimbabwe. From this study, the investigator highlights the communication impediments minority language speakers could be facing in courtroom verbal interaction. In addition, this study reveals court interpreters' level of preparedness to translate information from minority languages without prejudicing minority language speakers.

This brief literature review has revealed the predicament minority language speakers normally find themselves in with regard to the promotion and protection of linguistic rights. Most of the reviewed studies have generally focused on the discrimination of minority languages in the education and media domains with a few studies examining the issue of linguistic rights for minority language speakers in courtroom discourse. To the researcher's knowledge besides Svongoro et al (2012) and Makoni (2014) who examined problems of lexical choices in rape trials and language and gender problems within the courts, no research has been done focusing on the communication challenges faced by minority language speakers in Zimbabwean courts hence the present research.

## **1.6 RESEARCH METHODOLOGY**

This section discusses the data collection and data analysis methods that were used in this study. Semi-structured interviewing, participant observation and documentary analysis are used as methods of data collection. A detailed description of the methodology used in this study is given in Chapter 4. Suffice to say at this stage that this study adopts the qualitative research design. A combination of three data collection methods namely participant observation, qualitative interviewing and documentary analysis were used in this study. Qualitative interviewing refers to semi-structured types of interviews which do not follow a uniform structure in terms of the design of the questions which informants are asked (Gaskel, 2000). The advantage of using the semi-structured interview is that it allows the researcher to probe "in order to get more information, seek clarification and to be able to continuously evaluate the progress of the interview and guide the conversation in line with the research objectives (Nyika 2010:240)." Accused persons and complainants whose native languages are Kalanga, Tonga and Shangani are interviewed in order to find out their language preferences when they communicate during civil court procedures as well as the challenges they encounter when they convey messages within the courtroom.

Members of the JSC are also interviewed in order to find out the efforts that are in place as well as how much progress has been achieved in order to make sure that minority language speakers can also effectively their languages as media of communication in the civil courts. Court interpreters tasked with interpreting the languages under study were interviewed in order to examine their level of competence in interpreting these languages in civil courtroom communication. The researcher also observed courtroom proceedings in order to make an evaluation of the process of interpreting as complainants and accused persons put across messages through interpreters in civil court cases. In addition, documentary analysis was carried out in order to get insights into language planning and policy procedures done historically in Zimbabwe with a view to evaluate their impact on the protection of minority languages speakers' linguistic rights. Policy documents on language use in judicial procedure were expected to be obtained from the JSC with a view to critically examine the language policy of the courts in Zimbabwe as well as their current efforts in ensuring that the use of minority languages in the courts becomes a reality.

## **1.7 THEORETICAL FRAMEWORK**

In this research, data is analyzed using Critical Discourse Analysis (CDA) and Ecology of Language. CDA presupposes a study of relations between discourse, power, social inequality and the position of the discourse analyst in such social relationships. Van Dijk (1993:249) asserts that CDA “analyses the role of discourse in the (re)production and challenge of dominance. Dominance is defined here as the exercise of social power by elites, institutions or groups that results in social inequality, including political, cultural, class, ethnic, racial and gender inequality.” Critical discourse analysts focus on a number of aspects within communicative events in order to reveal relationships of dominance in social interaction. The courtroom is an environment in which relations between participants are characterised by power and dominance with courtroom officials dominating laypersons. These unequal power dynamics are exacerbated by an inadequate expressive power in terms of language use by minority language speakers. There is a need to expose these social inequalities in courtroom discourse by analysing naturally occurring data as is the case in this present research. In addition, CDA is provides the necessary tools that can adequately be utilized in the examination of policy documents. Since constitutional



provisions on language and language usage are under scrutiny in this study, CDA becomes an appropriate method of data analysis.

The Ecology of Language is a method of linguistic analysis whose use is premised on linguistic diversity as a reality characteristic of societies worldwide. Each language, from the point of view of the ecology of language does not exist in a vacuum but it operates in an environment where there are other languages that normally compete for functional space in limited domains of public life (Hornberger, 2002; Tsuda, 1994; Skutnabb-Kangas and Phillipson, 2008). Any existing linguistic ecology is examined from the perspective of the number of languages used within an identifiable speech community, groups of people that speak different languages and how these help to maintain the language ecology (Muhlhausler, 1994). Thus the examining of a language's relationship with other languages within an identifiable linguistic ecology is the core business of the ecology of language and it emphasises on matters of linguistic rights especially for minority languages whose functional roles are in most cases threatened by official and majority languages. The ecology of language is appropriate as a tool of analysis in this research endeavour which focuses on the relationships between Shangani, Kalanga and Tonga with languages used in the same linguistic ecologies with them. It is from the point of view of the ecology of language that issues of linguistic rights for speakers of the languages under study are brought to the fore given the competitive nature for space by languages that are used in a multilingual environment.

## **1.8 SCOPE OF THE STUDY**

This study critically examines the historical and contemporary sociolinguistic status of Tonga, Kalanga and Shangani in Zimbabwe's civil courts. It focuses on the development of language planning and policies in Zimbabwe from a historical perspective in order to interrogate the status of the languages in question in courtroom communication in the civil courts of Zimbabwe. The research project is divided into six chapters. Chapter one is the introduction to the research and it is constituted by the 1 area of investigation, research questions, statement of the problem, aims of the study, research methods and justification of the study. Chapter two deals with the literature review which scrutinizes literature which is related to the present research as well as identifying the gap in knowledge this research seeks to fill. Chapter three presents the theoretical grounding of the study. Chapter four discusses the research methodology adopted in this study. Data

presentation and discussion are done in Chapter five. Chapter six presents the conclusions and possible areas that require further research.

## **1.9 ETHICAL CONSIDERATIONS**

The need by researchers to uphold ethical standards when carrying out research studies is of paramount importance. A significant element of research ethics concerns participants' informed consent. Informants must be provided with clear, detailed and factual information about the study including possible risks and benefits as well as the voluntary nature of participation. However, for the researcher to be able to get naturalistic and undistorted data from courtroom exchanges involving minority language speakers and interpreters there is a need to conceal the investigator's identity. For this reason, the researcher received ethical clearance for this research.

## **1.10 CONCLUSION**

The investigator carried out an evaluation of the sociolinguistic status of Kalanga, Tonga and Shangani in the civil courts of Zimbabwe. The study was premised on the historical dominance of Shona, Ndebele and English as the languages of courts in Zimbabwe at the expense of other indigenous languages in Zimbabwe which are referred to as minority languages in this research. The dominance of English, Shona and Ndebele in formal domains of life like the courts has had a telling effect on the linguistic rights of speakers of minority languages in Zimbabwe. For one to really appreciate the nature of the linguistic problems associated with the use of Shona and Ndebele in the courts by minority language speakers, there is a need to analyse real life courtroom exchanges involving the same people. This investigation should not be done in a vacuum but within the context of the historical and contemporary language planning and policy developments in the country.

## **1.11 DEFINITION OF TERMS**

**Courtroom discourse:** This refers to an institutionalized form of communication which is prescribed for use within the courts of law. It is rather a regulated way through which courtroom officials and laypersons brought to the courts should engage with each other conversationally during court procedures.

**Language planning:** This refers to the “... allocation of functions to particular languages within particular multilingual societies” (Tollefson 1991:6). It entails deliberate efforts by governments to initiate a number of processes which are aimed at making sure that the use of each language is regulated.

**Language policy:** This entails what the government does officially either through legislation or court decisions in order to determine how languages are used. Language policy is constituted by guidelines or regulations which prescribe how languages are supposed to be used within a country.

**Linguistic rights:** These take different forms. For the purposes of this study, they take the form of the right of language which implies, “the rights of each and every language in a multilingual society to exist and the equality of opportunity for it to ‘develop’ legal and other technological limbs to flourish” (Mazrui and Mazrui 1998: 114). This is more of a collective right (Ndhlovu 2007: 135) and failure to uphold it impacts negatively on respective linguistic communities.

**Minority language:** This is a controversial term which has been viewed by some language groups as rather derogatory, discriminatory and unacceptable by some language groups. In Zimbabwe, for instance, the Tonga would prefer their language to be referred to as an ‘indigenous’ language (Makoni and Pennycook, 2007) while the Shangani would “prefer the expression community language” (Makoni.2012:4). For the purposes of this study, a minority language “can be identified horizontally by looking at its weak or non-dominant position to other languages in the region or nation, and vertically on the basis of its low status and absence in public or official areas” (Batibo, 2005:51). Thus languages referred to as a minority languages in this study are characterised by their limitations in terms of usage especially in higher domains of life.

**Official language:** According to Faingold (2004: 11), “an official language is a language that a government uses for its day-to-day activities in the fields of legislation, judiciary, public administration and teaching”. It is, in other words, a language with a wide functional base within a geographical area and is used in all formal domains of life.

## **CHAPTER 2**

### **EXTENDED LITERATURE REVIEW**

#### **2.1 INTRODUCTION**

This chapter focuses on the review of research studies which give context to the present research. The first section of the chapter describes the major categories of language planning. This description lays a foundation for the interrogation of language planning activities in Zimbabwe in order to analyse how these activities have contributed to the status of minority languages in the civil courts of Zimbabwe. The second section is divided into five sub-sections. The studies under review examine the protection and promotion of minority languages in formal domains of life in general and in courtroom communication in particular. The organisation of research studies into sub-sections is done in accordance with the contexts or regions in which the researches were carried out. The first sub-section comprises studies done in Europe while the second one examines research work done in Asia. The third sub-section of the literature reviews related studies which were carried out in America while the fourth sub-section is constituted by research work done on the African continent. The last sub-section of the literature review comprises studies done within the context of Zimbabwe. The main purpose of this review is to establish and demonstrate the gap in knowledge which this study seeks to address.

Courtroom communication using minority languages has historically been a problematic issue across the world especially in Africa whose linguistic spectrum is characterised by multilingualism. This issue of multilingualism has given rise to the need for competent court interpreters in indigenous languages (Hlope, 2000, 2004; Ogechi, 2003; Lubbe, 2009; Kadenge and Svongoro, 2015; Mnyandu and Makhubu 2015). Language planning and policy pronouncements which have largely been inherited from the colonial dispensation have generally continued to undermine the use of indigenous languages in public institutions while maintaining the hegemony of the languages of the ex-colonial masters. It is from this perspective that literature on the fate of minority languages in terms of functional space in public life in general and the civil courts in particular is examined with a view to foreground this study.

According to Trudell (2000:4), “for a variety of reasons, the official language policies of most post-independence African nations instated the colonial language – English, French, Portuguese-

as the official language of government, business and education”.Usadolo (2010:220) also described the same scenario saying that “since the end of colonialism, many countries in Africa have adopted their colonial masters’ languages for commercial and administrative functions and reduced their own to languages used in the community level.” This has resulted in colonial languages practically dominating all the formal domains of life including courtroom discourse at the expense of indigenous languages especially minority languages (Kamwangamalu 1997,2000; Magwa, 2010; Moyo, 2010; Muthwii and Kioko, 2003; Nhongo, 2013). The net effect of this has been the violation of linguistic rights for speakers of indigenous languages in public life especially in sensitive areas like the courts.

### **2.1.1 CATEGORIES OF LANGUAGE PLANNING**

Since this study falls under the broad area of language planning, it is important that this chapter teases the main categories of language planning procedure. The language planning activity plays a crucial role in the eventual functional load and status of languages in speech communities (Fishman, 1989; Turner, 1988). Thus an examination of language planning procedures provides a solid background for the interrogation of the status of the minority languages under study considering how language planning activities have been done in Zimbabwe. The process of language planning can be divided into broad categories which include status, corpus and acquisition planning (Cooper, 1989; Gadellii, 1999). Each one of these categories determines the sort of activities which language planners should carry out in order to guarantee the success of language planning objectives. This means that each category has a set of guidelines which give direction to language planners regarding what they should focus on and what the language planning activity should eventually accomplish. In other words each category has clearly defined targets which highlight the procedures to be followed in the language planning process.

### **2.1.2 STATUS PLANNING**

Status planning entails allocating a language or languages specific functional roles within a speech community (Liddicoat and Bryant, 2002). It is the social standing of a language relative to other languages in a multilingual community which is clearly reflected in the linguistic landscape of that community (Kadenge, 2015; Landry and Bourhis, 1997; Ben-Efael, Shohamy, Amaru and Trumper-Hecht, 2006). According to Gadellii (1999:5), “...status planning would

involve the allocation of languages to different societal domains, such as the official sphere, education, business, media etc.” Viriri (2003:3) says “language status planning deals with giving a language the status of official language, national language, language of religion or medium of instruction.” Donakey (2007:17) defines status planning as a procedure which is “...concerned with furthering a language’s many uses.” Cooper (1989:99) says status planning entails “...efforts to influence the allocation of functions among a community’s languages.” From these definitions, a deduction can be made that the goal of status planning is to ensure that a language’s usage is expanded such that it covers selected or all domains of life. Status planning helps determine the relative importance of a language in relation to other languages in a speech community. It stipulates the functional roles of languages in a given community’s linguistic repertoire.

Gadelii (1999:6) identifies a number of domains which are crucial in status planning and these include government, assembly/parliament, administration, education, business and the media. For a language to have its usage permeate these formal domains, it has to be highly intellectualised and modernised. The intellectualisation of a language entails “... the development of new linguistic resources for discussing and disseminating conceptual material at high levels of abstraction... a fully intellectualised language is one that is used in the broadest possible domains...” (Liddicoat and Bryant 2002:1-2). This is closely linked to the modernization of a language which involves the capability of a language to be used to reflect developments in new technology and the socio-economic fabric of society. Thus an intellectualized and modernized language should have adequate terminology and expressions that can be used in major domains of life. This makes it easy for the users of the language to use it without encountering problems associated with lack of adequate terminology and expressions to refer to phenomena. Different domains of life do have unique jargon or technical terms which should have equivalent terms in a language whose status could have been elevated (Budin, 1995). Thus a language selected for the purposes of status planning should be flexible enough to be used in the domains for which it has been selected.

According to Mabule (2011:34), “language status planning has to do with the maintenance expansion or restriction in the use of a language for a particular function. These include the choice of language to be used at national, regional, official, local or as a medium of

communication.” Mabule’s (2011) definition brings another dimension to status planning in the sense that status planning does not always involve expanding a language’s functional base. Its goal may be to reduce a language’s functional load. This implies that status planning in this sense can be taken as a process by which a determination of a language’s functions is made regardless of whether there is an increase in the number of functions a language has or there is a reduction.

Since status planning is done within the context of multilingual environments where in most cases other people could be angling for the elevation of their own native languages, there is a need for language planners to put in place constitutional provisions with practical implementation procedures which guarantee the use of the selected languages in the designated functional roles. In other words, for status planning to achieve the desired outcomes, it should be accompanied with a comprehensive language policy which protects and promotes the use of a selected language in the targeted domains of life. In addition, the process should be initiated by powerful or highly influential members of the community for it to be a success. It is usually those with political power who should influence decisions on status planning. It is within the context of these principles of status planning that the present research critically analyzes the history behind the process status planning in Zimbabwe. This is done in order to examine how influential status planning has been to the situation minority languages in Zimbabwe, particularly Tonga, Kalanga and Shangani find themselves in within the context of courtroom discourse particularly in the civil courts.

### **2.1.3 ACQUISITION PLANNING**

According to Roda-Bencells (2009:65), “while status planning refers to the use of languages, acquisition planning refers to the user of languages.” This means that while status planning concerns itself with the functional roles of a language, acquisition planning focuses on the behaviour and attitudes of the speech community using the language or languages in question. According to Hornberger (2006:28) and Cooper (1989:33) acquisition planning involves the “efforts to influence the allocation of users or the distribution of languages/literacies, by means of creating or improving opportunity or incentive to learn them, or both.” This means that this category of language planning focuses on the acquisition of the language or languages so that they are able to use them appropriately in both private and public life. The speech community

needs to have a thorough knowledge of a language in order to be able to participate meaningfully in the different discourses in which a language has to be used.

Education is the key domain which is instrumental in ensuring that the goals of acquisition planning are realised. It is a cog in the successful implementation of acquisition planning. There is, therefore, a need to craft language-in-education policies with clearly laid down provisions for the spread of the language throughout the targeted speech community. The teaching and learning of a language is at the centre of acquisition planning (Gora and Mutasa, 2015; Adesoji, 2003; Mavunga, 2006; Rwantabangu, 2011; Mutomba, 2007). Language planners need to take into consideration the materials which are required for facilitating the acquisition of a language. In addition, they are supposed to make key decisions regarding how best teachers should be trained for them to be able to teach the language.

Of importance in acquisition planning is also the need to determine the different levels which should acquire the language, for instance, primary, secondary and tertiary education levels. In addition, a curriculum for each stage should be designed. Since the success of language planning efforts are also dependent on majority support, it is crucial to involve surrounding communities at least by giving them information regarding the objectives of the language planning activities and what is expected of them. Doing this also helps nip in the bud any possibilities of resistance from some of the language groups in the community. This brief background to acquisition planning is crucial to the present study in the sense that it raises questions about the commitment of government through its education ministries to make sure that the languages under study continue to develop and are passed from generation to generation. It is through the acquisition of the languages that it becomes possible for them to continue to survive as well as give their native speakers an awareness of the need to use them in other public domains of life like the courts.

#### **2.1.4 CORPUS PLANNING**

Whilst status planning is driven by people who hold political power and other influential members of a speech community, corpus planning “...is usually the agenda of linguists, lexicographers and experts alike whose intention is (1) to give a terminology for scientific and technical purposes (2) to resolve normative/structural questions of correctness...and/or (3) to support an ideological cause by eliminating sexist, racist or militaristic elements in the language” (Kurtboke, 1996:592). Corpus planning is thus the business of professionals in language related



disciplines. These professionals make prescriptive interventions in order to mould a language so that its form is in conformity with the demands of the disciplines or domains in which it will be used. They scrutinize the language in its present form in order to find any areas of improvements and this becomes the springboard for coming up with certain agreements which later become conventions all users of the language must abide by.

According to Hornberger (2006:28) “corpus planning deals with languages themselves, as it entails involvement in the form or structure of languages and literacies.” It is a procedure through which a language is modified in order to ensure that it becomes resourceful enough to meet its new functions. Through corpus planning, the major goal of language planners is to ensure that the language is user friendly in critical domains of life including science, education and other technical contexts.

One of the critical aspects of language which should be targeted in corpus planning is vocabulary. Vocabulary has to be increased by coining new terms which are relevant for describing the community’s surroundings (Kachru, 1989; Chuwa, 1988; Yambi, 2000). In addition, comprehensive writing systems should be developed for the language in question. Orthography is also a key aspect which should be the concern of language planners from the point of view of corpus planning. This implies that a conventional spelling system for the language needs to be developed. Furthermore, rules of pronunciation are supposed to be looked into so that members of the speech community and other people intending to use the language are able to pronounce words in acceptable ways.

Modernisation or elaboration is also another important step in corpus planning. The process of modernisation involves the constant and permanent cultivation and development of the language at lexical level, such as creating and developing new terms/words for new items or concepts” (Mabule, 2011:37). It entails efforts to ensure that a language remains relevant to new developments within the speech community. In order to codify the language, rules of grammar should also be developed including producing new dictionaries.

From the description of corpus planning, a deduction can be made that corpus planning is not an event but it is a long term process whose success hinges on the expertise and efforts by linguists and lexicographers. These professionals have a responsibility to make sure languages can adapt

to the demands of different contexts or domains of life. This makes it possible for speakers to be able to use the languages effectively to express themselves without encountering terminological handicaps or other problems which could be language related. It is from this perspective that corpus planning becomes crucial to the present study. This study raises questions about the impact of corpus planning on the use of minority languages in formal domains of life like the civil courts. Therefore, the role of language experts like lexicographers is put under scrutiny in order to find out their contribution to the development of minority languages under study so that they can be used in formal domains of life thus ensuring the protection of linguistic rights for minorities.

### **2.2.1 RESEARCH STUDIES DONE IN EUROPE**

The examination of multilingualism in Europe and how it has impacted on the protection of linguistic minorities is of critical importance to the present study. It serves to show the global nature of language politics even in original territories of former colonial masters. The issue of the protection, promotion and development of minority languages has been a cause for concern among European member states. European countries have always claimed to be at the forefront in terms of crafting laws and implementing programs which protect human rights including linguistic rights. However, language planning and policies in European countries seem not to have achieved significant progress with regard to the promotion and use of minority languages in public life. Shuibhene (2001) argues that although there are no written records in the European Community or any other piece of legislation, language practice in Europe points to the fact that eleven official languages are in existence in the community.

This observation is also supported by Gadelii (1999:8) who says that "...the European continent itself presents a picture where many countries host a single widespread national language." These languages include Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish with each one of these representing the majority of the people in its country of origin. Thus these languages are the official tongues of their respective countries. It should, however, be noted that the linguistic landscape of the majority of the European countries is not as monolingual as is seemingly reflected by the dominance of majority languages in the major domains of life. This implies that the dominance of these languages in

public life has a ripple effect on the use of minority languages hence linguistic rights for minorities are also at stake Europe.

The sociolinguistic situation in European countries is in reality generally characterised by multilingualism as evidenced by the existence of pockets of minority language groups in different European countries (Gadellii, 1999; Extra and Gorter, 2001; Haarman, 1995; Arzoz, 2008; Extra, 2013; May, 2011; Nic Craith, 2006). Gadellii (1999:9) identifies some of the minority languages found in European countries including “Celtic languages in the United Kingdom, Basque in France and Spain, Catalan in Spain, Breton in France, Saami in northern Scandinavia” as well as many others found in different countries which gained independence following the disintegration of the Soviet Union. It is against this background that the European continent becomes a fertile area for researchers to find out the status of minority languages in different European countries focusing on the analysis of language planning and policies in order to find out the extent to which authorities have created conditions for the use of these languages in public life.

According to Shuibhne (2001) and Caviedes (2003), each European member state and individual citizens of these states are allowed to communicate in writing with any one of the European Union (EU) institutions using a European language of their choice and they have a right to be replied to using that language. In addition, all legislative documents which are applicable to all EU states should be produced in all the eleven official languages. This implies that the native speakers of the eleven official and majority languages of the EU enjoy unfettered linguistic rights in all spheres of life, both private and public. They can get access to all services including education, the media, trade and commerce, administrative arms of government as well as the courts of law using their native languages. Efforts by European Union member states to protect and uphold linguistic rights for speakers of majority languages, however, seem to be oblivious of the fact that not everyone who lives in Europe is a native speaker of either of the eleven official languages of the EU. This implies that the majority of other languages spoken in Europe share the same fate of lack of promotion and development with minority languages in Africa in general and Zimbabwe in particular. Thus, the problem of marginalisation of minority languages especially in public domains of life is a global issue requiring interrogation by academics in order to proffer possible solutions that lead to the upholding of linguistic rights for minorities.

According to Caviedes (2003:252), besides the eleven officially acknowledged languages within the EU, Europe is "... home to around fifty eight autochthonous languages." In other words, Europe is endowed with other indigenous languages which have been spoken by other indigenous Europeans in its different communities for a significant number of generations. This implies that the rest of the forty seven or so minority languages with pockets of speakers throughout Europe seem to have been neglected by authorities in their countries of origin. As a result linguistic rights for speakers of these languages are not guaranteed. This idea is noted by Shuibhne (2001:66) who says that, "as regards minority languages more generally, however, they have neither working nor official status in the European Community." Therefore, these languages are not accorded any status in the public domains like the courts of law to the disadvantage of their native speakers. It is against this background that the European Parliament has taken a leading role in ensuring that language rights for linguistic minorities are protected by passing a number of Resolutions to that effect.

Some of the efforts made by the European Parliament towards the protection and promotion of the linguistic rights for minorities in European member states culminated in the formation of the European Bureau for the Lesser Used Languages (EBLUL) in 1981 as well as the *IstitutodellaEnciclopediaItaliana* on Linguistic Minorities in the EC in 1986. In its 1996 Annual Report, the EBLUL had in its introduction that "since 1984, the Bureau has been uncovering Europe's hidden linguistic heritage and offering speakers of regional and minority language a voice at European level..." (European Bureau for Lesser Used Languages 1996 Annual Report: 3). By 1996, the EBLUL had spread its tentacles to almost all European member states with the exception of Greece and Portugal.

However, it seems the efforts by the European Parliament to uphold and protect linguistic rights for minorities in Europe through the EBLUL and the *IstitutodellaEnciclopediaItaliana* did not achieve the desired results. As a result, minority languages failed to make inroads into the formal domains of life resulting in some of their speakers failing to get access to important services provided through government departments including defending their rights in courts of law. This scenario is comparable to the African and Zimbabwean context where speakers of minority languages can hardly use their mother languages in public life. For this reason, it is crucial to examine communication problems they encounter in public life in general and the civil courts in

particular in order to analyse the sources and gravity of the problems as well as their impact on the sociolinguistic status of the languages under study.

One of the major reasons why the resolutions drawn from the instruments crafted by the European parliament failed to improve the functional status of minority languages is that the instruments did not have any legal force. They were interpreted and implemented in different ways by European member states. According to Shuibhne (2001), the responsibility aimed at making sure that implementation procedures took off the ground was left in the hands of individual countries which seemed not to have prioritised this important development. Consequently, language practice in most European member states has continued to point to the fact that language rights for minorities in these countries have largely been undermined.

Saganova (2008) also contributed to the debate on the fate of minority languages from a European perspective. The researcher carried out a project whose major focus was to examine the issue of protecting national minorities, particularly their linguistic rights as enshrined in the European Charter for Regional or Minority Languages (ECRML). The ECRML, a legal instrument which was crafted by the Council of Europe advocated for the protection and uplifting of European languages by European member states through clearly laid down practical steps. The ECRML recommended "...rights of access to education, judicial/ administrative authorities and public services, media, economic and social life and cultural activities and facilities" (Caviedes 2003:258) by linguistic minorities in European countries.

Implementation procedures for the ECRML declarations dictated that each European member state was allowed to make its own provisions which it deemed appropriate in accordance with its own circumstances. As was the case with the EBLUL and the IstitutedellaEnciclopediaItaliana, this became the downside of the ECRML. Saganova (2008), for example, examined the status of national minorities in the Czech Republic one of the twenty three European countries which had signed and ratified the Charter. The languages included Slovak, Romani, German and Poles with a bias towards Poles. Using the case study approach, Saganova (2008) intended to find out the motivation behind the promulgation of the ECRML as well as its impact on minority languages in Europe.

A scrutiny of the reactions of some of the European member states to the ECRML declarations reveals that not much was done to ensure that the linguistic rights of minorities were upheld and protected. France, for example, refused to append her signature on the Charter. The reason behind that was that France "... does not even acknowledge the presence of minority languages within the country because this would go against Article 2 of the Constitution that prohibits differentiation between citizens on the grounds of their origin, race or religion (Caviedes 2003:258). Cobarrubias (1983) calls this language planning ideology linguistic assimilation, a situation in which a citizen of a state or country should acquire the dominant language of the state. Oyetade (2003:110) says "...this obviously is a step to suppress the minority languages and a situation like this usually leads to language shift and ultimately language death." This implies that in France no efforts were made to identify groups of linguistic minorities deserving the protection of their language rights as advocated for by the ECRML. This kind of a reaction only signals the fact that the ECRML declarations did not achieve much as a result of resistance from some of the European member states. The fact that the Charter left the implementation procedures to the 'good graces' of each member country did not help matters and this had a knock on effect on the efforts to recognize the linguistic rights of minorities in formal domains of life. Romaine (2002) describes the ECRML as having weak linkages in the sense that while it advocated for the promotion and use of languages belonging to the European cultural tradition which had a significant territorial base, it still remained a vague provision which could be interpreted by European member states in different ways.

Another notable European member country which failed to embrace the ECRML is Greece who voted against it in 1992 despite the fact like her EU fellow countries, Greece had ratified numerous international agreements and treaties in the past (Romaine 2002). Some of the agreements include the Treaty of Laussane of 1923, the International Convention on Racial Discrimination of 1965 and the 1975 Helsinki Final Act of the Organisation for Security and Cooperation in Europe (Stephen 1999). In order to demonstrate Greece's intolerance and disapproval of the ECRML and its provisions, Romaine (2002:9) gives the case of Sotiris Bletsas "... a member of the minority Auromanian (Vlach) community who was arrested after he distributed publications of the European Bureau for Lesser Used Languages which mentioned the existence of the Auromanian language and other four minority languages in Greece (Arvanitika, Macedonian, Turkish and Pomak)." Bletsas was taken to court, convicted and sentenced to a

suspended fifteen month sentence and a fine and he only got his freedom as a result of mounting pressure from the international community especially the EU Commissioner for education and culture. The attitude shown by Greece to minority languages is also shared by Turkey who denied the existence of minority languages in her territory. Under such circumstances, it becomes difficult to guarantee the continued existence of minority languages in such countries let alone envisage their use in formal domains of life.

Turkey's hostile attitude towards the rights for minorities was a threat to the very existence of the minority groups themselves. According to the International Helsinki Federation for Human Rights (IHF) (2006:4), "Turkey has practised a policy of "Turkification", a form of cultural assimilation that fails to recognize individuals' rights to ethnic, national and religious self-identification and that aims at forced assimilation with a Turkish identity." According to the same document, groups of people who identify themselves are denied the right to freedom of expression especially in relation to the use of their native languages. In fact the Constitution of the Republic of Turkey does not make reference to minorities and this demonstrates a strong anti-minorities stance which endangers linguistic rights for minorities among other rights. The only recognized minority groups in Turkey include the Greek Orthodox Christians and the American Orthodox Christians whose recognition is based only on religious grounds. In addition, there are other minority groups which do not have formal recognition and these include the Bosnians, Bulgarians, Georgians, Arabs and Bahais. This implies that the linguistic rights of these groups of people are not respected and protected at all.

The declarations by the ECRML and the reactions by some of the European countries like France, Greece and Turkey are relevant to the present study. The problematic issue of failure to implement policies giving guarantees to the protection of the language rights of minorities is brought to the fore and it is also an important matter which needs to be interrogated in the present research with a bias towards the use of minority languages in the civil courts of Zimbabwe. A comparison is made between efforts Zimbabwean authorities are making especially in the judiciary to make sure that minority languages find space in judicial procedure and any success stories registered vis a vis worded declarations in the ECRML.

Cardi (2007:1) investigated European member states which had ratified the ECRML in an endeavour to find out "... whether different levels of linguistic protection and promotion lead to

different regional or minority language use patterns before judicial authorities”. In other words, Cardi (2007) sought to analyse whether or not the existence of highly developed programs for minority languages protection guaranteed their use in courtroom discourse. The findings of this study revealed that a number of factors including insufficient competent court interpreters in the minority languages and fear of delays in courtroom proceedings made it difficult for minority languages to be used effectively in the courtroom.

The formation of new states in Europe after the end of the Cold War and the restoration of sovereignty to states after the dissolution of the Soviet Union was characterised by lack of cohesion among groups at both ethnic and national levels (Yilmaz, 2008; Gueke, 2010; Griffiths, 1993; Beha, 2014). People in each of the newly developing states had divergent views and visions on how development programs could be articulated and one of the topical issues emanated from the issue of diversity especially that of a linguistic nature. Minority language speakers also wanted to make sure that their native languages play a significant role in formal domains of life which were dominated by majority languages. It is against this background that the Organization for Security and Co-operation in Europe (OSCE) made declarations which were aimed at ensuring that the linguistic rights of minority language speakers are guaranteed (Holt and Packer, 2001; Packer, 2001).

The objective promoted by the OSCE was aimed at “...integrating diversity”, that is simultaneous maintenance of different identities and the promotion of social integration... a pluralist, multicultural model of societal organisation based on the principle of non-discrimination” (Holt and Packer, 2001:102). In line with this stance, the acknowledgement of the state language and its use was, therefore, supposed to be somehow balanced with the initiation of programs aimed at making sure that minority languages were also promoted. Some of the OSCE countries in which language issues became a cause for concern and tension included Estonia, Georgia, Latvia, the former Yugoslav Republic of Macedonia, Moldova, Slovakia and Ukraine.

Holt and Packer (2001) carried out a general survey of the programs initiated by OSCE institutions in an effort to make sure that the language rights for minorities are protected. The results from this research revealed that some OSCE countries included in their Constitutions provisions for the official use of minority languages. The Georgian Constitution, for example,



provided for the official use of Abkhazian in the Abkhaz region with Tajikistan also making a provision for the protection of linguistic rights for the Tajik, Russian and Uzbek speakers. Uzbekistan and Ukraine had some of the most liberal approaches to the language issue thereby ensuring that the protection and development of minority languages was guaranteed. In these countries, success stories were generally recorded in public services, education and the media where minority languages seemed to have made inroads (Pavlenko, 2008; Ciscel, 2008).

Despite positive developments taking place in some of the European countries, minority language issues in other countries were fraught with serious tensions and misunderstandings among important stakeholders whose duty was to see to it that provisions for the use of minority languages in the public sphere were implemented. In the former Yugoslav Republic of Macedonia (FYROM), for example, there was a “dispute at the Pedagogical Faculty of the principal university of Skopje in 1998 as the Dean refused to implement a special law ensuring instruction in the Albanian language with the view to meeting the practical need to train sufficient Albanian-language instructors to fill in Albanian-language schools throughout the country” (Holt and Packer 2001:105). This development reveals the mismatch between the existence of pro-minority languages initiatives in some of the OSCE countries and the practicalities of implementing the same.

Besides other challenges like resources constraints as was the case with Georgia, this raises the problem of attitudes towards minority languages by authorities whose duties are a precursor to the recognition of minority languages and their use in formal domains of life. The present study also interrogates the issues of language attitudes not only from the point of view of authorities but also those of the speakers of the minority languages in question in order to understand their impact on the sociolinguistic status of Kalanga, Tonga and Shangani in civil courtroom discourse. The issue of what judicial authorities have done in order to accommodate minority languages in judicial procedure in civil courts is also brought to the fore. In other words, this study also analyses provisions put in place by the government of Zimbabwe for linguistic minorities to be able to use their native languages in civil courts, the extent to which the declarations have been implemented as well as their overall impact on the language choices of Kalanga, Tonga and Shangani native speakers in the civil courts.

Parlemor (2011) also contributed to the debate on the controversy surrounding the promotion and protection of minority languages. The researcher examined the role of the courts in facilitating the uplifting of language rights for minorities in Central, Eastern and Southern Europe. States located in these areas had just gained independence and as a prerequisite for admission into the “European club” the countries were required to take on board certain conditions including the need to uphold the rights of minorities. Consequently, the majority of the countries ratified the Council of Europe’s Framework Convention for the Protection of National Minorities and the European Charter for Regional and Minority Languages (ECRML). According to Parlemor (2011), minority rights including language rights are highly developed on paper but the implementation procedures seem to be lagging behind because of the costs involved as well as other administrative flaws.

Language practice in most of the Central, Eastern and Southern European countries reflects a restrictive use of minority languages in formal domains like administration, media, education and judicial procedure. In fact, the use of minority languages in the courts is very highly restricted. Parlemor (2011) concurs with Holt and Packer (2001) who found out that a few countries, for instance, Ukraine made a ruling in its Constitutional Court that whilst preference was given to the state language in court proceedings, citizens had the right to use their native languages during trials.

A study by Tsilevich (2001) examined the development of language legislation in three Baltic States namely Estonia, Latvia and Lithuania after the collapse of the USSR in 1991. Besides the three states, international organisations including the OSCE, the Council of Europe and the European Union had a role to play in the management of language issues. The language issue was actually one of the most critical concerns which led to mass mobilisation for the fight for independence in the late 1980s. The use of the Russian language was endangering the very existence of the Baltic minority languages.

With the advent of independence, Latvia, Lithuania and Estonia with the help of international organisations crafted policies which recognized the existence of minority languages with the Estonian Constitution, for example, giving a guarantee to the use of minority languages in education (Article 31 paragraph 4) and before public authorities in localities where at least half of the permanent residence belong to an ethnic minority (Article 51 paragraph 2) (Tsilevich

2001: 140). However, despite, all the promising declarations as enunciated in countries' constitutions, the implementation phases had setbacks. Mechanisms for the implementation of policies were not properly put in place.

Cenoz and Gorter (2006:67) examined “the linguistic landscape of two streets in two multilingual cities in Friesland (Netherlands) and the Basque Country (Spain) where minority languages,” Frisian and Basque were spoken respectively. The linguistic situation in which this study was done is trifocal as it involved three linguistic levels (Batibo, 2009) in which case there was the state language (Spanish or Dutch), English and the minority language (Basque or Frisian). In this research, Cenoz and Gorter (2006) compared the use of these languages on language signs taking one street in Donostia-San Sebastian in the Basque Country as well as in Ljouwert-Leeuwarden in Friesland, The Netherlands.

The findings from the Cenoz and Gorter's (2006) study revealed that the major languages, that is Dutch and Spanish were predominantly used on signs. However, comparisons focusing on minority languages use showed that in Donostia, Basque outmanoeuvred English in its usage while in Leejouwert, Frisian was hardly used and eventually it came third. From these comparisons, the researchers concluded that “the differences in language policy between the two contexts and how authorities acted to actively promote Basque in the Basque Country has an important effect on the visibility of the Basque language... (Cenoz and Gorter, 2006:78). This study's findings indicate that for minority languages to make inroads in domains normally dominated by majority languages, there is a need to make sure that pro-minority language policy statements are translated into vigorous practical steps which enhance their usage in majority language dominated spaces.

The study by Cenoz and Gorter (2006) presents an examination of minority languages research from the point of view of onomastic studies. This reveals that research on minority languages can be done from different perspectives hence present research is also done within the context of courtroom discourse with a focus on minority language speakers' language choices in civil courts. In making comparisons with Basque which seemed to have a competitive urge in terms of use in Donostia courtesy of pro-minority languages policies in Spain, the present researcher investigates whether or not officialising all the sixteen languages used in Zimbabwe has laid a solid foundation for the usage of minority languages in the public domains of life like the courts.

Grabbau and Gibbons (1996) bemoaned the high levels of injustice which come as a result of incompetence demonstrated by court interpreters in cases involving linguistic minorities in the courts. These researchers argue that “nearly 32 million people in the US use English as their primary language. Of that number, 43,9% speak English “less than very well” and the language barrier is affecting the court system by impeding the swift, effective delivery of justice” (Grabbau and Gibbons, 1996:2). This scenario clearly depicts the predicament minority language speakers can find themselves in terms of expressing themselves in such highly sensitive contexts like the courtroom hence the need to critically examine courtroom discourse involving minority language speakers in civil court cases in Zimbabwe. From this study, the investigator highlights the communication problems minority language speakers could be facing in courtroom verbal interaction. In addition, this study examines court interpreters’ level of preparedness and competence to translate messages from minority languages without prejudicing minority language speakers.

Romaine (2002) argued that one of the key factors which lead to the discrimination and underdevelopment of minority languages is the reaction by majority language speakers to efforts put in place by authorities to promote minority languages. In Spain, for example, Spanish nationalists expressed their displeasure to laws which were put in place for the purposes of making sure that for one to be employed in certain specified jobs in Catalonia, the knowledge of Catalan was a prerequisite. “In the Basque Autonomous Community, similar efforts to “normalise” the use of Basque in education and government through legal measures prompted battles over the rights of individuals (Romaine, 2002:28)” to the extent that the right to use Basque became an individual rather than a territorial issue. This implies that sometimes authorities may need to redouble their efforts to make sure that language rights for minorities are promoted and protected considering that speakers of majority languages could be having negative perceptions about the whole idea of upholding linguistic rights for minorities. Observations by Romaine (2002) are of critical importance to the present study since they bring to the fore the impact of relations between speakers of Kalanga, Tonga and Shangani and speakers of the majority indigenous languages in Zimbabwe on whatever efforts are in place to uphold linguistic rights for minorities. Thus this study examines whether or not these relations undermine efforts to develop and promote the use of minority languages in question in public life especially in the civil courts.

### **2.2.2 RESEARCH STUDIES DONE IN ASIA**

The history of most Asian countries shows that European colonial powers did not actually colonize Asia but they mainly facilitated the establishment of trading posts in different countries. As a result Europeans did not really impose their languages in some of the Asian countries like they did in Africa where colonization was vigorously done. This, however, does not imply that there are no Asian countries which were at some point colonised by European countries as the case of India will demonstrate. In those Asian countries that were not colonised by Europeans, the use of European languages is not as rampant as it is in Africa since in most cases the languages are used in specific domains, for example, trade and commerce. Most of the Asian countries, therefore, "... resemble European ones to the extent that they host a widely spoken language (such as Japanese in Japan, Chinese in China, Thai in Thailand etc" (Gadellii, 1999:9). However, these Asian countries do have complex linguistic situations which are characterised by the existence of numerous languages the majority of which are spoken by numerically few people with some of them being endangered as a result of failure to get official recognition by authorities (Gadellii, 1999).

Some of the countries in Asia provide complex multilingual polities in which the challenge of protecting the language rights of minorities has been a cause for great concern to governments and other stakeholders. One such country is the populous China. Tursun (2010) studied language choices and usage in judicial proceedings in Chinese courts. The background to this research was the multilingual nature of China which has a total of eighty officially recognised ethnic minority languages spoken by millions of people in different parts of the country. Despite the existence of such a complex and diverse nature of China's language environment, the country's authorities made deliberate efforts to ensure that the language rights of its citizens were protected.

The Chinese government organised special bilingual courts with the aim of facilitating the use of minority languages in judicial proceedings by their native speakers. The law in China became highly supportive of the use of native languages in the public domain by minorities in order to facilitate "... their participation in the public eye, their access to public services and their ability to represent their vital interests in the legal system" (Tursun, 2010:11) are guaranteed. Some of the laws which were promulgated in an attempt to safeguard the rights of linguistic minorities in the public sphere include "Ethnic Minority Region Autonomy Act of the People's Republic of

China, Education Act of the People's Republic of China and Compulsory Education Act of the People's Republic of China" (Xing, 2003:1). Despite encountering a number of challenges in their endeavour, for instance, the shortage of staff, the dominance of Mandarin Chinese (Nima, 2001; Stiles, 1999; Xing, 2003; Zuo, 2007; Wang and Phillion, 2009) and lack of qualified interpreters among other problems, China's legal system became a success story in upholding minorities' language rights in courts of law.

The creation of space for native languages in public domains in China especially in the courts of law is significant to the present study. Since documentary analysis is a key component of the methodology of the present research, this researcher would make comparisons between developments in China and Zimbabwe by examining whether there are any statutory instruments which have been promulgated in Zimbabwe in order to make provisions for the use of previously marginalised languages in public domains of life in general and the civil courts in particular. This would assist in explaining how constitutional provisions on language and language usage in Zimbabwe have contributed to the sociolinguistic status of Shangani, Kalanga and Tonga in civil courtroom discourse.

Thus, Tursun's (2010) research which examines language choices and use in the courts of China is significant to the present study which is aimed at interrogating the status of minority languages in Zimbabwe's civil courts. Comparisons are, therefore, made between Chinese law and practice and Zimbabwe's legal provisions for the use of minority languages in public domains with a bias towards communication in civil courts. Whilst the language situation in China is characterised by the existence of close to one hundred minority languages and a population running into tens of millions, the language situation is relatively smaller with thirteen minority languages and a much smaller population of minority language speakers. It, therefore, becomes interesting to find out whether the problems encountered by minorities in language use in civil courts of Zimbabwe are equivalent with those encountered in a populous country like China.

In Japan, there has been a significant increase in the number of non-Japanese speaking background defendants in criminal courts. This situation has given rise to a "... major challenge to the Japanese justice system, which must ensure non-Japanese defendants' rights to receive a fair trial in a language that they are to understand and use fluently and accurately" (Nakane, 2013:1). From an analysis of live courtroom exchanges, Nakane (2013) was able to highlight the

violation of linguistic rights of the non-Japanese speakers who found it difficult to competently articulate ideas in courtroom situations. This clearly demonstrates the need for authorities in different parts of the world to embrace multilingualism in the justice delivery system as a way to ensure that there is fairness in courts and people, especially linguistic minorities are not disadvantaged on language grounds.

The history of the multilingual and populous country of India can never be complete without mentioning the fact that the country was at some point part of the British Empire. The colonisation of India by Britain resulted in the replacement of Persian by English as the official language of India in 1937. Consequently, English has become the language of the intellectual elite to date (Baldrige, 1996). Even after the attainment of independence by India in 1947, English has remained the most influential minority language in the country with native languages competing for recognition as state languages with the majority of minority languages that are not elevated to state language status struggling to survive (Montaut, 2010; Pandharipande, 2002; Baldrige, 1996).

The multilingual nature of India also provides a context in which attempts to protect and develop minority languages have been met with a number of challenges. According to Rao (2008), India's population is over a billion and it also has more than four hundred languages and three thousand dialects which are spoken in twenty eight states and seven union territories. It is in this regard that Laitin (1998) characterised India as a "crucible" for the drama of language conflict. This linguistically and culturally diverse and complex scenario has seen languages competing for functional space in formal domains of life leading to a threat to the very existence of minority languages especially those that are numerically inferior to others.

According to Pandharipande (2002), the majority of the minority languages in India have almost entirely been eliminated from public life as a result of having a low functional load. Whilst most of the speakers of minority languages have been assimilated into dominant state languages, some of the tribal language communities, for example, the Bengali in Assam advocated for rights to education in Bangla, their native language (Pandharipande, 2002). This act of demanding linguistic rights by minorities brings to the fore the role of language communities in the protection, promotion and development their native languages. This issue is crucial to the present study since the languages under scrutiny in this research do have identifiable speech

communities with organisations advocating for the languages' promotion and development. It would, therefore, be of interest to the researcher to examine what efforts minority language communities and advocacy groups have made to make sure that their native languages are not lost but also find space in formal domains of life. Thus their achievements and the setbacks they have encountered are under scrutiny since they play a significant role in determining the sociolinguistic status of the languages under study.

India's Constitution "recognises twenty two languages as languages of the nation and awards them a place in the Eighth Schedule of the Constitution implying that all the twenty two languages listed are represented on the Official Languages Commission of India and the state is expected to take measures for the development of these languages" (Rao, 2008:64). These constitutional provisions imply that the twenty two languages are protected and promoted and their "functional load" (Pandharipande 2002:1) cuts across all public domains of life including education, the media, administration, trade and commerce and the courts whilst the majority of the tongues spoken in India are just as good as 'crucified.' In fact what tends to happen to the numerous minority languages is that their speakers are "assimilated into one of the few dominant linguistic groups restricting one's own tongue to the home" (Rao, 2008:64). As a result the existence of the majority of the minority languages' has become endangered.

In an attempt to salvage the country's minority languages whose use in the formal sphere of life was being undermined, authorities in India initiated constitutional provisions which were aimed at facilitating the revitalisation and promotion of the language rights of minority language speakers in India. The Constitution of India, for instance, "grants some rights to linguistic minorities whenever the number exceeds sixty percent of the population in a district, tehsil or municipality, with the right of such a majority language to be declared a co-official by the president of the country. The declaration has, however, not been able to achieve the purported objectives since there is no clarity on which rights linguistic minorities are entitled to which implies that the provisions seem to be vague and not so strict (Benediktor, 2013).

In addition, those languages which are spoken by a population which is below sixty percent are disadvantaged since the languages will not be accorded official status and, therefore, their functional load in formal domains of life cannot be guaranteed. The situation is even worse for the so-called tribal languages which are spoken by small tribes. Such languages are generally



spoken by small groups of people, have no writing system and their standardisation has generally been slow or has been abandoned all together (Rao, 2008). This implies that such languages have not been able to find space in public life in general and judicial proceedings in particular.

The language context of India which is “linguistically an extremely diverse country” (Sengupta 2009:19) reveals the problems faced by linguistic minorities especially in contexts with complex language environments. Languages which do not command a numerically large number of speakers are made sacrificial lamps in language policy and planning issues resulting in their development and promotion in terms of use in public life being abandoned to the infringement of the rights of their native speakers. Since the language situation in Zimbabwe is not as complex as that of India, this research reveals whether the prospects of promoting the use of minority languages in formal domains in general and civil courts in particular could be any better. Whilst the study by Rao (2008) provides a good foundation to the present research, the former examines the status of Indian minority languages in formal domains in general while the latter focuses on the status of minority languages in a clearly defined context of language use, the civil courts of Zimbabwe. This gives a detailed and holistic analysis of the issues surrounding the use of minority languages in the courts of law. The present study, therefore, reveals findings which are peculiar to language use in the courts.

Pandharipande’s (2002) study examined the reasons which led to the reduction of minority languages’ functional load within formal domains in India. The researcher argued that the failure by minority languages to make inroads into public life resulted in minority language speakers shifting to majority languages especially when the need to get involved in public discourse arose. Pandharipande (2002) attributed the marginalisation of minority languages in India chiefly to the country’s language policies which prescribed that each state was supposed to adopt one majority language as its official language. The adopted official language of the state became the sole language of administration, legislation, commerce and education especially at university level at the expense of minority languages.

The Philippines is also another Asian country whose sociolinguistic situation needs to be focused on in an attempt to find out the extent to which language planning and policy procedures have demonstrated sensitivity to the linguistic rights of minorities. According to MacFarland (1993), the Philippines is a multilingual country with a total of one hundred and twenty mutually

intelligible languages. Martin (2012) says the Philippines have a total of one hundred and seventy-five languages and its major indigenous languages include Tagalog, Lebuano, Iloano, Hiligaynon and Bicol. 99% of the total population speak Filipino or Tagalog as a first or second language. The multilingual nature of the Philippines has created problems in respect to the use of different other indigenous languages as media of communication in formal domains of life.

It is the speakers of the above mentioned majority indigenous languages who voiced concerns over the elevation of Filipino to national language status as they felt that the language would have an unfair advantage over other languages in terms of functional load in formal domains. The lack of resources in the country has also made it difficult for authorities to develop all the languages although the Komisyon sa Wikang Filipino, or the academy, has a division that focuses on the conservation and maintenance of these languages and their literatures.

Against the above background of multilingualism in the Philippines, Martin (2012) carried out an examination of the prospects of increasing the functional load of the national language of the Philippines, Filipino and other native languages with a particular focus on the use of these languages in legal discourse. According to Martin, (2012:2-3) “the 2000 Philippines Census reports that 65 million out of 76 million Filipinos are able to speak the national language as the first or second language... but the Filipino language has not been able to make significant inroads in the legal system”. This implies that the language of legal discourse in the Philippines has predominantly been English. If Filipino, the majority national language can hardly find space in courtroom discourse, then the use of minority languages as media of communication in the courts would probably be unimaginable.

Martin (2012:6) says that “the language policy of the Philippine judiciary, which is determined by what the 1987 Constitution prescribes, allows for two languages- English and Filipino but in practice, it is English that clearly dominates the system.” In 2007, authorities in the Philippines prescribed the use of the Filipino language in courtroom discourse in the Tagalog stronghold of Bulacan courtesy of the initiatives by Supreme Court’s Committee on Linguistic Concerns. All new cases were supposed to be heard, recorded and documented in Filipino. Courtroom staffers in Bulacan were trained to use Filipino as the medium of courtroom conversational interaction.

The use of Filipino in the courts in the Philippines was, however, received with disdain by native speakers of other languages and it was later abandoned for not-so-clear reasons. In examining the prospects of using Filipino and other languages in the courts of law, Sibayan (1999) argued that Filipino was not yet intellectualised to the extent of being used in the courts of law and it was lacking in intertranslatability. Consequently, English has continued to dominate as medium of communication in the courts of the Philippines.

Efforts to make sure that indigenous languages play a role in courtroom communication in the Philippines saw the authorities developing the barangay justice system which is a “more informal vernacular (expressed in different local languages and dialects) use of a state-powered justice system....” (Franco, 2007: 191) which deals mainly with minor legal matters. Such initiatives which were aimed at creating space for indigenous languages in courtroom discourse are significant for the present study.

The fact that there was some measure of success in the use of Filipino as a medium of communication in the Bulacan shows that it is through political will, pro-indigenous languages policies and serious implementation procedures among other factors that indigenous languages can play a role in courtroom discourse. The use of indigenous languages in the districts justice system shows that the use of native languages in the courts can be done slowly when dealing with minor cases until the languages could be intellectualised for them to be used in complex legal matters in the higher courts of law. It is in this regard that the present research focuses on the status of selected minority languages as media of communication in the civil courts which are the lower courts in Zimbabwe.

The present researcher is of the conviction that the legal jargon used in civil court cases is not as complex as that used in the determination of complex criminal matters such that the use of minority languages in civil court cases should not be viewed as an insurmountable challenge. This idea resonates well with Svongoro, Mutangadura, Gonzo and Mavunga (2013) who examined courtroom discourse of alleged rape in Mutare, Zimbabwe. Svongoro et al (2013), concluded that it was of paramount importance for court interpreters to be trained so that they are skilled enough to efficiently execute their duties in the courtroom. Given the fact that even minority languages are now constitutionally recognized in Zimbabwe, provisions and procedures should be put in place to ensure that minority language speakers can also freely express

themselves in civil courts judicial procedure using their native languages. Thus, the training of court interpreters should go beyond majority languages but should also cater for linguistic minorities.

Indonesia is one of the most populous countries with a population of almost two hundred and fifty million. Because of its populous nature, Indonesia is a typical multi-ethnic and multilingual country with an estimated six hundred spoken languages, a situation which potentially presents a critical challenge to language policy makers. Riza (2008) puts the number of spoken languages in Indonesia at seven hundred and twenty six. Marti et al (2005) and Ravindranath and Cohn (2014) say this number make Indonesias the world's second most linguistically diverse nation after Papua New Guinea which boasts of eight hundred and twenty three indigenous languages.

A number of researchers have applauded Indonesia's language policy as "a miraculous success" (Woolard 2000: 456), "a great success" (Bukhari 1996:19) and "perhaps the most spectacular linguistic phenomenon of our age" (Alisjahbana, 1962:1). Before achieving this feat, it has to be acknowledged that the ending of the Dutch colonial rule in Indonesia brought with it the problematic issue of coming up with a national language from the numerous available languages. From this scenario, "...three languages emerged as possible official languages for the new nation...: the colonial language Dutch; the language of the largest ethnic group, Javanese; and the historic lingua franca of the archipelago, Malay" (Paauw, 2009:1-2). The adoption of each one of these three competing languages as the national language had its own unique advantages over the others.

The advantage of adopting the Dutch language was in its international appeal as well as the fact that it was already fully intellectualised. In addition, it was already the language of formal communication in Indonesia. However, Dutch seemed not to have the same international appeal "as other colonial languages such as English and French, and did not possess the same advantages as these languages as a vehicle of international communication (Paauw, 2009:2). While the choice of Javanese spoken by forty seven percent of the population was also a possibility, it was envisaged that it would be a difficult language to learn by second language learners because of complexities associated with its lexicon. Because of this, the language was discounted as a possible choice for the national language.

The Malay language was spoken by less than five percent of the population but it had been used as a lingua franca for over a thousand years and possibly more than two thousand years (Paauw, 2009). This language was eventually adopted as the official language with pockets of resistance from the population. It became a unifying language among diverse ethnic groups since it was never the ethnic language of any dominant ethnic group, an attribute which made it neutral to all ethnic groups. The Malay language's functional load as a national language in a post-independence nation became incomparable to any other national language worldwide (Paauw, 2009) which means it received acceptance in all the major domains of life in Indonesia.

While the success story of the adoption of the Malay or Indonesian language as the official language of Indonesia has been applauded, there is a need to find out the fate of other numerous indigenous languages spoken in the country. Alwi and Songono (2000) classified Indonesian languages into three groups, namely the Indonesian language, regional native languages and foreign languages. All the indigenous Indonesian languages have a collective name, Bahasa Nusantara and thirteen of them are spoken by at least a million of speakers each with the remaining over seven hundred spoken by very small numbers of people ranging from less than one hundred to five thousand (Riza, 2008).

The status of the minority languages in Indonesia is said to be under the protection of the constitution of the country which has provisions for them to continue to be used and developed. However, Nababan (1991) bemoans the restrictive nature of the domains in which the languages are used. Steinhauer (1994) and Collins (2004) make the observation that linguists who have carried out research on local languages have found out that the use of Indonesian in most of the public domains of life has negatively affected the functional load of other indigenous languages. This implies that while achieving the key objective of unifying diverse ethnic groups in Indonesia, the Indonesian language became the language of public discourse including education, the media, trade and commerce, administration, literacy and modernisation. The language, therefore ended up dominating all formal domains of life to the extent that in education, for example, it became the medium of instruction from primary school to university level with other indigenous languages only being used as languages of education in the first three grades of primary school. The dominance of the Indonesian language in both private and public life has resulted in language shift which has endangered the existence not only of minority but

also majority languages like Javanese which has a population of at least eighty million (Ravindranath and Cohn, 2014).

### **2.2.3 RESEARCH STUDIES DONE IN AMERICA**

The United States of America (USA) provides a context in which language planning and policy issues have generally not been sensitive to the need to promote and develop minority languages. Research has shown that non-English speakers are generally vulnerable when it comes to justice delivery in the American legal system. According to Rearick (2004:543), “when non-English speakers need legal assistance in America, they face a frightening and incomprehensible ‘babble of voices’ that will determine matters fundamental to their lives, liberty, and property.” This view depicts the hostile nature of courtroom conversational interaction for non-English speakers in America which points to the lack of protection of linguistic rights for minorities in the American justice delivery system. This explains the vulnerability of non-English speakers in courtroom situations since they may not even be in a position to understand how an outcome of courtroom cases they are involved in either as the accused or complainants was arrived at.

In an attempt to describe the communication problems faced by minority language speakers in America, Grabbau and Gibbons (1996: 12) pointed out that “without the ability to speak English proficiently, accessing any type of service, whether public or private, is difficult...trying to navigate the US court system is far greater.” This scenario paints a picture of the lack of equal justice for non-English in America since those that are unable to use English as a medium of communication may not be able to defend their rights which could be at stake in courts of law. Such people “become uninformed observers, possibly understanding less about their own trial than anyone else in the courtroom” (Rearick 2004:543). Under such circumstances, the presence of such people in the courts is just to be informed about the outcome of court cases but they are unable to meaningfully participate in court proceedings.

The Court Interpreters Act was passed in 1978 in the USA. This Act made a provision for criminal defendants to be provided with an interpreter at trial. However, in civil cases, that right was provided only in cases when the defendant was being sued by the government (Rearick, 2004; Grabbau and Gibbons, 1996). One of the disadvantages of putting this legal provision into

action is that the decision whether or not to call an interpreter largely depends on the discretion of the magistrate.

Court interpretation in the USA in practice is overwhelmingly between Spanish and English at the expense of minority languages. “In federal district courts in 1986, for example, interpreters were used in 43, 166 times for Spanish-English interpreting and only 3311 times for all other languages combined (Rearick 2004:554). This discrepancy serves to show that efforts to promote linguistic rights for non-English speakers in the American legal system were merely cosmetic and their practical relevance were highly questionable thereby leaving the status of other languages spoken in America at the periphery of courtroom discourse.

#### **2.2.4 RESEARCH STUDIES DONE IN AFRICA**

Africa has numerous indigenous languages. Language policies and planning have also been a cause for concern on the African continent. African countries generally share the same historical circumstances in the sense that at different stages of their development, they were at some stage colonized by European super powers which imposed their languages as official languages (Bangbose, 2000, 2011; Migge and Leglise, 2007). As a result indigenous languages have historically played second fiddle to European languages with a few of the majority languages in different countries accorded the national language status while the rest are either declared either minority languages or are not given any recognizable status. This scenario has led to the marginalisation of indigenous languages in public life. The elevation of colonial languages to official status has created problems for the majority of the populations in African countries since the majority of the indigenous people are not very proficient in the official languages (Pennycook, 1994).

According to Gadelii (1999:9) “what is worse, in many African countries there is no evident national language which could assume the official role, but rather a spectrum of minority languages which are not mutually comprehensible.” As a result of the history of colonialism which made sure that the languages of colonial masters carried the entire functional load of all communication in public life, the majority of indigenous languages in Africa were marginalised to the extent that their very existence was not acknowledged at all especially by national constitutions. It is against this background that a number of researchers (Mooko, 2006; Oyetade

2003; Okeiga, 1998; Nyika, 2007, 2008; Ndhlovu, 2009; Kadenge and Nkomo 2011a, b; Kamwangamalu 1997, 2000; Bamgbose, 1992) in different parts of Africa have carried out studies in order to find out the fate of minority language use in formal domains of life as well as try to influence language planning programs with a view to ensure that minorities' linguistic rights get recognition. This would ensure that minorities are able to meaningfully participate and interact with others in public life.

Even after crafting language policies whose objective was to uplift the status of indigenous languages, studies (Kamwangamalu, 2000, 2009; Magwa 2010) reveal that language practices in formal domains like the courts have continued to favour ex-colonial languages. Kamwangamalu (2009:133) found out that "...language policies in most African countries have succeeded only in creating space, on paper at least, for the promotion of indigenous languages in higher domains...(but) they have failed to implement the policies and sever ties with inherited colonial language policies" because of ideological complexities.

Kamwangamalu (2000) examined the status and use of languages in South Africa following South Africa's constitutional provisions which officialised all languages used in that country. The researcher concluded that language practices in some of the country's institutions like the media specifically television, education, the government and administration reflected an unofficial hierarchical ranking of languages with English at the top followed by Afrikaans and African languages at the bottom. This implies that constitutional provisions aimed at making sure that African languages are developed and promoted in formal domains of life have taken too long to take off the ground from the point of view of implementation. In addition, Kamwangamalu (2000:58) argued that "...the language consumer would not strive to acquire the knowledge of African languages, for currently these languages are not marketable and have no cachet in the broader political and economic context." This argument resonates well with Cooper (1989) who attributes failure for language planning models to lack of proper marketing for the languages in question that is whether acquiring a language can open up job opportunities and give consumers access to employment. In this study, the researcher critically analyses these arguments in order to find out whether the same arguments can be applicable to the problem of failure to uphold minority language speakers' linguistic rights within the context of courtroom communication, a situation in which the major objective of the accused and complainants is to



make sure that they put across their arguments clearly to court officials in order to win court cases.

Using the anthropological theory and the hegemony theory (Gamski 1971), Batibo (2009) analysed the problem of cultural domination of minority language speakers by majority languages in Botswana and Tanzania which has marginalised other indigenous languages. This researcher brings to the fore the argument that “each language is a custodian of its speakers’ cultural experiences which is the result of many centuries of interaction with their physical milieu, inter- and intra-ethnic contacts, and relations with the supernatural world” (Batibo, 2009:91). This implies that each language is a carrier of unique cultural norms, values, belief and world view of the native speakers of that language. Therefore, the adoption of majority languages in Africa by minority language speakers impacts negatively on the preservation of a rich heritage of cultural norms by minority groups as a result of domination by majority languages.

Batibo’s (2009) study focused on Kiswahili (Tanzania) and Setswana (Botswana), majority languages in their respective countries and examined how aspects including “kinship terms, colour distinctions and time demarcations (Batibo, 2009: 99), demonstrated the extent to which speakers of minority languages have assimilated features of majority languages at the expense of their own languages. Botswana, for example, a country which has twenty eight languages (Batibo, Mathangwane and Tsonope,2003) which are divided into four distinct branches which are culturally and linguistically diverse. However, the dominance of Setswana, the national language over minority languages has led to the abandonment of “the rich and diverse indigenous counting systems across Botswana languages... in favour of a single mode that is used in Setswana and related languages” (Batibo, 2009:96). This shows the negative impact of the hegemony of majority languages over minority languages whose cultural norms and knowledge systems continue to be in danger of being lost.

Batibo (2009) brings to the fore a relatively new dimension to minority language studies which focuses on the cultural domination of minority language speakers as a result of their continued use of majority languages as lingua franca. This study lays a strong foundation for the present research which interrogates the repercussions of using majority languages, Shona and Ndebele for public roles particularly in civil courts of Zimbabwe at the expense of their own languages.

However, courtroom discourse is a different context of study in which this researcher expects to examine unique challenges which could be peculiar to courtroom communication.

Fyle (2003) examined the process which catapulted the Krio language into the most popular lingua franca in Sierra Leone. Sierra Leone is a small West African country whose population is around four million. The country has eighteen indigenous ethnic groups with Temne and Mende, the largest of them all constituted by half the entire population. Fyle (2003) gives an account of the development of Krio, a language which originated in the colonial period during which slaves who had been captured found their way into Sierra Leone since the 18<sup>th</sup> century. Such people included poor domestic slaves from England, former black American slaves as well as enslaved Jamaicans.

The fact that the groups of people who were brought to Sierra Leone as slaves came from different cultural and linguistic backgrounds gave rise to communication problems. Whilst the ability to converse in English was perceived as a source of upward mobility for the captives, the majority of them were unable to use the language and this gave rise to the development of a language variety with vocabulary derived from English with a syntactic structure based to a large extent on African languages (Fyle and Jones, 1980). Besides English, Krio also borrowed from Yoruba. Fyle's (2003) study revealed that a language which can begin as a minority variety can end up being recognized and used by the majority like Krio, a language of captives who were in the minority but later became the lingua franca of Sierra Leone.

Krio became the language of the marketplace, politics, education as well as public services delivery, for instance, health. Despite the language being despised as being inferior to English, Krio has made significant inroads into formal domains of life. Fyle's (2003) study is of significance to the present research since it demonstrates the potential linguistically incapacitated people have to the extent that regardless of their numerical inferiority relative to other language groups, they can end up influencing the linguistic landscape of an entire community. It is from this perspective that this study looks at the problem of the denial of minority language speakers their language rights in civil court cases while examining the role of different stakeholders including the respective communities in advocating for the promotion of their languages in the public sphere.

Mooko (2006) studied the initiatives which were made by minority language speakers in Botswana in an attempt to promote and maintain their mother languages. The background to this research was the fact that the attainment of independence in Botswana in 1966 saw the new political authorities in the country designating English as the official language with only one indigenous language, Setswana being recognised as the national language. The rest of the indigenous minority languages became marginalised since the government never outlined initiatives to develop and maintain them. Faced with the threat of a possible loss to their native languages, minority language speakers including Ikalanga, Shekgalagarhi, Naro and Shiyeyi carried out activities that were aimed at making sure that these languages continued to survive. In order to critically analyse the initiatives made by minority language speakers in Botswana, Mooko (2006), utilised Crystal's (2000) strategies as some of the ways through which minority language speakers could protect their native languages.

Mooko's (2006) research revealed that minority language speakers have a role to play in making sure that their native languages are promoted and leaving everything to government may not help in achieving desired outcomes since the government may not be having the political will to initiate language revitalisation programs for the minority languages. Different language associations including the Society for the Promotion of Ikalanga Language (S.P.I.L) and Kamanarao Association initiated the designing of orthographies and grammars for minority languages. Minority languages communities, as well as intellectuals and the affluent from those communities were influential in making sure that minority languages were promoted.

Despite the efforts to ensure that indigenous languages were promoted and developed, English continued to be the de facto language of public discourse to the extent that even Setswana the national language had limited official functions. According to Nkosana (2011:130) "...English dominates the linguistic market in Botswana by being the language of education, government, business and the judiciary." Mooko's (2006) research is relevant to the present study since both studies focus on the statuses of minority languages in their respective geographical origins. In addition, the fact that Mooko's (2006) research also makes reference to Kalanga, a cross-border language spoken in both Zimbabwe and Botswana gives this researcher an opportunity to make comparisons between the two countries with a focus on minority languages development and promotion programs.

The case of Botswana is, however, slightly different from the scenario in Zimbabwe in the sense that in the former, minority languages do not have official status while in the latter they have been officialised. It is, therefore, crucial to investigate what impact declaring minority languages official could have on their use in formal domains of life like the courts as well as interrogating the role of minority language communities and other interested stakeholders like minority language associations and linguists in making sure that minority languages are used in higher domains of life. In addition, while Mooko's (2006) study focuses on examining initiatives to develop and promote minority languages in general, the present research is situated within a specific domain, that is, courtroom discourse in the civil courts of Zimbabwe. Whilst in a paper which examines language planning and policy in Botswana, Nkosana (2011) mentions that judicial procedure is carried out in English in Botswana, the researcher does not give a detailed analysis of the communication constraints faced by speakers of indigenous languages in general and minority languages in particular in courts of law. Therefore, this study contributes to the debate on minority languages status in public life focusing on one identifiable domain and this is expected to give a detailed analysis of the fate of minority language use within that domain.

Moyo (2010) examined South Africa's language, cultural and broadcasting policies and their effect on radio broadcasting. Before South Africa attained independence, Afrikaans and English were the official languages which dominated all formal domains of life including radio broadcasting. The advent of independence in 1994 saw the coming into existence of a provision in South Africa's constitution declaring all indigenous languages together with English and Afrikaans official meaning that they could now be used in higher domains of life including the media.

Moyo's (2010: 438) study reveals that "... South Africa has done relatively well in promoting ethnic and linguistic minority languages in its constitution and public and community radio broadcasting." Despite the acknowledgement of this development by Moyo (2010), some researchers (Kamwendo, 2006; Meshrie, 2008; Ndhlovu, 2008) have argued that the full implementation of South Africa's language policy has not yet been achieved because African languages are still accorded a low status in comparison with English and Afrikaans. Moyo's (2010) research brings to the fore the problem of a half-hearted approach to the crucial implementation phase of constitutional provisions aimed at improving the status of minority

languages in public life. The present study contributes to the same debate by interrogating colonial and post-colonial constitutional provisions on language and language usage but focusing on a different domain which in this case is courtroom discourse in the civil courts of Zimbabwe.

Ndlovu (2008:61) interrogated the relationship between language policy enunciations in South Africa and Zimbabwe vis- a- vis the visibility of multilingualism "... in mainstream domains of the public services, law and administration, business and commerce, the media and general public discourse". The researcher found out that while the South African Constitution has a provision for 11 official languages "... which should enjoy equal functional and institutional status, actual patterns of language use" (Ndhlovu, 2008: 62) in higher domains of life are skewed towards English and Afrikaans. It is in this regard that the present researcher examines the constitutional pronouncements on language in Zimbabwe especially the current constitution which gives official recognition to 16 languages with a view to investigate the impact of current constitutional provisions on the linguistic landscape of the country with a focus on Kalanga, Shangani and Tonga in the civil courts. The contentious issue of policy implementation is thus put under scrutiny since it shades light on the sociolinguistic status of the languages under study.

Using Nigeria as the context of study, Oyetade (2003) examined language policy and planning endeavours since the attainment of independence focusing on the problems associated with the classification of the country's languages into majority and minority. The researcher argued that the language situation in Nigeria stems from "balkanisation", a situation which arises as a result of "the almost lack of coincidence that exists today between ethnic and political borders in the world" (Connor 1991:2). This implies that there is a mismatch between the number of states in the world and the numerous ethnic groups living in different parts of the world resulting in groups of minorities feeling that they have an inferior status to their majority counterparts.

The sociolinguistic situation of Nigeria is based on the diversity of its ethnic groups. Oyetade (2003) identifies three distinct groups namely majority languages including Igbo, Yoruba and Hausa with each language constituted by at least ten million speakers, "languages of local importance" especially in their respective states (Edo, Efik, Kanuri, Gwari, Nupeetc) and the last category comprises languages spoken by a few people in their respective communities. Bamgbose (1992) used the terms major, minor and small group languages respectively to refer to the above categories of languages in Nigeria.

Given the multilingual nature of the populous Nigeria which has over five hundred languages, the government has attempted to make sure that there is equitable distribution of national resources among all the ethnic groups in the country but "... when it comes to the utilization of the linguistic resources of the country, the minority languages are not recognized as such" (Oyetade 2003:106). This is as a result of the lack of a vigorous language planning exercise in the country.

Language planning in Nigeria was done within the context of education and the 1979 Constitution which declares the use of the three major languages and English in the National Assembly. What this means is that Nigeria's language planning is not comprehensive and robust but glimpses of it are only found in education and the Constitution. Minority groups in Nigeria have generally felt disadvantaged by policy pronouncements which favour the predominant use of English and the majority languages in formal domains at the expense of their native languages.

When, for instance, the Constitution of Nigeria recommended that "Hausa, Igbo and Yoruba should be adopted as national languages and taught in all primary and secondary schools in the country" (Federal Republic of Nigeria 1987:186), speakers of minority languages staged a "walk-out" and this led to a watering down of the recommendation to "government shall promote the learning of indigenous languages" (Section 19[4]). This mudslinging between minority language speakers and authorities permeated other formal domains of life, for example, the media where the ceremonial good night which was announced in the three major languages after newscasters concluded news reading on national television was dropped off as a result of protests by minority language groups. Even after acknowledging the existence of three major languages and other state languages as provided for in the constitution on Nigeria, English has remained the defacto language of education, the judiciary, trade and commerce a situation Oyetade (2003) says threatens the very existence of indigenous languages especially those spoken by minorities.

In an attempt to deal with language problems which have led to the marginalisation of minority languages in Nigeria, Oyetade (2003:113) recommended the decentralisation of power in which "state governments must be allowed to have their own linguistic policies and planning strategies without prejudice to whatever recommendations that obtain at the centre." This would ensure

that each state would be able to make decisions about the role of each language spoken within its boundaries and this would guarantee the continued existence of each language.

The study by Oyetade (2003) provides valuable insights to the present research. It reveals the pitfalls of national governments' failure to craft comprehensive language planning and policies which eventually fail to give practically sound safeguards to its indigenous languages especially those spoken by minorities. Such languages continue to remain at the periphery when it comes to their use in formal discourses. The major difference, however, between Oyetade's (2003) study and the present research is that the former makes generalisations about the predicament of minority languages in terms of their status in public life and makes reference to education, the judiciary and the constitution. The present study particularly focuses on the status of selected minority languages within the civil courts of Zimbabwe and this reveals the dynamics of language use in an identifiable formal domain which may unearth findings which could be familiar to courtroom communication. Like Oyetade (2003), the present study focuses on the role played by minority languages communities on the development and promotion of their respective languages in public life like the civil courts. This brings to the fore the question of language attitudes and choices of minority language speakers in civil courtroom interaction and their impact on the sociolinguistic status of the languages under study.

The issue of the need to protect linguistic rights for minorities has also been a cause for concern in Kenya and it has not escaped the attention of linguists in that country. Ogechi (2003) examined Kenya's language policy and use in both private and public life in an attempt to find out what programmes have been put in place by Kenya in order to protect language rights. The researcher specifically focused on finding out whether the constitution of Kenya mentions issues to do with language rights as well as whether Kenya has attempted to put safeguards on both majorities and minorities as demonstrated by her language policy and practice.

Kenya is a multilingual country with its languages numbering at least forty two. Its sociolinguistic situation is such that English is the "exoglossic official language used in government, international business, diplomacy etc while Kiswahili is the endoglossic national language that is also used for government administration and casual inter-ethnic communication" (Ogechi 2003:279). According to Webb and Kembo-Sure (2009), it is of paramount importance to take note of the fact that most rural Kenyans are just as unable to communicate using

Kiswahili as they are in English. This implies that the statuses of the numerous languages spoken in Kenya are different. This sociolinguistic situation poses a critical linguistic problem to the majority of Kenyans who are only proficient in their minority or ethnic languages when they need to communicate in formal domains of life.

Ogechi's (2003) study makes a distinction between language practice in private and in public that is individuals' rights to use native languages in everyday communication in social circles and language use in formal domains of life including education, administration and courtroom discourse respectively. The findings of this research revealed that Kenyans can use their native languages freely in private as media of communication. However, the situation in public discourse is quite complex as demonstrated in education, the national assembly and the judiciary.

As a signatory to the UNESCO (1953) recommendations that pupils should use the mother tongue as a medium of education during the early years of schooling, Kenya declared that rural children should be taught in their mother tongues in their first three years of education while Kiswahili or English or both are used in urban settings. The implementation of this policy has not been without problems since many parents and guardians including school authorities in some cases in both primary schools and preschool insisting on the early introduction of English as a medium of learning because of its high prestige. This brings to the fore the question of language attitudes, a key determinant factor of the sociolinguistic status of any given language in a multilingual environment which is also under investigation in the present research. Also, the fact that the Koech Commission (Republic of Kenya, 1999) has it that publications exist only in twenty-two Kenyan languages implies that the rest of the other minority languages spoken in Kenya are not used as media of instruction in schools and this translates to a violation of linguistic rights for the native speakers of these languages. In addition, the languages will not be able to undergo the process of intellectualisation which lays a foundation for the expansion of a language's functional load, an issue that is under investigation in the present research.

The Constitution of Kenya (Revised Edition, 1992) is silent on language related issues except stipulating that to be elected a National Assembly member; they must be proficient in Swahili and English. In practical terms, however, the knowledge of English takes precedence for one to be able to participate meaningfully in National Assembly business since it is the language of record. According to Ogechi (2003), the proposed constitution of Kenya (2002b), seems to give a



ray of hope to minority language speakers since it acknowledges the right of every citizen to use their language. However, the major weakness of this proposed provision is the lack of constitutional safeguards that speak to practical implementation procedures for this pronouncement. Under such circumstances, this proposal becomes a balloon of hot air which does not guarantee the protection of the linguistic rights in Kenya.

From the perspective of the judiciary in Kenya, a number of researchers (Mukuria, 1995; Okeiga, 1998; Gaskins, 1997) have observed that the post-independence Kenyan authorities maintained English as the de facto language of legal procedure. Kiswahili could only be used in the lower courts while the other minority languages could be translated but the language of record in all cases remained English. Gaskins (1997) purports that there was rampant miscarriage of justice in cases where some citizens who were not proficient in either English or Kiswahili were disadvantaged in courts of law. Even the proposed draft constitution as cited by Ogechi (2003) never made reference to the languages to be used as media of communication judicial procedure.

From the study by Ogechi (2003), a deduction can be made that the language of communication in Kenya's formal domains is generally English while in some instances like the lower courts Kiswahili also shares that functional role. Despite efforts to safeguard the use of other languages especially those spoken by minorities in education, the reality in educational settings has continued to favour English because of the upward social mobility associated with it. The courts of law have also tended to use English and Kiswahili at the expense of other indigenous languages. This study is comparable to the present research in the sense that this researcher also interrogates the status of indigenous minority languages in the lower courts of Zimbabwe. However, the sociolinguistic situation in Kenya is somewhat different from that of Zimbabwe whose number of languages is only sixteen compare to Kenya's forty two. Furthermore, unlike in Kenya, Zimbabwe's languages both majority and minority are now officially recognised by the country's constitution and this implies that Zimbabwean authorities are obliged to take a more proactive role to make sure that minority languages are also promoted and developed to the extent that their functional roles are expanded in public life.

Burkina Faso is one African country with not-so-big a population of over ten million but boasts of numerous indigenous languages whose number ranges from sixty to seventy. Kedrebeogo (1997) puts the number at fifty nine while Ethnologue (1996) says the number is seventy one.

The differences in identifying the number of languages spoken in Burkina Faso could be attributed to the controversy surrounding the distinction between a language and a dialect. However, regardless of these differences, it still should be acknowledged that Burkina Faso is one of the African countries which present a multilingual environment which should be of interest to language planning researchers.

The linguistic situation obtaining in Burkina Faso is that French is the only official language. From the rest of the numerous indigenous languages spoken in the country, only three namely Moorle, Fulfulde and Jula had their statuses elevated to become the national languages. From the remaining languages, about twenty were promoted to the extent that they could be used in education and radio broadcasting. The promotion of the national languages was, however, not without problems since some Burkinabes felt that the use of these languages in place of French in schools would put a strain to those who were interested in taking up careers at an international level. In addition native speakers of other indigenous languages felt that the elevation of only three local languages was a ploy to undermine other languages (Gadelii, 1999:12).

Because of the resistance from speakers of other indigenous languages, French has continued to be the language of education, the courts, administration and other important formal domains of life at the expense of indigenous languages in Burkina Faso. This scenario has endangered the linguistic rights of speakers of indigenous languages in Burkina Faso. The fact that all the languages spoken in Burkina Faso lack official recognition except French implies that the linguistic rights of the Burkinabes are not guaranteed in the courts of law. The status of the languages has, therefore, remained inferior to the extent that the existence of some of the minority languages is under threat.

In an attempt to facilitate the promotion of indigenous languages in Burkina Faso, Kedrebeogo (1997) advocated for the adoption of "... the Indian model whereby each of the forty five Burkinabe provinces would designate a national language as the provincial regional language (in addition to, Fulfulde, Jula and Moorle) would be proclaimed official national languages." While Kedrebeogo's (1997:16) idea was meant to elevate the status of some of Burkina Faso's indigenous languages, there still was a problem with remaining minority languages which continued to be neglected. The linguistic situation of Zimbabwe with its sixteen languages is not as complex as that of Burkina Faso and the fact that Zimbabwe's constitution has a provision for

the recognition of all languages used in the country implies that minority language issues are dealt with in different contexts especially given the fact that in Burkina Faso, it is only French which is the official language of the country and the majority of the languages are not officially recognized. Therefore, this research is expected to come up with detailed results of the status of minority languages in the civil courts of Zimbabwe given the current constitutional dispensation in which 16 languages are officially recognised.

Usadolo (2010) carried out an overview of court interpreting situations in a number of African countries including Nigeria, Namibia, Benin, Botswana and Zimbabwe as well as selected European countries such as UK, Spain, France and Portugal. The study focused on court interpreters' education and training, working conditions and professional associations. From his analysis, the researcher concluded that court interpreters in most African countries are not well trained and they are generally not equipped enough for them to be able to interpret minority languages within the courtroom.

Whilst France, Spain and the UK were acknowledged by Usadolo (2010) as having vibrant up-to-date systems of training for court interpreters, Portugal seemed to be lagging behind when compared to her European counterparts. These results seem to suggest that research on the use of minority languages in the courtroom needs to be carried out. Results from such studies will help to highlight the problems which seem to be making it difficult for governments especially in Africa and Zimbabwe in particular, language policy makers, linguists, minority language communities and civil society to ensure that initiatives to protect the linguistic rights of minority language speakers in the courts come to fruition. This should also include examining ways through which court interpreters could be equipped with skills for interpreting messages conveyed using minority languages during judicial procedures. There is a need to critically examine verbal courtroom exchanges involving minority language speakers in the courts in order to identify the problems faced by minority language speakers and be in a position to recommend possible intervention strategies which will make it possible to protect the linguistic rights of minority language speakers. Whilst Usadolo's (2010) study focused solely on court interpreting, a key aspect that is also examined in this study, the present researcher focuses on other important stakeholders including minority language speakers, and minority language advocacy associations with a view to come up with an in depth understanding of their contribution to the sociolinguistic

status of the languages under study in civil courtroom interaction. Thus insights from a variety of subjects who have something to do with Kalanga, Shangani and Tonga languages including analysis of language policy documents provide the researcher with better informed conclusions regarding the role of the languages in question in civil courtroom communication.

### **2.2.5 RESEARCH STUDIES DONE IN ZIMBABWE**

The debate on the fate of minority languages in public domains of life has not escaped Zimbabwean researchers. A number of studies have been carried out by researchers of Zimbabwean origin focusing on the disadvantaged status of minority languages in public life as well as making suggestions as to how the rights of linguistic minorities could be protected by crafting policies which are pro-minority languages. Researchers in Zimbabwe have generally bemoaned the dominance of English as the preferred medium of communication in formal domains of life disregarding all other languages especially those spoken by minorities. Language planning and policies which seem to be slow to react to the need to develop and promote indigenous languages so that they can find space in the public sphere have been brought to question.

Most studies on minority languages in Zimbabwe have generally focused on the question of language-in-education policies and some of them are Nkomo (2008), Magwa (2010), Mavunga (2010) and Ndlovu (2011). Mavunga (2010) examined teachers' and parents' attitudes towards the use of Shona as a medium of instruction from grades 1-3 in a Tonga-speaking community. This study revealed that a handful of parents and teachers were against the use of Shona as a medium of instruction whilst the majority were of the view that Shona should continue to be used so that children would not encounter problems being part of the wider society. From his research on mother tongue education in the official minority languages in Zimbabwe, Ndlovu (2011) found out that despite the fact that the government of Zimbabwe had declared that 6 minority languages including Venda, Tonga, Nambya, Kalanga, Sotho and Shangani were to be used as media of instruction in schools located in communities where they were spoken, very little was being done to implement this policy. Magwa (2010: 157) "...argued strongly for the recognition and use of all indigenous languages in the country in both the private and public spheres." The findings by Magwa (2010) revealed that English has continued to be the language of the media, education, law and administration in post-independence Zimbabwe.

Studies by Magwa (2010), Mavunga (2010) and Ndlovu (2011) make a significant contribution to the contentious issue of language politics in Zimbabwe with a focus on linguistic rights for minorities in public life in general and education in particular. While acknowledging the contribution made by the above mentioned researchers to the debate on the promotion and protection of minority language rights in education, there is a need to expand the debate to other domains of life like the courts especially considering that minority languages in Zimbabwe have now attained official status. The findings of the present research bring to the fore the question of the levels of commitment of the Zimbabwean government, minority languages communities and other stakeholders have in making sure that minority language speakers' right to use their native languages in higher domains of life in general and the civil courts in particular are guaranteed.

Minority language speakers in Zimbabwe have for a long time not had an opportunity to use their native languages when communicating within the context of the courtroom even in cases where they can hardly express themselves in either English, Shona or Ndebele and this has had a knock on effect on their linguistic rights. In an effort to critically analyse situations like this, Erasmus (1999: vii) argued that, "if linguistic human rights are not respected, minorities and marginalized groups cannot truly participate in negotiations concerning their fate". Usadolo (2010) also weighed in saying "when linguistic human rights are not guaranteed to groups who are linguistically handicapped with regard to the use of dominant language(s), such groups are equally deprived of voice to articulate and demand other rights." This implies that minority language speakers are not only at a disadvantage in courtroom communication but they are also discriminated against in other domains of life since they may not be able to adequately articulate their other concerns of life using languages which are not their mother tongue.

Nyika (2008) examined the efforts by civil society organisations and other organisations formed by minority language speakers in Zimbabwe for the purposes of promoting minority languages. The study focused on the education and media domains. Nyika (2008) brought to the fore how minority language groups challenged the proclamations of the Education Act of 1987 (Government of Zimbabwe, 1987) which prescribed the use of English, Ndebele and Shona in education at the expense of other indigenous languages leading to the Amendment of the Education Act of 2002 which prescribed the teaching of 6 minority languages in primary schools. The same minority languages were also allocated a radio station, a development that

could be viewed as a success in terms of language revitalisation. Whilst Nyika's (2008) research focused on minority language revitalisation in the education and media domains, the present study interrogates how the hegemony of English, Shona and Ndebele in courtroom discourse has affected the linguistic rights of minority language speakers. Since each domain has its own specific provisions which prescribe how the issue of minority language use should be dealt with, it becomes crucial to examine the status of minority languages from the point of view of civil courtroom discourse in order to scrutinize efforts by government, the judiciary and other interested parties to the debate on the promotion of minority languages. It is in this regard that efforts by minority language communities and minority language advocacy groups which culminated in the amendment of the 2002 Education Act are interrogated in order to establish whether or not they have targeted other key formal domains of life like the courts and the successes that have been registered thereof.

Nyika (2007:223) analysed "... the developments, challenges and prospects relating to the intellectualisation of the minority languages of Zimbabwe". According to Liddicoat and Bryant (2002) cited in Nyika (2007), the "... process of intellectualisation involves the development of new linguistic resources for discussing and disseminating conceptual material at high levels of abstraction." It is, in other words the process of developing a language to the extent that it becomes resourceful enough to be used to discuss a variety of technical issues in different disciplinary areas without encountering serious problems of lack of adequate terminology. Such a language can find functional space in different formal domains of life thereby increasing its functional load. The efforts to achieve such a feat saw the Tonga Language and Cultural Organisation (TOLACCO) mobilising five minority language groups in Zimbabwe and this culminated into the formation of the Zimbabwe Indigenous Languages Promotion Association (ZILPA). It is ZILPA and its partners (SCF and Silveira House) which collaborated with the African Languages Research Institute (ALRI) in an attempt to make sure those minority languages were developed.

In line with the process of developing minority languages in Zimbabwe, each minority language group was tasked to identify graduates who would enrol for post-graduate studies. In addition, tertiary institutions including Masvingo State University, United College of Education and Joshua Mqabuko Nkomo Teachers' College introduced programs for the teaching and learning of

minority languages. Some academics were also trained to write teaching material and other literature in these languages. The major challenge to these sound initiatives was that the government of Zimbabwe did not provide adequate support to the process of the intellectualisation of the minority languages (Nyika 2007).

Nyika (2007) raises the problems encountered by grassroots initiatives to develop minority languages without the blessings of the government. The idea of minority languages intellectualisation is of crucial importance to the present study because for minority languages to be used in court proceedings they must have gone through the same process. Nyika's (2007) study was done prior to the new constitutional dispensation which officialised all languages used in Zimbabwe. This study, therefore, brings to the fore the question of how different stakeholders are working either individually or collectively to make sure those minority language speakers' linguistic rights are promoted and protected in courtroom communication. The attitude exhibited by the Zimbabwean government to the process of the intellectualisation of minority languages is assumedly as a result of the fact that there was no constitutional provision to say that the minority languages had official status. Therefore, now that all languages in Zimbabwean languages have assumed official status, it becomes crucial to find out and examine the impact of this new constitutional dispensation on the intellectualisation of minority languages for ease of usage in public life in general and civil courtroom communication in particular.

A study by Dziva and Dube (2014) has demonstrated that besides linguists, there are researchers from different disciplinary backgrounds who have an interest in the development, protection and promotion of the rights of minorities in general and linguistic minorities in particular. Issues of rights are usually legal in nature hence these scholars approached the issue of linguistic rights for minority language speakers from a legal perspective. The background to Dziva and Dube's (2014) study is the 2012 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Through this declaration, governments were being called upon to make sure that programs to uphold, protect and practise cultural, linguistic, religious and traditional ways of life by minorities are initiated and implemented (Dziva and Dube, 2014). The latter's study, however, does not examine all the aspects raised in Article 4 of the UN declaration but its focus is narrowed down to an investigation of the extent to which Zimbabwe has been able to craft and implement policies that are in tandem with the

pronouncements of the UN declaration on the need to develop, protect and promote the use of minority languages in public life.

Using the post-modernist human rights discourse as a theoretical framework, Dziva and Dube (2014) specifically analysed efforts by "... individuals, civil society and the government of Zimbabwe to implement the UNDM in the past twenty years, with particular emphasis on Article 4(3)-4 on minority mother tongues as languages of learning and communications." In other words these researchers interrogated the status of minority languages in education and the media. This study revealed that through the Language National Advisory Panel of 1997 and the Education Act, minority languages like Kalanga, Tonga and Nambya found their way into the curricula. In addition universities, for example, the University of Zimbabwe through the ALLEX Project, Midlands State University and Lupane State University established departments one of whose mandates was to clearly focus on the development of minority languages. The major aim of these developments was to make sure that the minority languages would at some stage be intellectualised to the extent that they would be able to make inroads into public domains like education and the media.

However, despite the developments noted by Dziva and Dube (2014), these researchers still concluded that not much was done in Zimbabwe to promote the use of minority languages in both the media and education. The major problems according to the researchers were that literature in minority languages was scarce and programs in these languages continued to receive very limited airplay on radio whilst they were almost non-existent on ZBC TV, the only television broadcaster in the country. The study by Dziva and Dube (2014) is significant to the present research in the sense that both studies examine efforts by different stakeholders to increase the functional load of minority languages in formal domains of life. They in other words interrogate the issue of protecting the rights of linguistic minorities in public life with a view to improve the status of minority languages.

However, while Dziva and Dube (2014) focused on education and the media as contexts of study, this research analyses the status of minority languages in a different domain, that is, the courts particularly the civil courts of Zimbabwe. Focus will be on courtroom conversational interaction between speakers of Kalanga, Tonga and Shangani with courtroom staff through interpreters. The present study is expected to also contribute to the debate on the role of minority



languages in public life in Zimbabwe vis- a-vis developments and pronouncements of the constitution. This is expected to reveal a holistic picture of the levels of commitment from different stakeholders in promoting the use of minority languages in formal domains with a view to uphold the rights of linguistic minorities.

Magwa and Magwa (2014) examined the issue of development from the point of view of Africans. They purported that "... discourse on African development for a long time has tended to overemphasize concerns with Gross National Product (GNP), Gross Domestic Product (GDP) and Per Capita figures at the expense of non-economic criteria" (Magwa and Magwa, 2014:19). They argued that issues of development in an African context cannot be adequately articulated and implemented while neglecting the uplifting of minority languages and cultures because this would be tantamount to excluding the speakers of those languages from playing an active role in developing the nation. Therefore, the use of English as the medium of communication between government entities and indigenous Zimbabweans in development issues has become a barrier to effective dialogue with the people which eventually retards national development.

Magwa and Magwa (2014:25) advocated for an "Integrated Multilingual Policy (IMP) which makes it possible for Zimbabwe to accommodate all its languages, using them as essential tools of communication for development irrespective of their numbers of speakers." These researchers thus argue that all indigenous Zimbabwean languages, both majority and minority have a meaningful role to play in national development programs at different levels of politics and socioeconomic spheres of life. While Magwa and Magwa (2014) examine the need to make sure that minority languages are given space in dealing with issues of national development, the present study takes a different angle by examining the status of selected minority languages in the civil courts of Zimbabwe. An in-depth analysis of courtroom communication involving minority language speakers is expected to contribute to the debate on language planning and policy pronouncements purportedly put in place by authorities vis-a-vis the implementation of the same in real life contexts. This study is, therefore, expected to add to existing literature on the fate of minority languages in public life from a historical perspective in order to analyse the impact of language policy interventions on the use of minority languages in formal domains with a bias towards communication in civil courts.

Mpofu and Mutasa (2014) made a significant contribution to the analysis of language planning and policy in Zimbabwe particularly focusing on the predominant use of English in both the print and electronic media while neglecting indigenous languages especially minority languages. These researchers argued that the marginalisation of indigenous languages in the media “... demonstrate multi-layered linguistic hegemonies” (Mpofu and Mutasa,2014:225) in which English is extensively used courtesy of the colonial history and the global media system with Shona, Ndebele and English sharing a bigger space relative to minority languages. According to these researchers, the fact that all the minority languages in Zimbabwe are allocated one radio station (National FM) while Shona and Ndebele are the languages of broadcasting at Radio Zimbabwe attest to Ndhlovu’s (2009) assertion that minority languages are being overshadowed by Shona and Ndebele in the competition for media space.

The contribution by Mpofu and Mutasa (2014) to the debate on minority language use from the perspective of the media informs the present research. The study reveals a glaring absence of media policy in Zimbabwe which advocates for the development, protection and promotion of minority languages in Zimbabwe. Questions of policy in the media in Zimbabwe are closely linked to the present research. This is so because the present study also interrogates the policy direction the judiciary in Zimbabwe follows with regard to the use of minority languages in courtroom communication in civil courts.

Some of the studies done by Zimbabwean researchers focusing on the use of indigenous languages in courtroom discourse include Svongoro, Mutangadura, Gonzo and Mavunga (2012) and Makoni (2014). Svongoro et al. (2012) carried out a linguistic analysis of courtroom discourse focusing on selected cases of alleged rape in Mutare. The study specifically examined the language used by court officials and lay persons during court sessions with a clear focus on “... linguistic and socio-cultural factors that motivate the choice of certain lexical and syntactic features” (Svongoro et al. 2012:117). Using Critical Discourse Analysis (CDA), Conversational Analysis and Text Linguistics as tools of analysis, the researchers found out that courtroom communication is characterised by the use of euphemistic and sexually explicit verbal exchanges. Courtroom officials’ discourse is laden with highly complex syntactic structures and discipline specific legal lexical items which make them stand out as an identifiable professional

outfit. This kind of language has, according to the researchers been a source of power for courtroom officials since lay persons can hardly understand what messages are being conveyed.

Svongoro et al. (2012) argued that there is a need for courtroom interpreters to be subjected to some form of training which equips them with skills to be able to strike a balance “... between linguistic explicitness for the purpose of arriving at just decisions on the part of court officials and the inclinations by participants to avoid sexually explicit language for cultural and psychological reasons, especially on the part of female victims of rape.” The study by Svongoro et al. (2012) makes a significant contribution to the present research. Like the current study, it is a linguistic research which borders on challenges of courtroom discourse within the context of Zimbabwe, a multilingual country in which English is the principal medium of communication in the courts. Svongoro et al. (2012) raise problems associated with the use of certain lexical items during rape trials within the Shona cultural milieu. Such words have been a source of communication problems for lay persons within the courtroom.

This study draws its analytical framework from Svongoro et al. (2012). However, the issues to be interrogated in the present research seem to be different in the sense that courtroom communication challenges faced by minority language speakers in civil courts are the focus of the current study regardless of the nature of court cases. The informants for this research are native speakers of Kalanga, Tonga and Shangani and this raises issues of linguistic rights for minority languages speakers, language politics, language planning and policies.

Makoni (2014) examines the relationship between language, linguistic human rights and the law through interrogating the use of *isihlonipo sabafazi* (women’s language of respect in a courtroom setting). This research is similar to Svongoro et al. (2012) in terms of bringing to the fore the cultural dimension as one of the possible sources of problems encountered in courtroom communication in Zimbabwe. Makoni (2014) argues that the use of gender biased linguistic devices in the courts by women infringes upon their linguistic human rights since they end up being linguistically left out as they are supposed to abide by certain cultural conventions that guide them in terms of linguistic choices in courtroom communication. The research by Makoni (2014) provides a strong foundation for the current study since it raises problems of linguistic rights in the courts in a multilingual country.

However, whilst Makoni's (2014) research focuses on language and gender issues involving female Ndebele native speakers, the present study aims at examining communication problems faced by speakers of selected minority languages in civil courts of Zimbabwe from a broader perspective which has no slant towards a particular gender. Svongoro et al. (2012) and Makoni (2014) provide significant context to the present research in the sense that their focus which is courtroom discourse involving indigenous languages in Zimbabwe is also the focus of the present research. They also articulate the research problem of communication problems encountered by speakers of indigenous languages in conversational interaction in the courts and it is the same problem that informs the present study. However, the present study is contextualised specifically in the civil courts with minority language speakers of Kalanga, Shangani and Tonga as informants. The focus of this research is, therefore, different in the sense that an examination of the status of minority languages in courtroom interaction is the subject of discussion.

This literature review has revealed the predicament minority language speakers normally find themselves in with regard to the promotion and protection of linguistic rights in public life. Most of the reviewed studies have generally focused on the discrimination of minority languages in the education and media domains with a few studies examining the issue of linguistic rights for minority language speakers in courtroom discourse. To the researcher's knowledge besides Svongoro et al. (2012) and Makoni (2014) who examined problems of lexical choices in rape trials and language and gender problems within the courts, no research has been done focusing on the communication challenges faced by minority language speakers in Zimbabwean courts hence the present research.

## **2.3 CONCLUSION**

This chapter reviewed research studies done on language planning and policies in different parts of the world with a particular focus on the status of minority languages in formal domains of life especially courtroom discourse. The reviewed studies revealed that multilingualism is a prevalent phenomenon in the majority of the countries across the world. As a result, languages do compete for limited space in the prestigious domains of public life where the majority and former colonial languages have proven to be the dominant languages. Minority languages have generally not found space in these domains, a situation that has become an affront to the linguistic rights of the

native speakers of those languages. From the reviewed research studies, it has been established that that failure to promote the use of minority languages in formal domains of life denies them equal access to crucial public services. Findings from the reviewed studies, therefore, give credence to the existence of a linguistic problem which put minority languages at a disadvantage. The majority of the reviewed studies generally focus on domains like education and the media. Not many studies have particularly focused on minority languages use in courtroom discourse hence the need to examine the status of selected minority languages in conversational interaction in civil courts.

## **CHAPTER 3**

### **THEORETICAL FRAMEWORK**

#### **3.1 INTRODUCTION**

This chapter is focused on examining the theoretical underpinnings of two approaches which were used in the analysis of data gathered for this research. The approaches are Critical Discourse Analysis (CDA) and Ecology of Language. These two theoretical approaches are used to critically analyse the historical and contemporary sociolinguistic status of Kalanga, Tonga and Shangani within the context of courtroom discourse in the civil courts of Zimbabwe. The analysis of data using these analytical approaches was expected to yield a thorough understanding of the extent to which the delicate issue of linguistic rights for minorities from the point of view of courtroom discourse has been dealt within Zimbabwe. In addition, using CDA and the Ecology of Language as tools of analysis was expected to assist the researcher in interrogating issues surrounding the history of language planning and policy making in Zimbabwe as well as the implementation processes. In this chapter, the examination of CDA entails defining it, outlining its historical development, aims and its key tenets as well as discussing its appropriateness in critically analysing institutional discourse, the subject of this study. The Ecology of Language paradigm is of critical importance in analysing data for this study primarily because of its human rights perspective, approach to multilingualism, advocacy to ensure that people have equal access to information and expression in a language of their choice as well as views on the need to maintain communities' languages and cultural heritage.

#### **3.2 CRITICAL DISCOURSE ANALYSIS (CDA)**

It has to be made clear at the outset that CDA “has never been and has never attempted to be or to provide one single or specific theory” (Wodak and Meyer, 2008:1). It is rather theoretically and methodologically a heterogeneous approach which is shared by various scholars for the purposes of doing linguistic research (Van Dijk 1993). Breeze (2011:494) says, “...although such an approach exists and occupies a more or less defined area of intellectual landscape, many scholars, particularly those working within this paradigm, feel that it is incorrect to refer to CDA as unitary, homogeneous entity.” Similarly, Wodak (2011:50) says “... there are several identifiable “schools” or groups within CDA.” This implies that CDA is a complex approach to

linguistic research which has developed many shades as a result of contributions by various researchers from different perspectives but still guided by the same key objectives of the research paradigm.

To emphasize on the varied nature of CDA Wodak (2006: 2) opines that, “in contrast to “total and closed” theories...CDA has never had the image of a “sect” and does not want to have such an image.” To elaborate on the multiplicity of approaches to CDA, Blommert and Bulcaen (2000:494) say “generally, there is a perception of a ‘core CDA’ typically associated with the work of Norman Fairclough, Ruth Wodak and Teun van Dijk...” These three researchers have thus been set apart as the pioneers and major contributors to the development of CDA.

There are other versions of CDA which are closely related to those propounded by the above mentioned researchers, for instance, the discursive social psychology (Michael Billig, Charles Antaki, and Margaret Wetherell). Social semiotics and multimodality in discourse is another approach to CDA and its major proponents include Gunther Kress and Theo van Leeuwen. Other approaches to CDA are systemic-functional linguistics and political discourse analysis and researchers who largely contributed to their development are Lemke and Chilton respectively. Notwithstanding the multiplicity of dimensions CDA has taken over the years, it should be mentioned that the research paradigm has a number of common principles which can be drawn from all the CDA approaches to linguistic analysis. It is these shared broad characteristic features of CDA which are used in the analysis of data for this research. This is expected to assist the researcher in coming up with an in-depth data discussion than could have been done using a single approach to CDA as an analytical tool in linguistic research.

### **3.2.1 DEFINING CRITICAL DISCOURSE ANALYSIS**

According to Breeze (2011:493), “CDA has now firmly established itself as a field within the humanities and social sciences to the extent that the abbreviation ‘CDA’ is widely used to denote a recognisable approach to language study across a range of different groups.” Similarly, Wodak (2011:50) says CDA is an autonomous and identifiable way of studying language or “program”. This implies that CDA has over the years developed into an acceptable and useful approach to linguistic analysis.

CDA has evolved into a procedure of doing linguistic research bearing clear aims, objectives as well as common characteristic features. This, however, is so regardless of the fact that CDA has turned out to be a varied research paradigm with groups of CDA researchers proposing different ways of doing critical discourse analysis (Wodak and Meyer, 2008; Breeze, 2011; Wodak, 2006; Blommaert and Bulcaen, 2000; van Dijk, 1993b). The diverse nature of CDA has not weakened it as an influential and critical tool of doing linguistic research. This is despite the fact that van Dijk (1995:17) one of the key proponents of CDA says that “as is the case for many fields, approaches and sub-disciplines in language and discourse studies, however, it is not easy to precisely delimit the special principles, aims, theories or methods of CDA.” So notwithstanding the diverse nature of approaches to CDA, one can still be in a position to tease out its key tenets for the purposes of carrying out linguistic analyses.

According to Huckin, Andrus and Clary-Lemon (2012: 107), “critical discourse analysis is an interdisciplinary approach to textual study that aims to explicate abuses of power promoted by those texts, by analysing linguistic/semiotic details in light of the larger social and political contexts in which they circulate.” Some of the disciplines which have contributed to the development of CDA have been mentioned by Wodak and Meyer (2008: 1) who say that “the manifold roots of CDA lie in Rhetoric, Text linguistics, Anthropology, Philosophy, Socio-Psychology, Cognitive Science, Literary Studies, Sociolinguistics, as well as in Applied Linguistics and Pragmatics”. All these areas of study converge at a point in which they treat language as their subject matter though they use it for different purposes, an issue which is not dealt with in this study.

Though a number of researchers (Kress, 1997; Kress and Leeuwen, 1996; Slembrouck, 1995; Blommaert and Bulcaen, 2000; Murray, 2015) have gone beyond written and conversational interaction as the subject matter of CDA to include semiotic dimensions, van Dijk (1995), however, still maintains that the general bias in CDA is toward linguistically defined concepts. Thus written and spoken discourse continues to be the major phenomenon that is of critical importance in contexts where researchers use CDA as an analytical tool.

In the present study, focus is on textual analysis in which case written material containing the language policies guiding language use in the courts of Zimbabwe with a bias towards the civil courts is put under thorough examination. In addition, this research analyses data obtained



through verbal interaction involving speakers of Kalanga, Shangani and Tonga within the context of civil courts. Furthermore, data gathered from interviews with native speakers of the above mentioned languages, as well as civic society with interests in minority language issues and court interpreters are put under scrutiny. Thus data bordering on semiotics are not part of the present research.

According to Wang (2010: 254), “CDA is a type of discourse analytical research that primarily studies the way social power abuse, dominance, and inequality are enacted, reproduced, and resisted by text and talk in the social and political context.” It is rather a dissident approach to linguistic research which, for van Dijk (1993) is interested in making its stance clear as the researcher makes an effort to comprehend, uncover as well as take appropriate action against social inequality. This implies that researchers using CDA as an analytical tool should be challenging and interrogating the social order with a clear focus on the role of language in the establishment of the status quo.

The issue of the social and political context in which texts are produced and used is of paramount importance in CDA research. CDA research should in other words never ignore the socio-political environment in which language is used. The social setting thus plays a crucial role since it provides fertile ground from which CDA researchers can unearth, analyse and reveal social inequalities manifested through language use in society. A thorough understanding of the social and political realities foregrounding language use assists researchers in getting better informed about the historical circumstances influencing the manipulation of language use by the powerful in society in order to maintain their dominance over other groupings. It is in this regard that data analysis in this study does not turn a blind eye to the historical circumstances in which language planning and policy formulation has come about in both pre-independence and post-independence Zimbabwe. Policy formulation in general and language policy making in particular should not in other words be interrogated in a vacuum but the political and social environment should come in handy in any attempts to get an in depth understanding of language policy formulation, language use in the courts and the statuses of different languages in their respective speech communities.

Wodak (2011) also added her voice on attempts to define CDA and she describes the research approach as a critical procedure actually meant to investigate social inequalities which are

illustrated in social interactions and are legitimised by language use. Wodak and Meyer (2008:10) have also defined CDA as “... being fundamentally interested in analysing opaque as well as transparent structural relationships of dominance, discrimination, power and control as manifested in language.” From these definitions, an inference can be made that from language use in society in different domains, critical discourse analysts can unravel hidden unevenness in social relations between different groups of people. It is from this perspective that this study critically examines the sociolinguistic status of Kalanga, Shangani and Tonga in civil courtroom procedure in order to reveal whether linguistic rights for the speakers of these languages are being upheld in public institutions. By so doing the researcher analyses whether language use in the courts by speech communities under study is not discriminatory in a way that leads to unfairness and injustice to speakers of the languages in question. Some of the social inequalities may not necessarily be hidden but CDA can still be used to reveal the background meaning as well as implications of those relations so that a critical and deeper appreciation of those relations can be done.

CDA researchers work with the assumption that social relations are punctuated by issues of dominance between groups of people. Those occupying dominant statuses in society manipulate language in discourse in order to perpetuate their dominance over other people. They use language in ways that express, constitute and legitimize social inequality (Huckin, Andrus and Clary-Lemon 2012). Language is also manipulated by the powerful in society for the purposes of maintaining their dominance over groups that are weak. It is in this sense that Wodak and Meyer (2008:10) argue that “language provides a finely articulated vehicle for differences in power in hierarchical social structures.” It is in this sense that one can argue that language is a powerful means of ensuring that certain sections of society are made to suffer or have their rights violated by those that have power. It is in the light of these key principles of CDA that a thorough analysis of the power behind language policy formulation which has historically given different statuses to languages in Zimbabwe should be examined. Thus the reasons behind policy stipulations on language use in society in general and the civil courts of Zimbabwe in particular are investigated in order to understand the trajectory of language usage in civil courtroom discourse in Zimbabwe.

Since some of the members of society that are usually victims of dominance by other groups are minorities, CDA becomes a relevant tool of analysis for this research. This is so because the subject of this study is primarily about linguistic rights for minorities in civil courts of Zimbabwe. The use of CDA in this study is expected to clearly highlight how language planning and policies in Zimbabwe have been used to create a situation of dominance in relation to language choice and use by linguistic minorities in courtroom discourse. The focus should in this case be on making a critical examination of how verbal interaction in civil courts have been used to demonstrate that social relationships can be used to enforce inequality.

### **3.2.2 THE CONCEPT OF DISCOURSE**

According to Wodak and Meyer (2008:2), "... the notions of text and discourse have been subject to a hugely proliferating number of usages in the social sciences." This implies that researchers from different disciplinary backgrounds have different interpretations of these terms. The German and Central European scholars differentiate between the words text and discourse while the English speaking world use the term discourse to refer to both written and oral texts (Wodak, 2006). Lemke (1995) defines 'text' as the concrete realisation of abstract forms of knowledge ('discourse'), thus clearly giving a distinction between the terms discourse and text.

The idea of the abstract nature of the notion of discourse is shared by van Dijk (1998) who views 'discourse' as structured forms of knowledge and the memory of social practices, whereas 'text' refers to concrete oral utterances or written documents (Reisigl and Wodak, 2001)." From this perspective, discourse is understood as abstract knowledge of the social structure. It is knowledge that is shared about social relations between groups of people within an identifiable social space in which they interact. Situations in which these people interact either verbally or through other forms of communication will produce different types of texts. It is from this standpoint that the data that is examined in this study is constituted by a variety of texts both written and verbal. Data collected through interviews with speakers of minority languages under study, views from representatives of minority language groups, court interpreters as well as language planning and policy documents are analysed in this study.

According to Wodak and Meyer (2008:2), "... discourse means anything from a historical monument, a *lieu de me'moire*, a policy strategy, narratives in a restricted or broad sense of the

term, text, talk, a speech, topic-related conversations, to language per se.” The term discourse can also have its meaning extended to mean different types of what Murray (2015) refers to as ‘Discourses’... the sum of the linguistic and other elements within the creation of identity.” It is in this sense that one can talk of discourses including gender inequality, media discourse, political discourse, racist discourse or populist discourse, institutional discourse each of which is characterised by a particular style or register. It is from this perspective that the term discourse is understood in this research since the languages whose use is under investigation are not studied out of context but they are examined as situated in courtroom discourse which is a typical example of institutional discourse. The linguistic representations obtained from courtroom discourse including policy documents, interviews and observations should constitute the text that is analysed for the study.

### **3.2.3 DEFINING PRINCIPLES OF CDA**

Despite the varied nature of approaches to CDA, there are common or shared key tenets that can be drawn from most of the ways of doing CDA and it is these characteristic features that are used as a guide to the analysis of data for this research. While some CDA researchers (van Dijk, 1993; Wodak, 1996; Fairclough and Wodak, 1997; Meyer, 2001) have come up with different lists of the general principles of CDA, the list that seems to be referred to extensively is the one developed by Fairclough and Wodak (1997). It is this set of principles that is explained in this research and is most relevant to the focus of this study.

The first principle is that the principal aim of CDA is to deal with social problems. It is in this sense that van Dijk (1995:17) says that “it is problem- or issue-oriented. Any theoretical and methodological approach is appropriate as long as it is able to effectively study relevant social problems.” This means that one of the major objectives of CDA is to explore the role of language in the creation and perpetuation of social inequalities that are normally revealed through social interaction. The historical problem of the marginalisation of indigenous minority languages in public life, for instance, the courts of law in Zimbabwe provides a typical context in which CDA can be used as a tool of linguistic analysis.

According to Wodak and Meyer (2008:20), “... it remains a fact that CDA follows a different and critical approach to problems, since it endeavours to make explicit power relations that are

frequently obfuscated and hidden, and then derive results which are also of practical relevance.” This argument cements the problem oriented approach CDA has to social issues that are manifested through language use in society. Thus the existence of social problems lays a foundation for CDA research. In addition, CDA researchers should go beyond analyzing the problem identified but they should strive to proffer practical and relevant solutions to the problem.

The idea of putting emphasis on addressing social problems using CDA as a tool of linguistic analysis is also of paramount importance to the present study. This research problematizes the issue of linguistic rights for minorities in courtroom discourse which need to be upheld failure of which may lead to the denial of justice to minority language speakers. Language use is a key element of social interaction hence such an issue could create serious social problems for those people whose linguistic rights are infringed upon especially within the context of highly sensitive circumstances like the courts.

The purpose of using CDA as a tool of linguistic analysis under these circumstances would be to deal with the identified social problem by making “explicit power relations that are frequently obfuscated and hidden, and then derive results which are also of practical relevance” (Wodak and Meyer, 2008:20). Thus the foundation of CDA research is the existence of a problem whose catalyst is language related. Examples of problems or issues that qualify to be the subject matter of CDA include racism, colonialism, and social change and language rights for linguistic minorities as is the case with the present research

The second key principle of CDA is that “discourse is historical” (Fairclough and Wodak 1997:271-80). The explanation to this characteristic feature of CDA is that the study of discourses should not be done in a vacuum but it should be contextualised within identifiable historical circumstances. For a researcher to have a thorough understanding of a phenomenon and be able to adequately describe, reveal, explain and address it, there is a need to have an appreciation of the history behind it. Thus an adequate interpretation of discourses and texts can only be done when a study is situated in its proper historical realm. Thus the sociolinguistic status of Tonga, Shangani and Kalanga in civil courts discourse should be examined and understood from a historical standpoint. This means that the pre-independence and post-independence epochs in Zimbabwe should provide historical benchmarks that could have

constrained language planning and policy that have impacted on language use in public discourse in general and the civil courts in particular.

The next principle of CDA is that it is “interpretive and explanatory” (Fairclough and Wodak 1997:271-80). This means that CDA work is not only ceased with giving textual analyses of data but rather goes on to give contextual interpretations and explanations to data. The understanding of the historical circumstances behind discourse helps CDA researchers to come up with appropriate and relevant explanations to data gathered. It is in this respect that the present researcher gathers naturally occurring data from verbal courtroom exchanges involving native speakers of minority languages and that data is closely examined for the purposes of giving an informed interpretation of the role of language in enacting power relations. Subsequently, the researcher will be in a better position to explain the circumstances surrounding the status of the selected minority languages’ status in courtroom communication within the context of the civil courts of Zimbabwe.

Another key principle is that discourse does ideological work. The meaning of the term ideology according to CDA theorists is different from the common description of an ideology as “... a coherent and relatively stable set of beliefs or values.” (Wodak and Meyer, 2008:8). The conceptualisation of ideology from a CDA standpoint is somehow laden with negative connotations (Knight 2006:625). The type of ideology which is understood from a CDA perspective “... is rather the more hidden and latent type of everyday beliefs, which often appear disguised as conceptual metaphors and analogies, thus attracting linguists’ attention” (Wodak and Meyer, 2008:8). Normally such beliefs are created and perpetuated by those that have power in society. They usually carefully and slowly instil belief about dominant ideologies which sometimes negatively affect other groups of people in society. Discourse analysts have an interest in the examination of the production of ideologies, their reception by members of society as well as their social effects.

van Dijk (1998:258) conceptualises ideologies “... as the ‘worldviews’ that constitute ‘social cognition’: schematically organized complexes of representations and attitudes with regard to certain aspects of the social world.” Those perceptions and attitudes that are perpetuated by people having power in society to the extent that they become acceptable to the dominated groups create social inequalities and it becomes the business of CDA practitioners to unearth and

challenge them with a view to find a solution. To put this into perspective, this researcher analyses the attitudes of the speakers of the languages whose sociolinguistic status in the civil courts of Zimbabwe is under investigation. This is done in order to reveal the impact of certain ideological standpoints on people's language choices and uses in society and how these choices affect the status of the languages in question especially in public life like civil courtroom discourse as is the case with the present study.

Another principle of CDA is that "discourse constitutes society and culture" (Fairclough and Wodak 1997:271-80). There is in other words a close link between discourse, society and culture. There is thus a need to appreciate that discourse plays a significant role in moulding both society and culture while conversely society and culture also influence the nature of discourse that is produced as people interact on a day to day basis. It is in this regard that Fairclough and Wodak (1997:203) say "... that every instance of language use makes its own small contribution to reproducing and/or transforming society and culture, including power relations." This clearly demonstrates that issues of society and culture are inseparable from discourse hence a thorough examination of discourse must be done within the context of the society and culture in which it is produced. Since society and culture constitute a people's way of life, it is important to examine how language behaviour, an aspect of society's day to day living is influenced by power relations especially between those in authority and other groups of people in society. Thus the organisation of the social structure should help researchers understand the statuses of different languages in a given speech community. In other words, language choice and usage in civil courtroom discourse, for instance, by native speakers of Kalanga, Tonga and Shangani gives a reflection of the nature of society in terms of power relations between groups of people in society and the continued existence of the status quo can signify the entrenchment and reproduction of those power relations.

Also, power relations are discursive. This means that CDA focuses on the analysis of the role of discourse in the exercise and negotiation of social relations of power. In other words the asymmetrical power relations obtaining in society have to be understood through a rigorous analysis of discourse. This implies that a systematic analysis of courtroom verbal exchanges involving minority language speakers in the civil courts of Zimbabwe is meant to reveal the nature of social relations of power between the complainants and accused people on the one hand

and courtroom staff on the other hand. In addition, the discursive nature of power relations is interrogated through a rigorous analysis of policy documents informing language use in courtroom communication in general and the civil courts of Zimbabwe in particular.

The other CDA principle is that the link between text and society is mediated. This implies that the relationship between the social structure and text is not direct but it has to be facilitated by the medium of discourse. There are certain orders of discourse that need to be followed. This means that social groups that have power exercise control on discourse practices in ways that determine the relationship between text and society.

The last principle of CDA from the point of view of Fairclough and Wodak (1997) is that discourse is a form of social action. This should mean that there is a relationship between discourse and action. Thus there is a close relationship between what people write and say and what they do. Whenever people use language, they do so for the purposes of accomplishing certain interpersonal goals in specific interactional contexts hence discourse is a form of social practice.

According to Breeze (2011:512), “one of the fundamental tenets of CDA is that discourse is socially embedded: It is once socially constructed, and also plays a role in constructing and perpetuating (“reproducing”) social structures and relations.” Language in this sense is perceived to be inseparable from the social framework. In other words the manner in which language is used in society has its origins in the way in which society is organised. Thus the existing social relations between groups of people have a role in determining their social interaction through language. Conversely, the organisation of groups of people in society and its continuity depends on how language is used.

To further give enlightenment on the idea of discourse as social practice, Wodak (2006:3) says that the notion implies “... a dialectical relationship between a particular discursive event and the situation(s), institution(s) and social structure(s), which frame it: The discursive event is shaped by them, but it also shapes them.” In this sense, discourse plays a constitutive role since it determines situations in which people interact as well as those people’s social identities and relationships. The same relationships also condition the nature of discourse which is expected to be in operation between groups of people. In addition, discourse contributes to the sustenance,



reproduction and transformation of the social structure. This implies that the allocation of roles to languages in society has serious implications on the organisation of social structure. The marginalisation of some languages in society can be a determinant factor regarding perceptions some people may have about speakers of those languages. In addition, to marginalise a language is tantamount to marginalising the speakers of that very language such that relations between the marginalised and the rest of the community may be strained as a result of relations of power and dominance between different societal groups based on language differences. It is in this regard that this study interrogates the issue of the sociolinguistic status of Tonga, Kalanga and Shangani in civil courtroom discourse with a view to understand how the status of these languages impact on the language attitudes of minority language speakers and eventual relations with speakers of majority languages.

The fact that CDA takes language as social practice (Fairclough and Wodak, 1997) means that "... it takes into account the context of language use to be of crucial importance" (Wodak, 2000; Benke, 2000). The aspect of context is complex and it is constituted by a number of elements. Context is a sum total "... of such categories as the overall definition of the situation, setting (time, place), ongoing actions (including discourses and discourse genres), participants in various communicative, social or institutional roles (van Dijk, 1993:356). An analysis of all these aspects especially the setting and institutional roles of minority language speakers whose language use is under investigation within the context of courtroom discourse is expected to reveal the linguistic challenges minorities encounter in the courts.

As already mentioned in the prologue of this section of the chapter CDA researchers have come up with a multiplicity of principles that inform CDA practitioners in their research endeavours. However, not all principles may be used in the process of conducting one linguistic research. For this reason, the set of principles which guide the present research is the one propounded by Fairclough and Wodak (1997). Considering the fact that this study focuses on an examination of the historical and contemporary sociolinguistic status of Kalanga, Tonga and Shangani in courtroom communication in civil courts, there is a need to critically interrogate courtroom discourse in Zimbabwe from a historical perspective in order to understand the history of the problem under investigation.

### **3.2.6 POWER AND DOMINANCE**

One of the most salient aspects that are of critical importance to CDA as a research tool is the notion of power (Kress, 1990; Wodak and Meyer, 2008; van Dijk, 2001; Wodak, 2001; Dastjerdi, Latifi and Mohammadi, 2011). van Dijk (2001) goes further to describe the nature of power CDA focuses on saying it is not power in the general sense but social power which is normally exhibited in groups or professions. This power is expressed through social interaction between people from different social groups with one social group wielding more power than the other thereby expressing unequal relationships.

According to Wodak and Meyer (2008:10), “power is central for understanding the dynamics and specifics of control (of action) in modern societies, but power remains mostly invisible. Linguistic manifestations are under investigation in CDA.” Thus power relations in society are largely hidden and it is from language use in social interaction that power asymmetry between groups of people is realised. From this perspective, it can be argued that “... the defining features of CDA are its concern with power as a central condition in social life” (Wodak and Meyer 2008:10). In support of this view, Dastjerdi, Latifi and Mohammadi (2011:258) say “CDA is concerned with a thorough analysis of language used in relation to many factors such as power and social inequalities.” An examination of language use in society thus shades light on the relationship between the social structure and power. In other words the social structure is a battlefield for the struggle for power between groups of people and the expressive nature of language bears testimony to this fact.

According to Wodak (2002), language use can assist in the construction and reconstruction of power relations. Whilst language may not necessarily possess an inherent power on its own, its use by people who are in power makes it a powerful entity. It is in this sense that Murray (2015:10-11) opines that “whoever has the power defines the terms and the outcome of the discourse.” It is this language use in the context of the civil courts of Zimbabwe by minority language speakers that is under scrutiny in order to reveal the power dynamics that are at play. This analysis is premised on the idea that language choice and use in civil courts is largely determined by influential groups of people in society who make decisions not only for themselves but also for the less powerful groups of people in society. Thus the sociolinguistic

status of the languages under study should not be viewed as natural but is a result of deliberate decisions by authorities.

According to Dastjerdi, Latifi and Mohammadi (2011:256), "... groups have power if they are able to control the acts and minds of the other groups." This means that the powerful are able to influence the behaviour of those that are dominated. They can make a determination regarding how the dominated should participate in different ways including language choice and use within particular discourses for instance courtroom discourse as in the present study. This implies that "power is about relations of difference, and particularly of social structures" (Wodak and Meyer 2008:10). Where relations of power are at play, there is no sameness between people in society but groups of people have different statuses in numerous domains of life. It is these differences that create social inequalities and those social asymmetries that come about as a result of language constitute the business of CDA.

Those that are dominated may either resist this unequal relationship between themselves and groups that occupy dominant positions. Conversely they may accept being dominated to the extent that they may feel that the status quo is 'normal'. Thus Dastjerdi, Latifi and Mohammadi (2011:256) argue that, "... dominated groups may more or less resist, accept, comply with, or legitimate such power, and even find it natural." This implies that in some instances prolonged domination by the powerful in society make the dominated believe that they deserve to occupy the position they have assumed in society.

In this study data collected from conversational interaction involving minority language speakers is analysed using CDA in order to reveal the extent to which language use in the civil courts of Zimbabwe exhibits unequal relations between the powerful and the dominated. In addition, data from semi-structured interviews with native speakers of Tonga, Kalanga and Shangani is examined in order to reveal whether or not the communities in question accept the status quo regarding language use in the courts. In other words, the researcher intends to find out the reaction of the communities whose language behaviour is under scrutiny to the language policy of the courts in Zimbabwe.

According to van Dijk (2001:300), dominance within the context of CDA entails "the exercise of social power by elites, institutions or groups, that results in social inequality, including political,

cultural, class, ethnic, racial and gender inequality.” Powerful groups that dominate other groups of people in society normally have identifiable sources of power which include wealth, education, ethnicity, gender, status, fame, knowledge, information and force (Murray, 2011:10; Dastjerdi, Latifi and Mohammadi, 2011:256). Normally these are limited social properties that may not practically be enjoyed by all groups in society hence they become sources of social inequality.

According to van Dijk (1985:355), the power of dominant groups may be integrated in laws, rules, norms, habits and even a general consensus, and thus take the form of what Gramsci calls “hegemony”. The enactment of laws by dominant groups in society somehow criminalises possible acts of resistance from the dominated and this coerces the powerless to abide by the laws to the detriment of their rights. This eventually leads to the prolonging of the status quo to the extent that “... the ruled will accept the dominant class’s hegemonic endeavours as common sense” (Charamba, 2012:73). In this research the impact of constitutional provisions on language and language usage in both colonial and post-colonial Zimbabwe is done in order to investigate how they have influenced language attitudes and choices in civil courtroom discourse and the eventual impact on the sociolinguistic status of the languages under study. In addition, the investigator critically analyses language use by minority language speakers in order to find out whether or not there are any traces of hegemonic relations which may have led to the status quo. Furthermore, this study examines the possible sources of power which has created the obtaining social relations in terms of language choices and use between linguistic minorities and other language groups in the civil courts of Zimbabwe.

### **3.2.7 THE ANALYSIS OF POLICY DOCUMENTS USING CDA**

As clearly highlighted in the methodology section of this study, documentary analysis is one of the data collection techniques that are used to gather relevant data for the present research. Policy documents that speak to the language policy of the judiciary in Zimbabwe are supposed to be analysed from a historical perspective in order to reveal the trend in language policy pronouncements that have affected the justice delivery system in the country in general and the civil courts in particular. In addition, constitutional provisions that make reference to the language policy of Zimbabwe constitute the other set of documents that are put under scrutiny. The constitutional clauses to be examined should include both the pre-independence and the

post-independence constitutional dispensations. This is done in order to understand the historical circumstances that might have given birth to certain constitutional provisions which have put certain constraints on people's language choices and uses in courtroom communication in general and the civil courts in particular.

Furthermore, the analysis of policy documents using CDA is meant to assist in the evaluation regarding the process of the implementation of language policies in Zimbabwe in general and the civil courts in particular with a focus on the selected minority languages whose use is under examination in this research. This makes it possible for the researcher to be able to interrogate the sociolinguistic status of the selected minority languages in Zimbabwean civil courts as well as highlighting the extent to which linguistic rights for minorities are upheld and respected in Zimbabwe.

According to Yeatman (1990) "... policy making is seen as an arena of struggle over meaning, or as 'the politics of discourse.'" Other researchers (Ball, 1993; Gale, 2003; Taylor, Rizvi, Lingard and Henry, 1997) weigh in saying the policy making process is a site of discursive struggle between competing but unequal interests. This means that policy making at different levels of society is a process which is characterised by undercurrents whose origins are the different social interests as represented by a variety of groups of people in a particular environment. The powerful groups in society normally attempt to try to safeguard their interests through policy making procedures at the expense of the less powerful groups hence the need to use CDA to reveal and critically analyze the power struggles surrounding the policy making processes in society.

Fulcher (1989:7) argues that policy is seen as a "struggle between contenders of competing objectives, where language – or more specifically, discourse - is used tactically." Different groups of people according to this argument have different interests which should be catered for by policy. As such, the policy making process becomes a daunting task for policy makers should they make an effort to accommodate the interests of different groups of people whose activities are affected by the policies. Normally those people who have power are influential to the extent that the outcomes of the policy making processes would largely depend on their wishes. This implies that the outcome of policy making processes has its foundation on power dynamics between groups of people in society. For this reason CDA becomes an appropriate tool of

analysis for the present study because of its major aims which border on revealing and critically analysing power and social inequality as demonstrated by language use in society. It is in this regard that policies that determine the status of Kalanga, Shangani and Tonga in the civil courts of Zimbabwe are examined in order to interrogate the issue of linguistic rights for these language groups.

According to Taylor (2004:1), “also associated with the increasing importance of language in social life, there have been ‘more conscious attempts to shape it and control it to meet institutional or organisational objectives’, which Fairclough (2001a: 231) refers to as ‘the increased technologization of discourse.’” It is in this regard that institutional language like courtroom discourse is an area where governments through judiciary institutions make deliberate decisions and actions in order to determine the choice of languages available to the people whenever they interact during courtroom procedures.

Language use in the courts and other institutions is, therefore, determined through the process of ‘spin doctoring’ (Edwards and Nicoll, 2001:106) which gives birth to language policies. CDA plays a crucial role in carrying out the process of uncovering and analysing the language policies at both the level of the national constitutions as well as the judiciary in Zimbabwe. This is done in order to analyse the source of the current status of minority languages use in formal domains of life in general and the courts in particular.

Fairclough’s (1989, 1992, 1993) thrust on language as social practice lays a strong foundation for critical policy analysis. The focus of Fairclough (1993:135) is specifically on examining “... the relationship between ‘discursive practices, events and texts’ on the one hand, and ‘wider social and cultural structures, relationships and processes’ on the other –in order to explore the linkages between discourse, ideology and power.” These relationships need to be examined in order to adequately analyse policy documents within the context of broader policy processes.

According to Taylor (1997:25) “... discourse theories have enhanced the scope of critical policy research. The most obvious influence is the increasing focus on policy documents as texts, but discourse theories can also be drawn on to explore policy-making processes within the broad discursive field within which policies are developed and implemented.” This implies that discourse theories are key analytical tools that can be used to examine and get an in-depth

meaning of policy documents through textual analysis. In addition, discourse theories are used to analyse policy documents from a historical standpoint with a view to unravel the undercurrents that may have given birth to certain policy positions including the implementation processes involved. From this perspective, CDA thus becomes a relevant tool of linguistic analysis for examining the language policy documents which have an impact on language choices in courtroom discourse in Zimbabwe in general and in the civil courts in particular.

The policy documents are analysed as texts bearing in mind the contexts in which they were produced. It is from this perspective that Gale (1999:405) argues that “policy documents are discursively produced ‘within particular contexts whose parameters and particulars have been temporarily (and strategically) settled by discourse(s) in dominance.’” Thus the policy process is about discursive and textual practices (Jones, Lee and Poynton 1998). This implies that a thorough understanding of the language policies of Zimbabwe vis- a-vis the status of the minority languages under investigation in this research can only be a reality when the historical underpinnings of the policies are explored. The process of developing a policy does not occur in a vacuum but it is closely linked with identifiable historical circumstances. This means that for one to have an in depth understanding of a policy there is a need to analyse it in accordance with the history behind it.

In support of the need to analyse policy within its context, Armstrong, Belmont and Verillon (2000:7) say “policies do not exist in a vacuum; they reflect underlying ideologies and assumptions in society....” From this perspective, it needs to be clearly understood that stripping context from the discussion of any policy document renders the policy meaningless. Policy from a CDA standpoint does ideological work and a critical analysis of policy reveals underlying beliefs which may have contributed to the birth of particular policies.

For the purposes of the present research, language policies as proclaimed by the national constitution from both the pre-independence and post-independence Zimbabwe are analysed using CDA. The reason for doing this is to explore issues of power and dominance and how these have contributed to social inequalities in language use in formal domains of life in general and the civil courts in particular. In addition, CDA is used as a tool of linguistic analysis to interrogate power relations in the production of policy documents governing language choice and use in the courts in both pre-independence and post-independence Zimbabwe.

Carrying out an analysis of policy documents and the national constitutions from the pre-independence and post-independence Zimbabwe is a critical step in interrogating the historical and contemporary sociolinguistic status of the minority languages under study. It helps the researcher to understand the link between the policy making processes in the two historical periods. In other words, the investigator will be able to have a critical appreciation of the influence of the policy making processes of the pre-independence Zimbabwe on the present day current policy developments.

### **3.2 THE ECOLOGY OF LANGUAGE**

The ecology of language is the second paradigm of linguistic analysis that is used to examine data in this study. It emerged as a reaction to the "... one language-one nation ideology..." (Hornberger, 2002:32) which emphasised the need for each country to promote the use of a single language especially for communicating in formal domains of life. The assumption made by proponents of that view was that the use of a single language by people either within the same country or globally would ensure mutual co-existence among the people (Sallabank, 2010). Multilingualism was believed to be one of the major sources of conflict between people of different ethnic groups (Brewer, 2001). It was conceptualised as a problem rather than a resource (Ruiz, 1988; Muhlhausler, 1996). Thus linguistic diversity was generally not promoted and countries seemed to uphold the idea of promoting the use of a single language for communication especially in public life. This has had serious implications on linguistic rights for other language groups in multilingual countries like Zimbabwe where the majority of indigenous languages have historically been marginalised in public discourse.

Despite the constitutional proclamation of the one language one nation by a number of countries, the actual language practices within the same nation states indicate that "... there are few countries that can claim virtually complete monolingualism" probably with the exception of Iceland whose 270 000 population speak Icelandic (Spolsky, 2005: 2156). This implies that for the majority of the countries all over the world, the one language- one nation phenomenon has come to be "... recognized an ideological red-herring" (Woolard and Schieffelin, 1994:60-61). It is rather a perception which does not seem to match the practicalities of language use in most parts of the world.



After a realisation and appreciation of the fact that language practices in many countries all over the world are generally multilingual in nature and embracing the idea that linguistic diversity is an asset and not a problem, "... the language planning field increasingly seeks models and metaphors that reflect a multilingual rather than monolingual approach to language planning and policy" (Hornberger, 2002:32). It is generally against this background that the ecology of language, a linguistic paradigm which upholds linguistic diversity and linguistic rights came into existence.

Consequently, language planning and policy procedures have tended to embrace and reflect the multilingual nature of their respective countries though the implementation processes generally seem to have been lagging behind. It is against this background that this study interrogates the historical and contemporary sociolinguistic status of Kalanga, Shangani and Tonga in the civil courts of Zimbabwe with a view to examine language planning and policy developments and their impact on language use in public life in general and the civil courts in particular. Thus the adoption of the ecology of language as one of the tools of linguistic analysis is relevant to the present research since it raises questions about the need to promote multilingualism especially in public domains of life like courtroom discourse, a phenomenon which is prevalent as well as the foundation of this study.

### **3.2.1 DEFINING THE ECOLOGY OF LANGUAGE**

As already highlighted in this chapter, multilingualism or linguistic diversity lays a solid base from which the ecology of language thrives. The ecology of language as a research paradigm owes its existence and relevance to the prevalence of multilingual situations in different parts of the world. Such linguistically diverse environments have created conditions where languages compete for space in different domains of life especially formal ones. Consequently, some languages have tended to be dominant by virtue of them being the native tongues of the powerful and influential groups in society while native languages of the less powerful the majority of which are minorities have struggled to make inroads into the key formal domains of life like the courts.

In an attempt to describe the ecology of language, a number of researchers (Yang,2014; Spolsky, 2005; Hornberger, 2002; Lechevrel, 2009; Leffa, 2002; Tsuda, 1999) have generally made

reference to the definition put forward by Haugen (1972) which says it is the scientific study of the interactions between any given language and its environment. Languages do not exist in a vacuum but they operate in an environment which has conditions or variables that can either promote their continued existence or endanger them. This implies that the relationship between a language and its surroundings including other languages and the natural phenomena constitutes the ecology of language. Thus examining the historical and contemporary sociolinguistic status of Kalanga, Tonga and Shangani in civil courts of Zimbabwe qualifies to be an interrogation of the ecology of language. It brings to the fore questions about these languages' relationships with other languages in a multilingual environment like the courts which constitute the context of the present research.

From the ecology of language perspective, the environment of a language is constituted by two dimensions, one psychological and the other one sociological. According to Yang (2014:107), "the psychological domain refers to a domain of interaction between a certain language and other languages." Haugen (1972:325) further explains the psychological perspective to the ecology of language saying that how a language relates to other languages within the same linguistic ecology should specifically entail what goes on within the minds of both the bilingual and multilingual speakers. This dimension of the ecology of language thus raises crucial questions about language attitudes of users of different languages within a multilingual environment, an issue of critical importance to the present research. Language attitudes feature prominently in making a determination about the sociolinguistic status of any language used within a particular linguistic ecology. This means that the attitudes of the native speakers of Kalanga, Tonga and Shangani towards their mother languages have to be examined since they contribute significantly to an understanding of the ecology of their respective languages. These attitudes bring about the perceptions of the speakers regarding the roles their languages play in society in comparison with other languages within the same linguistic environment, thus giving an insight into the languages' relative statuses.

The sociological domain of the ecology of language refers to a language's "... interaction with the society in which it functions as a medium of communication" (Haugen, 1972:325). Language planning and policy procedures assign roles to languages in any society and the process of implementation of language policy pronouncements have an influence on the position of a

language relative to other languages within an identifiable linguistic ecology. Thus the sociological domain focuses on revealing "... the dynamics of interaction and co-existence of old and new languages in social contexts" (Mora, 2014:1). It is from language use in social interaction in both private and public life that issues of power, dominance and social inequality are revealed leading to the creation of different social statuses between languages within a given social context.

In an attempt to characterise the ecology of language, Muhlhausler (1994:123) says "when speaking of linguistic ecologies, we focus on the number of languages, user groups, social practices and so forth that sustain this language ecology over longer periods of time." Thus there is a wide range of variables that constitute the ecology of language the analysis of which should help researchers in making a determination as to whether or not a language continues to be in existence and they include its functional load, the number of languages it co-exists with and their statuses in society as well as the social standing of the groups of people that use it.

According to Hornberger (2002:33), "Haugen emphasises the reciprocity between language and environment, noting that what is needed is not only a description of the social and psychological situation of each language, but also the effect of this situation on the language." This should mean that using the ecology of language paradigm as a tool of linguistic analysis entails a thorough analysis of each language's functional load in an identifiable social context. The co-existence between languages in one social context should help researchers understand whether or not it enhances the promotion and development of the languages concerned, an issue which is of crucial importance to the determination of the sociolinguistic status of the languages under scrutiny in the present research with specific reference to civil courtroom discourse in Zimbabwe.

Haugen (1972:337) says "the ecology of language should... typically be concerned with the status of languages, functions, and attitudes and ultimately with a typology of classification, which will tell us something about where the language stands and where it is going in comparison with other languages of the world." All these aspects of language ecology are of critical importance to the present research. A thorough examination of the role of the languages under investigation in courtroom communication should also involve interrogating issues regarding the functional load of the languages in question. In addition, questions are also asked

about language attitudes, one of the key determinant factor about what value the speakers of a language place on it.

Drawing insights from the work of Haugen (1972), Hornberger (2002:33) managed to deduce the behaviour of languages in a multilingual environment and highlighted "... that languages, like living species, evolve, grow, change, live, and die in relation to other languages and also in relation to their environments." From all these processes that affect languages within identifiable linguistic ecologies, Hornberger (2002:33) managed to come up with three crucial themes namely language evolution, language environment and language endangerment. A critical examination of the language behaviour of the Kalanga, Tonga and Shangani in courtroom discourse assists the researcher appreciate whether or not the languages are evolving, growing, living or are on the verge of death. From this scrutiny, one can be able to fathom the sociolinguistic status of the sociolinguistic status of the languages in the civil courts.

Languages do change or develop in accordance with changes in their surroundings. They do not remain the same over time but they are always involved in a process of evolution. This implies that for a language to continue to live and operate within an identifiable linguistic ecology, it needs to adapt to its changing environment. This view augers well with Kaplan and Baldauf's (1997) model which represents numerous forces that have an impact on linguistic ecosystems including "language modification constructs" (Kaplan and Baldauf, 1997:289) or "language change elements" (Kaplan and Baldauf, 1997:296). Thus language change should keep track with developments in the environment in which it is used.

The dynamic nature which should be characteristic of language is a significant element of the ecology of language which is examined in the present research. The investigator would want to find out the extent to which the languages under investigation have been able to adapt to their surroundings in order to analyse their sociolinguistic status in civil courtroom discourse. Thus issues of their promotion and development are interrogated in this research.

The language environment entails the social context in which languages are used while language endangerment means that "... some languages, like some species and environments, may be endangered and that the ecology movement is about not only studying and describing those potential losses, but also counteracting them" (Hornberger, 2002:33). Hornberger (2002) raises a

serious challenge which some languages encounter based on account of their relationship with the environment.

Because of the competition for functional space languages find themselves in, some languages' existence is threatened by others. Thus the use of the ecology of language as a tool of linguistic analysis should not only reveal the status of languages in relation to their environment but should give the researcher a platform to recommend what procedures could be put in place for the purposes of saving languages from the dangers of being lost completely. This view is echoed by other researchers (Fishman, 1991, 2000; Pakir, 1991; Skutnabb-Kangas, 2000; May, 2001) who are of the view that mechanisms have to be put in place to save endangered languages from extinction. This implies that the examination of the sociolinguistic status of Shangani, Tonga and Kalanga should not be an end in itself but should be a springboard from which issues of promotion and development for the languages in question should be interrogated as a way to make sure that their role in public discourse like the civil courts is enhanced.

From the foregoing attempt to characterise the ecology of language paradigm, one can deduce that the basis for the ecology of language is the existence of a diversity of languages which operate within the same environment. The co-existence between languages within an identifiable social context becomes a source of three crucial ideological frameworks, the first of which is that languages do live and evolve in a language ecology with other languages. Secondly, languages closely interact with the environment in which they exist at different levels of society including the socio-political, economic and cultural dimensions. Lastly, if languages do lack the necessary environmental support in comparison with other languages, the languages become endangered and it becomes highly likely that they may be lost.

### **3.2.2 THE HISTORY OF THE ECOLOGY OF LANGUAGE**

Haugen (1972) is credited for metaphorically transferring the term 'ecology' from biology to language. Mahlhausler (2003:3) intimated that the "study of language ecology is a complex job which involves the collaboration of a number of discipline. It is on the basis of the acknowledgement of the sophisticated nature of the study of the ecology of language that Haugen (1972) came up with important questions the answers to which are "... relevant to forming a picture of the ecology of a given language" (Mahlhausler (2003:3). This implies that

providing answers to the questions would clearly depict the status of any given language in relation to the environment in which it is used.

The questions put forward by Haugen (1972:336) include the following:

1. What is its *classification* in relation to the other languages?
2. Who are its *users*? This is a question of *linguistic demography*, locating its users with respect to locale, class, religion, or any other relevant grouping;
3. What are its *domains* of use? This is a question of *sociolinguistics*, discovering whether its use is unrestricted or limited in specific ways;
4. What *concurrent languages* are employed by its users? We may call this a problem of *dialinguistics*, to identify the degree of bilingualism present and the degree of overlap among the languages;
5. What *internal varieties* does the language show? This is the task of a *dialectology* that will recognize not only regional, but also social and contractual dialects;
6. What is the nature of its *written traditions*? This is the province of *philology*, the study of written texts and their relationship to speech;
7. To what degree has its written form been *standardised*, i.e. unified and codified? This is the province of prescriptive linguistics, the traditional grammarians and lexicographers;
8. What kind of *institutional support* has it won, either in government, education, or private organisations, either to regulate its form or propagate it? We may call this study *glottopolitics*;
9. What are the *attitudes* of its users towards the language, in terms of intimacy and status, leading to personal identification? We may call this the file of *ethnolinguistics*
10. Finally, we may wish to sum up its status in a *typology of ecological* classification, which will tell us something about where the language stands and where it is going in comparison with other languages of the world.

The questions given above demonstrate that ecology of language is a multi-disciplinary approach to the study of language. It provides linguists the opportunity to study the ecology of any given language from different perspectives leading to an in-depth understanding of the status of the language in relation to other languages used within the same speech community.

The set of ten questions given by Haugen (1972) are an important contribution to the history and foundation of the ecology of language. They remain relevant to research work which focuses on the need to unearth the sociolinguistic status of a given language in society in general or from the

point of view of a specific domain of language use. For this reason, the questions are considered as important to the present research.

The questions formulated by Haugen (1972) provide a template that guides the researcher in designing relevant questions for semi-structured interviews that are held for this research. Questions for the different categories of people from whom data is collected through interviews including native speakers of the languages under investigation, representatives from SPAT, KLCDA, TOLACCO, and members of the Judicial Services Commission are founded on Haugen's (1972) questions.

Haugen's (1972) set of questions reveals that the study of the ecology of language should be carried out from a multi-disciplinary perspective. It requires the researcher to tap into knowledge from other fields of study including dialectology, ethnolinguistics, glottopolitics and philology in order to have an in-depth critical appreciation of the ecology of any given language.

### **3.2.3 DEFINING PRINCIPLES OF THE ECOLOGY OF LANGUAGE**

Tsuda (1994) is credited for developing two language policy options within the context of the apparently never ending spread of English in different parts of the world. The first option which is referred to as the Diffusion-of-English paradigm aimed at strengthening the dominance of English in world affairs. The emphasis of this approach was to make sure that monolingual principles that favour English language usage in the major domains of life including science and development, culture, the media and all aspects of modernisation was upheld thereby maintaining the hegemony of the language in all the key formal domains of life.

The Ecology- of-language paradigm was developed by Tsuda (1994) in an attempt to counter the hegemony of English which had historically relegated other languages to an inferior status. This language policy option was meant to deal with problems associated with the hegemony of English including the creation and reproduction of inequality. Tsuda (1994) strongly believed that the ecology –of language paradigm would go a long way in dealing with inequality in language use thereby providing space for other languages of the world not occupying dominant positions in society.

From the ecology of language perspective, the basis of the human rights approach to language is that each and every individual should be afforded the chance to make their own language choice in any communicative situation. It makes the assumption that language choice and usage in any context should be regarded as a right each individual should have the freedom to exercise and should never be an imposition (Tsuda 1999). This implies that the right to language, according to the human rights perspective should be upheld in society like any other human rights. There should not be any language policy which constrains an individual or a group of people to use certain languages within certain contexts of communication at the expense of languages of their own choices. For this reason, language choice and usage in any given context should be regarded as a right each individual should be allowed to exercise and enjoy and should never be determined by other people.

Skutnabb-Kangas and Phillipson (2008) also added their voice to the human rights approach to language by Tsuda (1994). Actually, Skutnabb-Kangas and Phillipson (2008) as well as Tsuda (1994) added the dimension of language rights to the Haugenian concept of the ecology of language. According Skutnabb-Kangas and Phillipson (2008:1), “language rights are an existential issue for the political and cultural survival of individuals and communities worldwide.” They are the lifeblood of the survival of both individuals and communities globally. In other words language rights are an essential and critical issue in the day to day survival of people hence researchers from different disciplinary backgrounds including social scientists, constitutional lawyers and educationists have research interests in language rights. Language rights from this perspective need to be respected and upheld in all human societies across the world. Failure to uphold linguistic rights for certain groups of people eventually leads to the infringement of those people’s other rights in other domains of life, the civil courts included. Thus linguistic rights become a prerequisite for the exercise of other rights.

Since general human rights developments were not very clear on stating which language rights could be included on the list of linguistic human rights, it was in the 1980s that linguistic human rights issues began to gather momentum. This culminated in the development of core language rights which upheld the diverse nature of the ecology of language.

Among others, the major language rights according to the ecology of language paradigm include, “positive identification with a (minority) language by its users, and recognition of this by others



... public services, including access to the legal system, in minority languages or, minimally, in a language one understands” (Skutnab-Kangas and Phillipson,2008:4). This underscores the need for minority languages to be given the same attention as both official and majority languages in society. Thus minority languages should be developed and promoted in the same manner as other languages in any identifiable speech community. The speakers of the minority languages should also be made to have pride and show positive attitudes towards their native languages with the rest of the community showing tolerance and acceptance for speakers of minority languages.

Also, of significance as highlighted by Skutnabb-Kangas and Phillipson (2008) is the fact that minority languages should also be afforded space in formal domains of life. They should also be used as media of communication, for instance, in courtroom situations, a feat which demonstrates the upholding and promotion of linguistic rights for minorities as well as uplifting the sociolinguistic status of the minority languages.

Rubio-Marin (2003), a constitutional lawyer makes a distinction between two types of language right. The first type deals with expressive rights whose major aim is to ensure “... a person’s capacity to enjoy a secure linguistic environment in her/his mother tongue and a linguistic group’s fair chance of cultural self-reproduction ... language rights in a strict sense” (Rubio-Marin, 2003:56). Expressive language rights thus focus on the need to make sure that an individual or a group of people are identified through their native language.

The second type of language right are referred to as instrumental language rights and they focus on the need to ensure that “... language is not an obstacle to the enjoyment of rights with a linguistic dimension, to the meaningful participation in public institutions and democratic process, and to the enjoyment of social and economic opportunities that require linguistic skills” (Rubio-Marin, 2003:56). The concept of the instrumental role of language is of critical importance to the present study.

The major focus of this study is on interrogating the sociolinguistic status of Kalanga, Shangani and Tonga in courtroom discourse within the context of the civil courts of Zimbabwe. This is a typical example of research in which the enjoyment of other rights specifically getting justice through language in a public institution such as the civil court is interrogated. This research examines whether native speakers of the minority languages in question are allowed to express

themselves using a language of their choice in the courts, thus examining the issue of the instrumental use of language. Therefore, the fact that this research analyses the issue of language choice by minority language speakers within the context of courtroom discourse makes the ecology of language an appropriate tool of analysis for the study. Examining the sociolinguistic status of languages especially those spoken by minorities raises crucial questions about linguistic rights issues, a significant principle of the ecology of language paradigm.

### **3.2.3.2 EQUALITY OF LANGUAGE**

The concept of the equality of language is one of the key elements of the ecology of language paradigm. It makes the assumption that all languages are equal and they can be used in all communicative situations. This implies that no language has inherent superiority over other languages and language use should be determined by the choice of participants in any communicative situation. Of importance is the fact that equality in communication can be examined from different perspectives including "... participants in a speech event, interaction between members of different speech communities (and the inherent advantage of native speakers), sign language users, equal access to information, freedom of expression and others" (Phillipson and Skutnabb-Kangas, 1996:443). Thus all languages in any given speech community should be treated as equals. The notion of the equality of language is of paramount importance to the present study since examining the sociolinguistic status of the languages under study in the civil courts also brings to the fore the question as to whether the languages have equal functional space with other languages within the same linguistic ecology given the multilingual nature of the speech communities in which this research is carried out. This also raises questions about factors that have impacted on the sociolinguistic status of Kalanga, Tonga and Shangani in the civil courtroom communication.

Tsuda (1999) proposes three suggestions that promote equality in communication namely linguistic localism, use of a third language as well as use of both languages. Linguistic localism entails the use of a local language by all participants in international communication, for instance the adoption of a local language spoken in the host nation. The use of the third language should mean the adoption of a third language by people who use two different languages. Use of both languages implies participants in a communicative event should be allowed to use their native languages and force their interlocutors to listen to it as a foreign language. However, the idea of

linguistic localism could lead to the exclusion of other participants in a communicative event (Leffa, 2002:13). Notwithstanding this weakness, it still needs to be acknowledged that the concept of the equality of language is of paramount importance especially to the present study which examines the sociolinguistic status of minority languages with a view to highlight the need to have their functional load expanding especially into formal domains of life like the civil courts.

### **3.2.3.3 MULTILINGUALISM AND MULTICULTURALISM**

According to Tsuda (1999), the concept of multilingualism and multiculturalism is based on two significant aspects of the ecology of language namely peaceful coexistence and the need to pay attention to minorities. In other words the concept of pluralism which entails tolerance of other cultures, languages and people should be the guiding principle in an intercultural context.

Tsuda (1999) also says pluralism also pays attention to the minorities, the dominated, and the disadvantaged, as it believes that these people should be given equal opportunities. In other words, those communities that are marginalised and discriminated against in different spheres of life should be accommodated. Doors should be opened for them so that they become actively involved in societal activities especially in public life. This approach provides a platform for the promotion and development of all languages including those spoken by the minorities in both private and public life like the civil courts. This view point upholds the importance of the promotion of both linguistic and cultural diversity which should be understood as an asset that lays a foundation for inclusion and participation of all citizens in different societal discourses and national development.

Multilingualism and multiculturalism has its origins in attempts to resist the history associated with the creation of modern societies which fostered the ideals of monolingualism and monoculturalism (Walls, 2010). It emphasises on the need to appreciate the diversity of languages and cultures across the world. This concept is of relevance to the present research whose thrust on the uplifting of linguistic rights for minorities is founded on the premise that linguistic diversity is a reality which society cannot afford to ignore but embrace. Raising questions about the sociolinguistic status of indigenous languages especially those spoken by

minorities is a clear indication that the present researcher upholds the ideals of multilingualism and multiculturalism. Thus the present study looks at the extent to which language planning and policies in Zimbabwe have attempted to embrace multilingualism in public institutions especially the civil courts.

### **3.2.3.4 MAINTENANCE OF LANGUAGES AND CULTURES**

The ecology of language emphasises on the need to make sure that all languages and cultures are promoted and maintained so that they will not be lost. In this sense, linguistic communities should be able to sustain both their languages and cultures in order to ensure their continued survival. Failure to ensure continuous existence of cultures and languages leads to the alienation of a people both linguistically and culturally.

In the present study, issues of language and culture maintenance are examined because for a language to be used in formal domains like the courts, it should have been developed to the level of it having a standard form. Such issues are examined in this research in order to analyse the practicalities of using the minority languages under investigation in public life in general and civil courts discourse in particular.

### **3.3 CONCLUSION**

This chapter gave a detailed discussion of two theoretical approaches which are used in the discussion of the findings for this research. These include CDA and the ecology of language. CDA is a broad multi-disciplinary approach to linguistic analysis and it examines different types of texts including written, spoken as well as other semiotic dimensions (films, pictures, body language etc). The major focus of the present study is on examining written material particularly national and judicial language policy documents produced in Zimbabwe and this has to be done from a historical perspective. This is done in order to appreciate their contribution to the historical and contemporary sociolinguistic status of selected minority languages in civil courts of Zimbabwe as well as highlighting the dynamics of power and dominance as shown through the production of the policy documents. In addition, using CDA, data collected from spoken interaction with native speakers of the languages under study, civil society and Judicial Services Commission officials is analysed in order to examine their contribution to the sociolinguistic

status of the languages under study within the context of civil courtroom discourse. The defining principles of CDA are of paramount importance in examining data for this research especially the problem-oriented and historical approaches to linguistic analysis. The ecology of language brings an added dimension to data discussion in this study. It has a linguistic rights approach which advocates for the need to make sure that language rights for minorities are also protected and promoted which is a key aspect that is addressed in this study. Its emphasis on the need to uphold the ideals of multilingualism is critical to this research which is founded on the need to promote linguistic diversity as a critical resource for the benefit of individuals or groups of people especially in institutional discourse like the courts.

# **CHAPTER 4**

## **METHODOLOGY OF THE STUDY**

### **4.1 INTRODUCTION**

This chapter presents the research design adopted in this study, sampling methods as well as data gathering techniques. In this inquiry, the qualitative research design was used with purposive sampling and snowball sampling adopted as the sampling methods. Data gathering instruments used in this study include documentary analysis, semi-structured interviews and observation. This chapter also gives an outline of the research participants from whom data was collected for the study.

### **4.2 RESEARCH DESIGN**

This section is a critical part of the chapter which lays the foundation for the study. It provides an outline of how the research process was carried out including making a determination about the most appropriate methods of data collection as well as the sampling methods which were deemed suitable for the nature of the study. One of the major dichotomies of research designs is the one between qualitative and quantitative research. Creswell (1980), describes quantitative research as the explanation of phenomena by collecting numerically quantifiable data that are analyzed using statistical methods whose foundation is mathematically oriented. Quantitative research, in a nutshell, presupposes the search for knowledge on the basis of statistical or numerical methods of both data collection and analysis. In quantitative research, emphasis is on numbers and percentages in both data gathering and discussion. Quantification of research findings, therefore, is one of the major elements of quantitative research.

As clearly indicated in the prologue of this chapter, this study is qualitative in nature. Corbin and Strauss (1998) describe qualitative research as research work whose production of findings is not as a result of statistical analysis of data. This implies that data collection and analysis methods used in qualitative research are devoid of any measurements but are characterised by interpretations, descriptions and explanations of phenomena. Detailed narratives of data collection and data discussion sections are characteristic of qualitative research. In this study, qualitative data gathering techniques were used and the data gathered was interpreted and

analyzed using qualitative data analysis methods with the presentation given in elaborate descriptive narratives.

According to Denzin and Lincoln (2000:3) "... qualitative researchers study things in their natural settings, attempting to make sense of, or to interpret phenomena in terms of the meanings people bring to them." The idea of studying behaviour which is a key attribute of qualitative research is emphasised by a number of scholars (Zohrabi, 2013; Hancock, Ockleford and Windridge, 2007; Ritchie, 2003; Snape and Spencer, 2003). Ritchie (2003:34) argues that methodology in qualitative research is aimed at providing "... data which is an 'enactment' of social behaviour in its social setting rather than a 'recounting' of it generated specifically for the research study." This argument emphasises the idea that descriptive interpretations and analyses of phenomena in qualitative research studies should as a matter of principle be based on data gathered from naturalistic real life contexts. Data should, in other words, be collected from participants as they get involved in their day to day activities uninterrupted instead of creating conditions which are tailor made to specifically suit particular research activities. This implies that the qualitative research paradigm focuses on collecting authentic and undistorted instead of stage-managed data. Conclusions drawn from analyzing this kind of data would not only be reliable but verifiable.

Since data collection for this research also involved observing native speakers of Kalanga, Tonga and Shangani conversationally interacting during court proceedings in civil courts with some of them using either Shona or Ndebele as media of communication, this means that some of the data for this study was collected in its naturalistic environment. The behaviour of the participants was observed as it occurred naturally within a clearly defined domain of language use in order to get undistorted information regarding language choices by native speakers of Kalanga, Tonga and Shangani when communicating within the context of civil courts. The use of semi-structured interviews and documentary analysis also made this study a qualitative inquiry and these methods allowed the researcher to get a deep understanding of both the historical and contemporary status of minority languages in the civil courts of Zimbabwe by probing interviewees and critically analysing documents.

According to Hancock, Ockleford and Windridge (2007:6), "qualitative research tends to focus on how people or groups of people can have (somewhat) different ways of looking at reality".

This means that by virtue of it being done in natural settings, qualitative research is bound to produce a diversity of views from participants. In any given context, people are likely to have different interpretations or understanding of the same experiences. Hence in this research semi-structured interviews which allowed the researcher to further question participants' initial responses was meant to bring out respondents' views in their diverse forms so that data analysis and inferences would be arrived at on the basis of a holistic picture of the situation on the ground.

#### **4.3 RESEARCH PARTICIPANTS**

Different categories of people were key sources of data for this study. Accused persons and complainants who happened to be native speakers of Kalanga, Tonga or Shangani provided data relating to the problems associated with the use of either Shona or Ndebele as the media of communication in civil courts. These participants were the primary sources of data and the experiences by some of them with the use of either Ndebele or Shona at the expense of their native languages provided the researcher with an insightful understanding of the impact of using the two majority indigenous languages on the linguistic rights of speakers of other languages. In other words, it is through conversational engagement with native speakers of Kalanga, Tonga and Shangani that the researcher could be aware of the communication problems these people face in courtroom discourse.

Court interpreters who conversationally interact directly with accused persons and complainants as they articulate messages during civil courtroom proceedings on behalf of Shangani, Tonga and Kalanga speakers were also among the research participants. They gave insights into the linguistic problems encountered by minority language speakers when participating in civil courts matters because of their numerous encounters with this group of people in the same domain. Other members of the communities where the languages under study are widely spoken as native languages also participated in this research in order to provide the researcher with their views and attitudes about language choices in courtroom discourse. This assisted in analysing what views these communities hold about multilingualism, linguistic rights as well as the protection, promotion and use of all indigenous languages in most domains of life in general with a particular focus on civil courtroom discourse.



Another important category of people that provided crucial data concerning the trends in relation to the status of minority languages in courtroom discourse within the civil courts is constituted by officials from the Judicial Services Commission. These are key people who are influential in policy formulation relating to the operations of the courts in Zimbabwe and they are responsible for making follow-ups on policy implementation processes. They gave information about the language policy of the judiciary from both a historical and contemporary perspective as well as the underlying principles that have directed language policy formulation thus far. They were expected to provide information about the direction of policy regarding the need to embrace linguistic diversity in courtroom discourse given the provisions of the current Zimbabwean Constitution which stipulates that sixteen languages are officially recognized in the country.

In addition, civil society organisations with an interest in the promotion and development of indigenous languages were considered as important participants in this research. Such organisations included TOLACCO, KLCDA and SPAT who are involved in advocacy work aimed at the development and promotion of Tonga, Kalanga and Shangani languages respectively. Such organisations, the researcher hoped would provide information regarding their advocacy work on the need to safeguard linguistic diversity as a resource to be protected and promoted in all domains of life in general and civil courtroom proceedings in particular.

#### **4.4 SAMPLING METHODS USED IN THE STUDY**

According to Marshall (1996:522), “choosing a sample is an important step in any research project since it is rarely practical, efficient or ethical to study whole populations.” This implies that sampling is a significant part of research procedure which not only makes an inquiry a realistic and possible undertaking but also a focused and in-depth activity. Potential participants in any research activity can either be people, places or other entities (Latham, 2007; O’Leary, 2005). The sum-total of all the potential participants who can be studied in any research constitute the population for a particular study. Because of financial constraints and time limitations, (Latham, 2007) researchers do not normally conceive it as practical to focus on entire populations for their studies hence the need to choose different sampling strategies which are suitable for data collection in particular research endeavours. Researchers need to make well informed choices when selecting sample methods for their studies so that the sampling strategies would be in line with the adopted research paradigm.

Frey, Carl and Gary (2000:125) define a sample as “a sub-group of a population.” Berinstein (2003:17) also describes a sample as a ‘taste’ of a group” .Latham (2007) also weighs in saying that a sample should be able to represent the entire population and should be the source of data for a research activity. From these definitions, a deduction can be made that a sample should be constituted by subjects or participants that share certain uniform features which are of significance to a research project. Each member of the selected sample should be a reliable source of data for the issue(s) under ‘microscopic’ investigation by the researcher from the point of view of qualitative research. Therefore, for one to qualify to be part of a sample, there is a need to have characteristics which will help the researcher answer adequately research questions as well as assist in solving the research problem.

Ritchie, Lewis and Ellam (2003) distinguish between two major categories of sampling namely probability and non-probability sampling. The former is characterised by a random selection of elements from an identifiable population in which each element has an equal chance of being selected and the sample should give a statistical representation of the entire population. Sampling methods of this nature are used in quantitative research studies which involve statistical representations both at data collection, presentation and analysis stages.

Qualitative research, however, which is the research paradigm guiding the present study uses non-probability sampling methods for selecting research participants. According to Ritchie, Lewis and Ellam (2003:78) “in a non-probability sample, units are deliberately selected to reflect particular features or groups within the sampled population” and the sample is not meant to be a statistical representation of the entire population. The chances that an entity is selected for the sample are unknown but the characteristic features of the population determine whether or not an element qualifies for selection. This implies that for an entity to be chosen for selection in non-probability sampling, it should as a matter of priority have certain identifiable distinctive qualities which are relevant to the subject matter under study. The selection process for research participants in qualitative research should thus be so thorough that the researcher would be able to collect reliable data which makes it possible for replication to be done producing the same results.

Non-probability sampling methods are normally used in situations where the number of entities within a population are not known or in situations where it is difficult for the researcher to

individually identify them. Thus the key consideration for the selection of research participants would be a demonstration of behaviour which provides the relevant answers to the key questions raised in the research. The researcher under these circumstances would, therefore, be required to be analytical enough to identify those elements having the most relevant data to the issue (s) under study. Another important quality of non-probability sampling is that the process of determining a sample can be done either before the research begins or with the research process on-going (Hancock, Ockleford and Windridge, 2007). Purposive and snowball sampling are the non-probability sampling methods used in this study.

#### **4.4.1 PURPOSIVE SAMPLING**

According to LeCompte and Preissle (1993) criterion based is a more appropriate term than purposive because all sampling is purposive, but purposive is the term most commonly used in literature. The controversy surrounding the term purposive sampling, however, does not seem to go beyond the naming of this method because scholars (Patton, 2002; Robson, 2002; Holloway and Wheeler, 1996; Mason, 2002; Wimmer and Dominick, 2000; Chiromo, 2006) generally agree that in purposive sampling participants in research are selected on the basis of them having certain attributes or qualities that can assist the researcher critically explore key issues or puzzles under investigation.

The choice of elements in purposive sampling is not done randomly but the researcher makes deliberate decisions so that those that can help in providing relevant and adequate data for a particular inquiry are chosen. The major aims which need to be considered in purposive sampling are two-fold. The first is to make sure that "... all the key constituencies of relevance to the subject matter are covered and the second is to ensure that, within each of the key criteria, some diversity is included so that the impact of the characteristic concerned can be explored" (Ritchie, Lewis and Ellam, 2003: 79). In other words in a purposive sample, the researcher should always bear in mind that the choice of elements should be done taking into consideration that whatever conclusions or inferences are made should be based not only on adequate data but information which represents the diverse nature of views relating to the problem(s) under inquiry. The informants constituting a sample should be able to provide all the different points of view which can possibly enlighten the researcher about the phenomenon under investigation.

The sample should be constituted in such a way that the data collection procedure can reach the point of saturation before the discussion, interpretation and analysis is done.

In purposive sampling, the researcher should, therefore, rely on their judgment about the most reliable elements that can provide important information that is required in a study. The informants should be able to provide data which make it possible for the researcher to achieve the objectives of the study. Of importance in the choice of participants in a purposive sample should be that the respondents should be willing to give all the data required by the researcher. In other words the researcher should make every effort to convince the groups of people who are targeted as important members of the sample to provide all the relevant information required for a study.

Purposive sampling in this research was used to select officials from the Judicial Service Commission since they are the very people who directly influence policy formulation which affects courtroom procedure including language choice and use. Since the delivery of justice in the country is under the purview this organ of government, JSC staffers were expected to give important information relating to the contentious issue of the handling of linguistic rights for linguistic minorities in the country's courts in general and the civil courts in particular.

In addition, members of civil society identified using the same sampling method since they have a concern for the development and promotion of minority languages in key domains of formal life. TOLACCO, SPAT and KLCDA are the organisations which were deemed to be key informants in this research since they work closely with native speakers of the languages whose status in the civil courts of Zimbabwe was under investigation.

#### **4.4.2 SNOWBALL SAMPLING**

The term snowball or chain sampling is a technique used for the identification of research subjects "...which involves asking people who have already been interviewed to identify other people they know they fit the selection criteria (Ritchie, Lewis and Ellam, 2003:94)." The research increases the size of the sample through the already identified sample members. Vogt (1999) says in snowball sampling, a sample member gives the researcher the name of another subject and this new subject also identifies yet another subject and as this process continues the sample size will be expanding.

Snowball sampling, therefore, relies primarily on the process of referrals (Usadolo, 2010; Hancock, Ockleford and Windridge, 2007; Aldridge and Levine, 2001; O’Leary, 2005) in which after collecting data from a few identified individuals, the researcher takes advantage of existing relations between these people and other group members from whom more data is collected. If properly conducted, snowball sampling can lead to the identification of a sizeable number of research participants from whom substantial data for a study can be collected.

What is of significance in snowball sampling is to make sure that those research participants who are identified through “network” sampling (Frey et.al., 2000: 133), should as a matter of principle be selected on the basis of having the same experiences or characteristics with the previously identified group. According to Berg (1988), snowball sampling is based on the assumption that a ‘bond’ or ‘link’ exists between the initial sample and others in the same target population. It is important that the investigator should be able to take advantage of community members’ contacts in order to create a sample in research. The researcher should under these circumstances be able to explain adequately to the initially sampled individuals the relevant and basic attributes each new member of the sample must possess so that those that have the much needed and relevant data for the study will be included in the sample. On the basis of this data, the inquirer will be able to come up with a data discussion and analysis which leads to valid conclusions.

Aldridge and Levine (2001:80) cited in Usadolo (2010) say the conditions that justify the adoption of snowball sampling in research are as a result of situations where:

- No sampling frame exists;
- Cases are rare and geographically widely distributed;
- Cases are likely to know each other;
  
- Individuals are willing to supply information about each other.

Other researchers (Faugier and Sargeant, 1997; Thompson, 1997; Vogt, 1999; Hancock, Ockleford and Windridge, 2007) are of the view that snowballing or chain sampling is a strategy used in research situations in which the researcher’s target population is constituted by ‘hidden’ or concealed subjects who cannot be identified or located easily. Such subjects include people with those conditions or characteristics which are generally ostracised by society, for instance,

criminals, commercial sex workers, drug users and victims of domestic violence. Because people are likely to have contacts with those that they have something in common, researchers would take advantage of the social attributes of already identified sample members in order to be assisted to find members of the same ilk.

The above mentioned conditions which influence the choice of snowballing as a sampling strategy do not apply wholesale in research but the context of study determines the reasons why a researcher adopts the process of referral in order to come up with a sizeable number of subjects from which data can be gathered. In the present study, the researcher's use of snowball sampling was not as a result of the existence of any stigma on the part of the research participants but in some cases there was no clear identifiable sampling frame.

Snowball sampling was used in this research in order to select native speakers of Kalanga, Tonga and Shangani who came to attend civil court proceedings either as complainants or accused persons. The initial sample consisted of those accused persons and complainants the researcher observed as they communicated through interpreters in the courts. This original sample would then refer the researcher to the other people they knew have been involved in similar circumstances. In other words, the people identified in the courts as either complainants or accused persons were expected to refer the researcher to other native speakers of the languages in question who have been in a courtroom situation and participated in civil court proceedings in the same capacities. The researcher took advantage of the fact that the bigger part of the research context was constituted by rural settings where people generally live communally and they tend to know each other and are in most cases aware of the goings-on in the lives of their fellow villagers. Under such a situation, building a sample size through referrals became relatively easy.

In addition, snowball sampling was used to select research participants from other community members in order to get their views regarding the issue of linguistic rights in courtroom interaction. After identifying a few native speakers of Kalanga, Shangani and Tonga the researcher took advantage of the social links these people had with fellow members of their communities in order to select those people who fitted the same criterion. This was done in line with Aldridge and Levine (2001) who purport that snowball sampling is appropriate in contexts where targeted research subjects are likely to know each other.

Furthermore, courtroom interpreters were selected using snowball sampling. The researcher identified those interpreters who were on duty during courtroom sessions and then made them the initial sample members. The inquirer then took advantage of networks between courtroom interpreters as members of the same profession who knew each other as colleagues in order to get access to more interpreters thereby enlarging the sample size. Through referrals, the researcher was even able to get access to other court interpreters who were on leave but stayed within the same locality with their colleagues who were on duty.

## **4.5 METHODS OF DATA GATHERING**

Since this study adopts the qualitative research paradigm, qualitative data gathering techniques were adopted in this research.

### **4.5.1 SEMI-STRUCTURED INTERVIEWS**

A number of researchers (Dicicco-Bloom and Crabtree, 2006; Zohrabi, 2013; Alsaawi, 2014; Burns, 1999; Merriam, 1998; Cho, 2014) are of the view that the interview is one of the primary methods of data collection in qualitative research. Interviews are an integral part of qualitative research which has been used extensively by researchers. The interview as a data gathering tool in research is trichotomous in nature. Zohrabi (2013: 256) says that in research, interviews can be classified on the basis of the amount of control the interviewer exercises over the conversation hence the categorisation of interviews as either structured, semi-structured and unstructured. The choice of each type of an interview largely depends on a number of factors including the research purpose, the nature of the data to be collected as well as the subject matter under study. In this study, the semi-structured interview method was used as a data gathering tool.

According to Cho (2014:37), semi-structured interviews are characterised by the availability of a set of pre-determined questions which do not necessarily have to be asked in a uniform manner as the interviews progress. The sequence for asking questions is flexible in the sense that some of the questions asked emerge from the conversation between the interviewer and the interviewee and as a result the questioning may differ with each interview session. This varied way of collecting data becomes an advantage to the researcher who "... has the freedom to probe the interviewee to elaborate on an original response or to follow a line of inquiry introduced by the interviewee (Hancock, Ockleford and Windridge, 2007: 16)." The semi-structured interview,

therefore, provides a platform for the researcher to focus on new insights and rich responses given by the interviewee and this makes it possible for the inquirer to obtain detailed data for a study. The nature of the data collected using such a guided but flexible method yields varied but relevant data which captures numerous aspects relating to the issues under investigation. The availability of detailed information then makes it possible for the researcher to be able to carry out a well an informative analysis of data leading to credible conclusions.

The nature of the data required for the present research determined the inquirer's choice of semi-structured interviews as a data collecting method. The fact that the researcher was primarily concerned with an analysis "...experience as 'lived', 'felt' or 'undergone' made the semi-structured interview method an appropriate data collection technique. In simple terms the inquirer was interested in investigating accused persons and complainants' views on the impact of the language choices available to them within the context of courtroom communication in civil courts on their ability to effectively convey messages in conversational interaction. For the researcher to be able to know how native speakers of Kalanga, Tonga and Shangani perceive the issue of linguistic rights in courtroom discourse given the language choices available to them in that domain, interviewing would reveal insightful information.

The above view is supported by Merriam (1998:72) who says "the point is that the researcher cannot observe the informants' feelings and thinking, so that interviewing is a key to understand what and how people perceive and understand the world around them". Furthermore, this study is based on people's experiences in terms of language choice and usage such that asking them to talk about these issues was expected to yield relevant data giving a true picture of the dynamics surrounding language use by minority language speakers in the courtroom in general and the civil courts in particular. It is in this regard that native speakers of Kalanga, Tonga and Shangani who have participated in courtroom discourse were targeted in order to tap into their experiences for the purposes of interrogating the impact of language choices within the courts on their ability to communicate effectively.

In addition, other native speakers of Kalanga, Tonga and Shangani were interviewed in order to find out their language preferences if they happened to participate in civil court procedures. This was expected to give the researcher a broader understanding of how speakers of these languages value their linguistic rights as well as their attitudes towards the development and promotion of



their native languages in formal domains of life with a bias towards civil courts courtroom discourse.

Another category of people who were interviewed in this study are official in the Judicial Services Commission as implementers of policy in order to trace from them the trajectory the issue of linguistic rights in courtroom procedure has taken historically and the direction the Ministry of Justice is taking in light of the official recognition of 16 languages in the country by the current constitution. Courtroom interpreters were interviewed in this study in order to find out any communication problems they encounter as they try to translate messages conveyed to them from Kalanga, Tonga and Shangani speakers in the civil courts.

Civil society groups whose interests revolve around the promotion and development of minority languages particularly Shangani, Tonga and Kalanga also constitute a key category of informants who were interviewed in this research. Those associations have been at the forefront advocating for the promotion of the use of indigenous languages especially in education. They have the unique advantage of working with two stakeholders on the language question particularly government ministries and the native speakers of their respective indigenous languages whose linguistic rights they advocate for. They were, therefore, considered well positioned to the extent that they should be aware of the concerns of minority language speakers concerning the status of their native languages in formal domains as well as any current efforts by government to deal with the contentious and sensitive issue of linguistic rights for the people of Zimbabwe. Representatives of organisations including KLCDA, TOLACCO and SPAT were interviewed in order to find out their views concerning linguistic rights in courtroom discourse and whether or not they have started advocating for the realignment of language choices in courtroom procedures taking into account the provisions of the current constitution which officially gives recognition to languages previously regarded as those of minorities.

All the data obtained from different sources using semi-structured interviews were tape-recorded as the interviews were in progress. This made it possible for the researcher to be focused on listening attentively to interviewees' responses and be able to have an appreciation of all the nuances associated with interviewing as well probing interviewees' answers. After tape-recording, all the responses from research participants were transcribed for ease of data analysis.

#### **4.5.2 DOCUMENT ANALYSIS**

According to Rapley (2007: 8), sources of data in research can be divided into two categories particularly “data that you have to generate and data that already exists.” Methods such as interviewing, observation and questionnaires in which the researcher actively designs data gathering instruments and is directly involved in the generation of information belong to the former category. Document analysis in which the researcher is not actively involved in the production of data thus belongs to the latter. Bailey (1994) says the use of documentary methods entails the examination of documents that contain information about the phenomenon under investigation by a researcher. This would normally be official information which has been generated as part of an organisation’s programs but related to the subject matter under investigation by an inquirer. That information would in most cases be available either as paper or web publications.

One of the major advantages of using document-based sources in research is that “... you do not have to go through the process of getting consent to use the material or recruiting and recording busy people” (Rapley, 2007:10). The researcher only needs to be aware of the existence of relevant documents and then devise ways of getting access to them. There are also no chances of encountering artificial behaviour as happens in, for instance, interviewing or observation because the documents are already in existence independent of the new research project. The coming into existence of the documents is in other words not influenced or related to the research in progress and as a result the documents become a reliable and credible source of data for a study. The researcher, therefore, is guaranteed of accessing important undistorted material for a research project.

The documents which were analyzed in this study included colonial and post-colonial constitutional provisions on language and language usage in Zimbabwe in general and the courts in particular. These documents were analyzed in order to specifically find out the extent to which they have dealt with the question of linguistic rights for linguistic minorities in courtroom discourse in general and civil courts proceedings in particular. Rapley (2007:13) says government publications “... routinely outline directions of future policy and/or strategy and in doing so review contemporary debates and research on specific issues.” Thus official national-level language policy documents were put under scrutiny since they largely influence the

organization, management and manipulation of language behaviours (Shohamy 2006) in different domains in society. The researcher also focused on those documents which speak to the critical issue of the language choices available to people who participate in courtroom procedures either as accused persons or complainants with a bias towards native speakers of minority languages in Zimbabwe.

This researcher intended to access and examine statutory instruments that made reference to language choices available to participants in courtroom interaction from the JSC since language is a central component of the justice delivery system taking a cue from the education domain where numerous statutory instruments on language-in-education have been crafted owing to the role of language in the delivery of education. To the researcher's surprise, the JSC did not have a single document making reference to the usage of language in the justice delivery system in the country.

Besides giving information relating to how certain documents came into existence, documentary analysis is valuable as a data gathering tool since it provides the inquirer with the opportunity to be knowledgeable about the history of the problem under investigation (Payne and Payne, 2004; Mogalakwe, 2006; Ritchie, 2001). According to Rapley (2007: 13) "these documents are often a wonderful source to discover and map specific discourses, especially as they document past and forthcoming (or foreshadow potential) changes in the legislation and/or the organisation of society and social institutions." It is in this regard that documentary analysis in this study was expected to provide the researcher with information relating to the history of the debates surrounding the contentious issue of linguistic rights for minorities in Zimbabwe in general. It also assisted in providing information specifically related to the issue of the language rights for native speakers of minority languages in the courts of Zimbabwe from a historical perspective as well as current constitutional developments. Thus the language debate in Zimbabwe would be understood from its proper context.

### **4.5.3 OBSERVATION**

Observation is another method of data collection which was used in order to complement semi-structured interviews. Instead of solely relying on accounts given by research participants in interviews, the inquirer expected to gain valuable insights on the communication problems native

speakers of Kalanga, Tonga and Shangani encounter in courtroom discourse by directly observing them as they conversationally interacted in courtroom proceedings. It is from these normal day to day courtroom sessions that the researcher expected to have an awareness and appreciation of the dynamics of courtroom communication involving minority language speakers within the context of the civil courts.

The observation method allowed the inquirer to get access to naturally occurring data as a result of the opportunities of getting exposed to normal courtroom proceedings involving the speakers of the minority languages in question. According to Cohen (1996:391-2), the advantages of collecting data in their natural state are:

- The data are spontaneous.
- The data reflect what the speakers say rather than what they think they would say.
- The speakers are reacting to a natural situation rather than to a contrived and possibly unfair situation.
- The communicative event has real-world consequences.
- The event may be a source of rich pragmatic structures.

From the above mentioned advantages of using the observation method, an inference can be made that observation provides a platform for the acquisition of authentic and undistorted data for research. Research participants will be focused on their roles in a real life situation to the extent that their behaviour will not be influenced by the researcher in any way. For this reason, the analysis of data will be based on real life experiences and consequently conclusions will be an authentic reflection of the dynamics surrounding the phenomenon under discussion.

As the researcher engages in observation, respondents' behaviour is unpremeditated but is an impulsive kind of a reaction which is instigated by the speech event in the context of courtroom discourse. Phenomena speak for themselves without the influence of either the researcher or any other elements around. It is in this regard that the researcher hoped to get intuitive information about real life problems affecting minority language speakers when they speak through interpreters in courtroom situations. Thus the accused persons and complainants' speech behaviour were observed by the researcher in order to find out any possible language barriers which could impede on their efforts to articulate ideas during civil court sessions.

In order to avoid the danger of using recording equipment which could be intrusive and thus impact negatively on the opportunity to collect naturally occurring data, the researcher recorded data obtained from observation in a pocketbook. The pocketbook was, therefore, used in order to avoid the distraction of the attention of participants in courtroom sessions especially the accused and complainants from whom naturally occurring data was to be collected. In other words, by using the pocketbook to record data, respondents would not be triggered into behaving artificially like they would probably do since the courtroom environment would be devoid of any visible recording equipment.

#### **4.5.3.1 NONPARTICIPANT OBSERVATION**

The observation data collection technique can be divided into two distinctive methods, namely participant and nonparticipant. According to Pretzlik (1994), participant observation entails a situation in which the observer takes part in the phenomenon being observed, that is, the researcher becomes involved in the everyday activities of the group being studied. The researcher makes an attempt to get an insightful comprehension of behaviour by observing from inside a group for the purposes of understanding how participants behave as the researcher interprets and understands a phenomenon (Bowling, 1997; May, 1997; Denscombe, 1998). It is characterised by the interaction between the observer and the respondents to the extent that he/she becomes part of those that are under observation.

On the contrary, nonparticipant observation entails an unobtrusive stance by the observer. The observer does not take part in any of the activities the respondents are involved in but is primarily concerned with the observation of behaviour as well as recording it in some form. A nonparticipant observer maintains either a literal or phenomenal distance from the phenomenon under study (Pretzlik 1994). The observer is supposed to maintain a single primary role of observing behaviour as it occurs without assuming any other role (Couchman and Dawson, 1995). By avoiding playing other roles, the observer will be trying to make sure that their presence will not interfere or influence the resultant behaviour of the participants.

In the present study, the researcher adopted nonparticipant observation. The fact that nonparticipant observation does not give the researcher a dual function of both observing and participating in the activities done by the participants ensured that the inquirer would be focused

and be able to tap into the salient aspects of the phenomenon under study. According to Fox (1998:6), "...observation is more than just recording of data from the environment, when we observe, we are active, not passive collectors of data... our brains are engaged as well as our eyes and ears, organising data so we can make sense of them." This means that observation is a process which needs concentration on a deep level so that the observer does not miss on key features of the behaviour that needs to be investigated. Non participant observation, therefore, allows the investigator to come up with a reliable perception of the behaviour under study since there will not be any other distraction as what happens in doing both participation and observation at the same time.

Adopting observation as a method of data collection is different from the manner in which one observes phenomena on a day to day basis as part of everyday life. According to Fox (1986:6) "research is an activity which attempts to report aspects of the world in ways which minimise error and offer accounts which may be used for some purpose or another...". This implies that when using observation as a data collection technique, the researcher should strive to be accurate in terms of the nature and amount of data gathered. The data should be sufficient and reliable enough for the researcher to come up with an insightful analysis which gives appropriate answers to research questions. It is on the basis of such an analysis that the researcher can be able to recommend action which can influence decisions which eventually can help solve problems that could be affecting certain groups of people in their day to day life. The need to achieve such a feat in the present study constrained the researcher to adopt nonparticipant observation as one of the methods of data collection.

Nonparticipant observation allows the researcher to focus on salient aspects of human behaviour that have a direct link with the research objectives since there are no chances that the researcher gets carried away with participating in the activities being done by the research subjects. Since this researcher intended to investigate some of the communication problems encountered by native speakers of Tonga, Shangani and Kalanga courtroom discourse particularly the civil courts, the inquirer deemed it appropriate to be a nonparticipant observer. This choice was made primarily to make sure that the researcher would have an undivided focus on courtroom verbal exchanges involving the native speakers of the above mentioned languages in order to accumulate both accurate and sufficient data for the study. It, therefore, became easier for the

researcher to document the language behaviour of accused persons and complainants using native languages as media of communication in civil courts.

#### **4.5.3.2 COVERT OBSERVATION**

According to Turnock and Gibson (2001:474), “the extent to which the observed are aware that they are being observed has also been used to categorise the role of the observer.” In other words the typology of observation can be distinguished on the basis of whether or not research participants are informed about the objectives of the research as well as the presence of the researcher. From this perspective there emerges a dichotomy of observation as a data collection tool, namely overt or open and covert or closed observation.

Overt observation takes place when research participants are made aware that they are under observation (Couchman and Dawson, 1995). In this case, the researcher informs the participants about the objectives of the research as well as the kind of data which is required from them. This makes it possible for potential research subjects to make an informed choice regarding whether they could participate in the research or not. According to Sarantakos (1998), overt observation also entails informing the informants about the purpose of the study to be carried out. This implies availing information about the intended uses of the findings of the research. Therefore, in overt observation, informants are availed with detailed information about a study. Whilst overt observation as a data gathering technique makes it possible for participants to make informed consent in accordance with ethics in research, it has its own disadvantages. The major disadvantage is that the participants may act artificially instead of exhibiting their natural behaviour leading to the collection of data whose authenticity could be questionable.

On the contrary, covert observation entails a data gathering process in which the participants are either not told that they are under observation or the observer deliberately conceals the reason why the informants are being observed (Bowling, 1997). Thus in covert observation, the researcher makes no effort to make available to the informants any pieces of information that could divulge the nature of a research study. Research participants just get involved in their activities without knowing that somebody is collecting data from some of their behaviours.

The major problem which comes with covert observation is that it infringes on the rights of participants to choose whether they want to participate in the research or not. It in other words violates the crucial aspect of informed consent in research ethics. However, the use of covert observation in research has an advantage to the researcher. According to Turnock and Gibson (2001: 474), “the rationale for covert observation is to reduce the risk of the observed altering their behaviour.” This means that the concealment of both the researcher’s identity and the purpose of the research made it possible for the researcher to avoid interfering with the behaviour of the research participants. Using covert observation, the researcher gathered naturally occurring data without any alterations and the conclusions made from the data analysis was thus based on authentic information.

The researcher closely observed the native speakers of Kalanga, Shangani and Tonga who could either be accused persons or complainants in civil courts proceedings in order to find out the linguistic problems they could be encountering when they conversationally interacted. In line with the principles of covert observation, the informants in this research were not made aware that data were going to be collected from them neither were they informed about the nature of the study and the presence of the researcher in the courtroom.

One of the major reasons for using covert observation in this study was based on the nature of the data that were required as well as the sensitive nature of the context in which data would be gathered. The courtroom is a highly sensitive environment in which accused persons and complainants may not freely be willing to engage in conversations with strangers especially before their cases are about to be dealt with before court officials. The researcher considered that it would be difficult to get these people’s cooperation when the researcher made an effort to get their consent to participate in the research. Under these circumstances, the concealment of the researcher would be the most appropriate way of getting the much needed data for the study.

The other reason for using covert observation in this study was that this method was expected to yield natural undistorted data from the court proceedings. The researcher just followed the proceedings of the court sessions just like any other member of the public since courtroom sessions are always open to all citizens of the country. This approach to data gathering using observation is in line with the concept of naturalism which is adopted by ethnographers involved in social research. For Hammersely and Atkinson (1989:6) “naturalism proposes that, as far as



possible, the social world should be studied in its ‘natural’ state, undisturbed by the researcher. Hence, ‘natural’, not ‘artificial’ settings like experiments or formal interviews, should be the primary source of data.” This means that by virtue of its unobtrusive nature, covert observation allows researchers to get real life first-hand information from research participants. In other words, covert observation is a source of authentic data which is not produced as a result of the manipulation of any factors by the researcher. For this reason, this researcher adopted covert observation in data collection expecting to get a truthful representation of the dynamics of language choice and use in civil court proceedings involving minority language speakers.

#### **4.6 CONCLUSION**

This chapter discussed the methodology adopted in this research. It focused on giving a description of the research paradigm used which in this case is qualitative in nature. This means that data gathering techniques used in this inquiry are neither numerical nor are they statistical. Also, purposive and snowball sampling methods which are normally used in qualitative research are used in this study and the choice of these sampling strategies was largely influenced by the nature of both the research participants and the data that needs to be collected. Furthermore, this study used semi-structured interviews, documentary analysis and non-participant observation as data collection techniques. Semi-structured interviews used to collect data from research subjects that included mostly key stakeholders in the justice delivery system, for instance, accused persons and complainants as well as court interpreters. In addition, other native speakers of Kalanga, Tonga and Kalanga were interviewed as well as civil society organisations who are interested in the promotion and development of minority languages in Zimbabwe in order to get a holistic picture of issues surrounding linguistic rights for minorities in the civil courts of Zimbabwe. Documentary analysis and non-participant observation, unobtrusive data gathering techniques which are not influenced by the presence of the researcher were also used in order to corroborate the data gathered through semi-structured interviews.

# CHAPTER 5

## DATA PRESENTATION, ANALYSIS AND DISCUSSION

### 5.1 INTRODUCTION

This chapter provides the presentation, analysis and discussion of data for the study. It is divided into three major segments with the first one focusing on the analysis of documents including both colonial and postcolonial constitutional provisions on language and language usage in Zimbabwe in general and in courtroom discourse in particular. Additionally, statutory instruments crafted by the Ministry of Justice specifically making reference to language choices available to the people of Zimbabwe in courtroom communication are analyzed. The analysis of these documents was expected to clearly highlight how the colonial and postcolonial governments of Zimbabwe have dealt with the delicate aspect of linguistic rights for minorities in courtroom interaction. This would ultimately give clarity on the sociolinguistic status of the languages under investigation in courtroom communication in the civil courts.

The second segment of the chapter examined the sociolinguistic and political factors that have impacted on the status of minority languages particularly Kalanga, Tonga and Shangani as media of communication in the civil courts of Zimbabwe. It is also in this segment that communication problems identified through the observation of court sessions involving native speakers of Shangani, Kalanga and Tonga in courtroom discourse were examined. In the third segment of the chapter, a scrutiny of the history of court interpreting in both precolonial and postcolonial Zimbabwe was done in order to find out the impact court interpreting has had on the status of the languages under study in courtroom interaction in the civil courts of Zimbabwe. Lastly, this chapter examined the impact of the initiatives by three language associations representing the languages under study with a view to examine how their efforts have impacted on the development of Kalanga, Shangani and Tonga and its eventual status in public life with a bias towards civil courtroom discourse. CDA and ecology of language are the two theories that inform that analysis of data presented in this study.

## **5.2 ANALYSIS OF POLICY DOCUMENTS**

This section examined policy documents that speak to the usage of languages in colonial and postcolonial Zimbabwe with a bias towards courtroom discourse. National constitutions and provisions on language and language use in judicial proceedings were analyzed. The researcher needs to clearly highlight from the outset that the analysis of policy documents in this research was done from a historical and context based perspective. This was done ostensibly for the purposes of arriving at an in depth understanding of the motivation behind certain policy pronouncements. In addition, analyzing documents from a historical milieu was of critical importance in the sense that it was expected to give the researcher an idea of the trends that have been characteristic of language policy formulation that have had certain ramifications on language choice and usage in courtroom discourse particularly in the civil courts of Zimbabwe. Thus the sociolinguistic status of the languages under study in civil courtroom discourse could be understood by examining language policy formulation at different points in the history of Zimbabwe. In addition, the analysis of constitutional provisions on language usage in formal domains in both colonial and postcolonial Zimbabwe was expected to clearly highlight whether or not there have been any changes to the sociolinguistic status of the languages under study in civil courtroom communication with the advent of independence and the new government led by nationalists.

### **5.2.1 CONSTITUTIONAL PROVISIONS ON LANGUAGE AND LANGUAGE USAGE IN COLONIAL ZIMBABWE**

The analysis of policy documents particularly colonial constitutional pronouncements on language and language usage was done in order to examine what role language planning and policy formulation could have possibly played in determining the historical sociolinguistic status of Kalanga, Tonga and Shangani among other minority languages in the public domains of life like the civil courts. The colonial constitutional provisions which were analysed in this study included Ordinance 7 of The Statute Law of Southern Rhodesia, from 1<sup>st</sup> January 1911, to 31<sup>st</sup> December, 1922, Education Ordinance No. 1 of 1903 and Chapter V11 of the 1969 Rhodesian Constitution. The researcher used tenets of both the ecology of language and CDA to examine the constitutional pronouncements on languages as espoused in the constitutions crafted by the

colonial government in Zimbabwe in order to appreciate their implications on the sociolinguistic status of the languages under study in civil courtroom discourse.

The Education Ordinance of 1903 Subsection 9 clearly spelt out which language was to be used as the medium of instruction in education. It reads:

Instruction during the ordinary school hours shall be given through the medium of the English language.

This provision set the stage for the entrenchment of the English language as the language of education in colonial Zimbabwe to the exclusion of indigenous languages especially minority languages which only began to find space in the Zimbabwean education system after the attainment of independence. In other words this provision meant that the education discourse was going to be mediated using no other language except English during the colonial era.

The pronouncements of The Education Ordinance of 1903 have to be understood from the point of view of the CDA principle that “discourse is historical” (Fairclough and Wodak 1997:271-80). Wodak 2007:15) says, one of the key principles of CDA is that “historical context is always analyzed and integrated into the interpretation of discourse and texts.” This means that in order to understand the 1903 declaration regarding language usage in education, one should consider the historical circumstances in which the declaration was made. In this case, we find that this was during the colonial era where the government of the day was in the hands of white minority rule. The colonial powers had certain benchmarks and parameters that guided their language policy making and these were expected to suit their context (Gale, 1999) as the government in power. It is for this reason that Armstrong, Belmont and Verillon (2000) emphasized on the importance of having a thorough understanding of the context in which policy is formulated when analyzing policy documents. In this regard, the declaration of English as the language of education was an imposition by the colonial powers on the Zimbabwean African population who were in the majority. For the colonial powers to have unfettered control of the education domain during the colonial era, they had to impose their language as the language of education and this explains why English was declared the language of education.

The CDA principle of power and dominance can also explain the imposition of English as the language of education in colonial Zimbabwe. A number of researchers (Wodak and Meyer,

2008; Dastjerdi, Latifi and Mohammadi, 2011; van Dijk, 2001; Kress, 1990) emphasize on the important role played by those that have power over others in society when it comes to issues of policy making. Similarly, Murray (2015) says that powerful groups of people in society influence the conditions as well as the end result of discourse especially in public domains of life. The fact that Zimbabwe was under colonial rule meant that the colonial masters used their political power to craft policies that ensured that their language, English would be elevated as the only medium of instruction in education at the expense of indigenous languages. This had serious implications on the intellectualization of indigenous languages. These languages were not recognized at all by the colonial powers as indicated by the Education Ordinance of 1903 which made no mention of indigenous languages. They had no role to play in education and this meant that there were no chances for them to be intellectualized so that they could develop and be able to find space in other public domains of life.

It is against this background that Kalanga, Tonga and Shangani failed to find space in civil courtroom communication among other indigenous languages because to begin with these languages' very existence was never acknowledged by the colonial powers who crafted policies like The Education Ordinance of 1903. Education should be the springboard which is supposed to elevate language and make sure that it develops a wide range of terminology and expressions that ensure the language's possible usage in other public domains of life. Thus the fact that the languages under study did not have a role to play in education meant that it could have been inconceivable for them to find space in formal domains of life like the civil courts. This implies that the practicalities of using any language in public life to a large extent depends on whether or not that language has any role to play in education and this should mean that the functional load of any language and its role in education are closely related.

In order to cement the hegemony of English in public institutions to the exclusion of indigenous languages, the colonial government passed The Magistrates Courts Ordinance of 1911. Sub-section 3 of the Magistrates Courts Ordinance of 1911 reads:

The Courts of the Magistrates shall be respectively Courts of Record, and the pleadings and proceedings of the said Courts shall be carried on, and the sentences, decrees, judgments and orders thereof pronounced and declared in open court and not otherwise; and the several proceedings shall be in the English language.

This constitutional provision clearly stipulated that the language of courtroom communication in the magistrates' courts according to The Magistrates Courts Ordinance of 1911 was English. The declaration demonstrates "how policy texts construct and sustain power relations, an ideological standpoint which is of particular interest in critical policy research, as are also the values that are articulated in policy texts" (Taylor, 2004:6). It demonstrated how the white minority rulers created a sustainable asymmetrical relationship between themselves and the black majority in terms of access to legal recourse in the courts of law by making sure that no other language except English would be the language of courtroom discourse.

In order to "expose the subjugating effects of power" (Liasidou, 2008:489) as demonstrated in the colonial constitutional provisions on language usage in courtroom discourse, Fairclough (2001:241-242) argues for the examination of a number of aspects of texts among which were "the grammatical and semantic features (transitivity, action, voice, mood, modality)". Thus according to Fairclough (2001), text analysis should mean analysis of the texture of texts, their form and function, not just commentaries of the content of texts. It is in this regard that the modal verb used in The Magistrates Courts Ordinance of 1911 was put under scrutiny in this study with a specific focus on its contextual meaning. The use of the modal verb 'shall' in 'the several proceedings shall be in the English language' implied the expression of a strong statement indicating an obligatory order to the effect that the English language would be the only language of courtroom discourse in the magistrates' courts. This piece of legislation crafted by the colonial authorities in Zimbabwe was a typical representation of how power was unobtrusively imposed and institutionally sanctioned through policy formulation to the extent that its corrosive processes became natural and dogmatic (Liasidou 2008). In other words the declaration that English was to be the only language of courtroom discourse in the magistrates' courts meant that speakers of indigenous languages like Tonga, Kalanga and Shangani did not have a voice in matters that even concerned them in the courts in general and the civil courts in particular.

Policy formulation as demonstrated by the crafting of The Magistrates Courts Ordinance of 1911 by colonial powers in Zimbabwe was an indication of the use of language as a conscious attempt not only to control but shape it in ways that were consistent with predetermined institutional objectives (Taylor, 2004) of those that were in government. The colonial government wanted to

control all important institutions as the government of the day and for this reason their policies had an indication of their overall objective of demonstrating state power thereby creating an unequal relationship between themselves and the black majority population. The net effect of this was the creation of social inequalities between the white population and the black majority in sensitive institutions like the civil courts since native speakers of indigenous languages had their languages undermined by the legislation of the day. Thus the sociolinguistic status of indigenous languages especially minorities like Kalanga, Tonga and Shangani in civil courts during the colonial era in Zimbabwe was not really something worthy of consideration because the very existence of the languages in question was not even acknowledged by the colonial authorities.

In 1969, the colonial authorities passed an almost similar legislation to The Magistrates Court Ordinance of 1911 which also emphasized on the role of English as the de facto official language of Rhodesia. Chapter V11 Section 81 of the 1969 Rhodesian Constitution stipulated that:

English language is the only official language in Rhodesia (but see S: 36(2) as to the use of Chishona or Sindebele in the Senate).

Section 36 Subsection 1 and 2 had the following provisions:

All debates and proceedings to be in English but the President of the Senate to allow Chishona and/ Sindebele to be used, when there must be translation into the other languages- and this is done which is something new.

The Declaration of Rights section of the 1969 Rhodesian Constitution had paragraph 7 which was entitled Protection of Law. Under paragraph 7, there was sub-paragraph (2) which made reference to the issue of fair trial in courts of law. It stipulated that:

Sub-para. (2) contains the usual requirements for a fair criminal trial- the presumption of innocence- accused to be informed of the charge and given a fair chance in defence to answer it- to have legal assistance (not in a tribal court)- to attend his trial- to have an interpreter, to question witnesses for the prosecution and call his witnesses.

Like the 1903 Education Ordinance and the Magistrates Courts Ordinance of 1911, the 1969 Rhodesian Constitution declared that English was the official language in pre-independence Zimbabwe. This implied that English was the language of public communication in industry, commerce, administration, the media, education and the courts among a host of other official domains of life. These pieces of legislation thus continued to entrench the hegemony of the English language at the expense of indigenous languages in public domains of life. According to

Fairclough (2001:241-242), critical policy research focuses on examining “words (eg vocabulary, collocations, use of metaphors etc.” Similarly, Fairclough (1999:97) says “[CDA]... sets out to make visible through analysis, and to criticize, connections between properties of texts and social processes and relations (ideologies, power relations) which are generally not obvious to people who produce and interpret those texts, and whose effectiveness depends on this opacity.” This argument as well as the emphasis on a critical examination of words used in policy formulation as emphasized in CDA are of critical importance to the understanding of language policy formulation and its implications on power relations in social situations where different groups of people interact.

A critical analysis of selection of the words used in crafting the provisions on language usage in the 1969 Rhodesian Constitution gives an indication regarding how language can be used by policy makers to foster the discourse of exclusion of certain groups of people in important public matters of life. The use of the expression ‘English is the only official language’ in the 1969 Rhodesian Constitution implied that besides English, no other language could be used for official business during the colonial era in Zimbabwe. The use of the definite article ‘the’ alongside the adjective ‘only’ meant that English was declared the sole language of official communication in pre-independence Zimbabwe. By implication, this ideological position taken by the white minority authorities paved way for the exclusion of speakers of indigenous languages like Tonga, Kalanga and Tonga among other local languages in public life in general and the civil courts in particular. The formulation of policy, as shown by the crafting of the 1969 Rhodesian Constitution should be understood as a tactical (Fulcher 1989) manipulation of language by those in power in order to perpetuate social inequalities in terms of access to services in public institutions like the civil courts.

Section 36 Subsection 1 and 2 appeared to have had been a positive turn in terms of the acknowledgement of the existence of indigenous languages in colonial Zimbabwe since there is mention of Shona and Ndebele which could be used in the senate courtesy of authorization by the Senate President with translations also done in other languages. The linguistic features and organization of the text (Fairclough, 1992) in this piece of legislation, however, still allude to the dominance of English over indigenous languages during the colonial dispensation in Zimbabwe. The fact that the usage of Shona and Ndebele in The Senate depended on the whims of one



person the President of The Senate implied that there still existed unequal power relations between the native speakers of indigenous languages and the white minority rulers whose language was used unconditionally.

In addition, the fact that the constitutional provision went further to mention that translation would be done in other languages without even identifying the languages involved demonstrated the peripheral role played by minority languages in public life during the colonial era. The same could be said about the constitutional provision on sub-paragraph (2) of paragraph 7 of the 1969 Rhodesian Constitution which makes reference to people's right to have an interpreter in a court of law. There were no constitutional provisions which stipulated how the court interpreters would be selected, their training as well as their conditions of service which meant that these people would not be recognized as skilled personnel. This compromised their delivery of service in sensitive areas like the courts where expertise in interpreting is so required in order to ensure fairness in the trial of cases. According to Makoni, Makoni and Nyika (2008:417), "in the colonial era... the main agenda of the colonial regime was to create White colonial officials who were proficient in Shona and Ndebele." It is from these white learners of Shona and Ndebele that court interpreting services were sought by the colonial government. Jeater (2001:453) cites an instance in March 1901 when William Webster, "a semi-literate orphan from one of the original Afrikaans-speaking trekking families" was employed as a magistrates' court interpreter in Chipinge and Melsetter on the basis that he had acquired Shona language skills from interaction with children of indigenous farm workers. It is in this regard that Makoni, Dube and Mashiri (2006) argue that during the colonial era, Europeans did not impose English on Africans but they imposed European variants of African languages in the judicial and education domains of life. Thus a deduction can be made that indigenous languages including Tonga, Kalanga and Shangani played a cameo role in terms of usage in public life during the colonial era including in courtroom communication and in situations where they were used the people employed for the did not have the requisite skills. This implied that the sociolinguistic status of indigenous languages in the courts during the colonial era was compromised since the court interpreters used did not have adequate competence in the local languages involved neither did they have any form of training in the job.

As was the case with the analysis of The Education Ordinance of 1903 and The Magistrates Courts Ordinance of 1911, the 1969 Rhodesian Constitution's provisions on language usage during the colonial era in Zimbabwe should be understood from the point of view of the historical context that gave existence to these policies. According to Johnson (2011:270), "any policy text whether written (like, say, some official policy language) or spoken (like, say, a verbal declaration of intent), is best understood as a social act, a product of sociopolitical and historical context in which it exists." The constitutional provisions on language usage in pre-independence Zimbabwe have their background in the objectives of the colonial masters who wanted to exercise their power over Africans. In order to effectively do that, they realized that limiting the use of native languages by indigenous Zimbabweans would curtail their participation especially in public domains of life where English was meant to be the official language.

From the ecology of language standpoint, the colonial language policies as reflected by the constitutional provisions analyzed in this chapter undermined indigenous languages by restricting their usage. According to Haugen (1972), one of the key aspects to consider when analyzing the ecology of any given language is to examine its domains of use. This notion is also emphasized by Phillipson and Skutnabb-Kangas (1996:441) who argue that "the ecology of language should be a predictive and even a therapeutic science, typically concerned with status of languages, functions and attitudes....." In other words, the strength of a language and its continued existence in a multilingual environment should be measured by the role it plays in society or rather its functional load. This should give researchers an idea about its current as well as future status in the linguistic ecology in which it exists.

In line with Phillipson and Skutnabb-Kangas' (1996) argument, Haugen (1972:337), says an ecology of language should provide a "typological classification, which tells us something about where the language stands and where it is going in comparison with other languages of the world." The fact that colonial language policies had English as the only official language meant that the language had unlimited dominance over indigenous languages especially in public life and predictably the sociolinguistic status of local languages especially minority languages like Kalanga, Tonga and Shangani continued to play a peripheral role in formal domains of life like the civil courts.

According to Makoni, Makoni and Nyika (2008), “from 1923 until 1980, the language policy changed drastically. Ndebele, Shona and English were recognized as official languages.” English, however, still maintained its dominance over all the indigenous languages in pre-independence Zimbabwe because it remained the language of trade and commerce among other formal domains of life while Shona and Ndebele were imposed in the Mashonaland and Matabeleland respectively which were a creation of the colonial administration at the expense of minority languages. This is supported by Nhongo (2013:1209) who argues that “the demarcation of Rhodesia into provinces with terms Matabeleland, Mashonaland and Midlands meant that in areas where the province was Matabeleland, the expectation was that it should be Ndebele that is dominant and used there; Mashonaland meant that it is the Shona language that was expected to be used there”. This disregarded the fact that in some parts of Matabeleland, for instance, Matabeleland North and Plumtree, there were no Ndebele speakers at the time of colonization but there existed Tonga and Kalanga languages respectively and these were mutually unintelligible with Ndebele (Nhongo 2013). The same could be said about Chiredzi where Shangani is not mutually intelligible to Shona.

This points to the fact that Shona and Ndebele were historically imposed on the speakers of other indigenous languages including Tonga, Kalanga and Shangani and this implied that in public domains of life like the civil courts speakers of these native languages would have no other option except to speak in either Shona or Ndebele in the courts if they were unable to speak in English. This is supported by Jeater (2001), who says that in 1913, civil servants including interpreters, the army, the police and employees in the Native Affairs Department set a Shona and Ndebele examination. The reason for writing this examination was to test their competence in using the languages in question. This implied that Ndebele and Shona were the only indigenous languages that were recognized for use in public life by the colonial authorities. Consequently, the sociolinguistic status of other indigenous languages like Tonga, Kalanga and Shangani was undermined in public institutions in general and the civil courts in particular since it was assumed that indigenous Zimbabweans could speak either Shona or Ndebele besides other languages.

An analysis of the constitutional provisions on language usage in public life in general and the civil courts revealed that the colonial authorities acknowledged the existence of English, Shona

and Ndebele but other indigenous languages were never mentioned by their names as if they were not part of the country's linguistic ecology. The net effect of this was lack of institutional support for the development and promotion of these languages to the extent that they could find space in formal domains of life. According to Haugen (1972:336), an examination of a language's ecology includes raising questions about "what kind of institutional support that language has either in government, education, or private organizations, either to regulate its form or propagate it." This should mean that languages like Kalanga, Shangani and Tonga whose existence did not seem to be acknowledged by the colonial authorities remained languages for use in families and private life and there were no opportunities for them to be developed and intellectualized in order for them to permeate prestigious public domains of life.

The failure by the colonial government to make sure that Kalanga, Shangani and Tonga among other indigenous languages were developed for usage in public life in order to improve their sociolinguistic status resulted in the violation of linguistic rights for the speakers of the languages in question especially in public institutions like the civil courts. From the ecology of language perspective, language rights are a significant component of human rights for people to interact harmoniously with each other and with their environment, they need to have their language rights protected.

A number of researchers (Skutnabb-Kangas and Cummins, 1988; Paulson, 1997; Hamel, 1997; Phillipson and Skutnabb-Kangas, 1996; Rubio-Marin, 2003; Tsuda 1994; de Varennes, 1996; Thornberry, 1997; Kontra et al, 1999; Skutnabb-Kangas and Phillipson, 1994) have emphasized the importance of language which they view not only as a fundamental but basic human right. It is from this understanding of the importance of language rights that Skutnabb-Kangas and Phillipson (1994:2) argue that the core of linguistic human rights should include among other aspects "positive identification with a (minority) language by its users, and recognition of this by others... public services, including access to legal system, in minority languages or, in a language one understands." From the examination of language legislation during the colonial era, a deduction can be made that colonial authorities in pre-independence Zimbabwe failed to recognize minority languages and this was an infringement on the rights of the speakers of those languages. Furthermore, the fact that access to the justice delivery system by minority language speakers was not done through their native languages denied them the chance to exercise their

language rights especially in sensitive areas where failure to communicate could possibly result in losing court cases.

The detrimental effects of denial of speakers of minority languages their language rights in the courts were revealed in some the interviews held with native speakers of Kalanga and Shangani who were interviewed for this study. Three elderly Shangani speaking men revealed that they were arraigned before the magistrate in the civil court of Chiredzi on different occasions in the 1960s and they were told to speak either in Shona or English because there was no Shangani interpreter. They argued that they could hardly express themselves in Shona and two of them felt that they probably lost court cases because of failure to effectively articulate issues that could have assisted in proving their innocence. Two Kalanga speaking elderly men also revealed that in the late 1970s they attended the civil court in Plumtree and their trial was postponed twice because the court did not have a Kalanga speaking court interpreter. This delay in starting and concluding court cases could be equated to the denial of justice to the people concerned. These cases revealed that even when the colonial authorities realized the need to ensure that all indigenous languages should have court interpreters, minority languages were not prioritized thus implying that their sociolinguistic status in legal processes in general and the civil courts in particular remained an illusion.

This section of the chapter examined legislation that focused on language and language usage during the colonial era in Zimbabwe. The examination revealed that the colonial authorities declared their language English the language of all official business. This should be understood from a historical standpoint as it was in tandem with their objectives of making sure that their power to rule was entrenched. In order to firmly establish their authority over the African colony, they had to make sure that Africans were incapacitated by denying them expression in important public institutions, the civil courts, education, parliament, industry and commerce and administration. Thus, indigenous languages were denied space in all these key domains of life with Shona and English, the majority languages later on getting recognition by the colonial administration in limited circumstances. Because of their majority status in comparison to other indigenous languages, Shona and Ndebele were imposed on speakers of other indigenous languages especially in public communicative situations like the courts. Minority languages like Tonga, Kalanga and Shangani were not recognized legally by the colonial administration and the

imposition of Shona and Ndebele linguistic minorities further undermined them. Consequently, minority languages' sociolinguistic status in public life in general and the civil courts in particular was subdued during the colonial era.

### **5.2.2 CONSTITUTIONAL PROVISIONS ON LANGUAGE AND LANGUAGE USAGE IN ZIMBABWE SINCE INDEPENDENCE**

The preceding section of this chapter made an attempt to analyze the sociolinguistic status of Shangani, Tonga and Kalanga in the civil courts during the colonial era. This was done by putting to scrutiny constitutional provisions on language and language usage during the colonial era. In a nutshell, the analysis revealed that the role of the minority languages in question in public domains of life in general and civil courtroom discourse in particular was more of a mirage. There were no constitutional provisions which stipulated that they could be used in courtroom discourse. For this reason native speakers of these languages had to choose the language of courtroom communication from only three languages namely Shona, English and Ndebele which were constitutionally acknowledged by the colonial authorities.

Given this brief background, the researcher went on to examine constitutional provisions on language and language usage with the advent of independence in Zimbabwe to the present day constitutional dispensation. The major reason for analyzing constitutional provisions on language and language usage in both the colonial era and post-independence Zimbabwe was to get an in depth understanding of the trajectory the sociolinguistic status of the languages under study has followed from a historical perspective. This made it possible for the researcher to get an appreciation of the differences and similarities between the role of Shangani, Kalanga and Tonga in civil courtroom discourse in the two historical epochs. Key documents that were analyzed included the Lancaster House Agreement of 1979, and Constitution of Zimbabwe Amendment (No.20) Act 2013.

A number of scholars (Mkanganwi, 1992; Chimhundu, 1992, 1993; Viriri, 2003, Ndhlovu, 2003; Kadenge and Nkomo, 2011; Ndhlovu, 2013; Kadenge and Mugari, 2015) agree that Zimbabwe has never had a properly organized language policy and planning at national level. Kadenge and Nkomo (2011:250) have gone further to argue for the existence of “a substantial body of scholarship discussing the country’s national language policy [and] such a policy has been inferred from practices in a number of domains in which the role of language(s) is crucial.” This

means that language policy and planning has not been prioritized by the governing authorities in Zimbabwe. Consequently, Zimbabwe has not been able to deliberately make an effort to develop a comprehensive national language policy but has instead tended to make declarations on language usage in potentially volatile contexts of language usage like education and courtroom discourse. For this reason constitutional declarations that speak to language usage in these domains became the focus of this study. The analysis of the constitutional provisions was expected to give an indication of the sociolinguistic status of Kalanga, Tonga and Shangani in the civil courts of Zimbabwe.

Chapter 3 of The Lancaster House Agreement of 1979 was constituted by a section on The Declaration of Rights. Sub-section 3 of The Declaration of Rights stipulated that:

3. Every person who is charged with a criminal offence-

(f). shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge.

Like paragraph 7 (Protection of Law), sub-paragraph 2 of the 1969 Rhodesian Constitution, this constitutional provision made reference to the need to have court interpreters who would facilitate communication between court officials and members of the public invited to participate in court sessions. From a CDA standpoint, one can argue that both the 1969 and 1979 constitutional provisions are premised on the understanding that there exists a “discourse related problem in social life” and it is important to identify the source of the problem (Thomas, 2005:6). In this case making reference to the need for there to be interpreters in the courts is an acknowledgement of the existence of multilingualism in the country. However, the problem comes when only one language, English is the only language of official communication in the courts implying that something needs to be done in order to accommodate speakers of other languages in courtroom discourse. In order to deal with this problem, authorities in both colonial and postcolonial Zimbabwe made constitutional provisions that articulated the need to have court interpreters in the courts.

A scrutiny of the 1969 and 1979 constitutional stipulations on the need to have interpreters in courts reveals a difference in terms of wording and the overall implications of the two constitutions. While the 1969 Constitution mentioned ‘to have an interpreter’ the 1979 Constitution categorically stated that those people who do not understand the language of trial

‘shall’ be provided with an interpreter free of charge. From CDA’s notion of discourse as historical (Fairclough and Wodak, 1997), a deduction can be made that since in 1969 the colonial authorities were the dominant force, they seemed not to prioritize the acknowledgement of the multilingual nature of the country in their institutions. Thus for them, it would suffice for them to say ‘to have an interpreter’ without really stating it as something they were obliged to provide for. On the contrary, the 1979 Constitution as a negotiated settlement in which both whites and Africans were participants, the “politics of discourse” (Taylor, 2004:6) seems to have tilted somehow in favor of the African nationalists who were interested in having the country emancipated from colonial domination. Thus the use of the modal verb ‘shall’ emphasized on the critical importance of there to be interpreters in the courts of law in Zimbabwe. This meant that the state was obliged to make sure that courtroom participants who could not speak in English would be provided with court interpreters who would facilitate communication with court officials. The 1979 Constitution, therefore, made a paradigm shift from constitutional provisions during the colonial era by elevating the sociolinguistic status of indigenous languages including Tonga, Kalanga and Shangani in courtroom discourse at least on paper. From the ecology of language perspective, the constitution tried to uphold people’s instrumental language rights by making sure that language should not be an impediment to the enjoyment of other rights (Rubio-Marin, 2003) in this case legal rights.

While the 1979 Constitution has been applauded as having given emphasis to the promotion of the sociolinguistic status of indigenous languages in courtroom discourse, some of the interviews held for this study revealed that the process of implementation of the provision for court interpreting to be done in other languages may not have been effective. This is supported by two Kalanga speaking people who attended the civil court in Plumtree in 1982 and 1989. They said that there were no Kalanga speaking interpreters and for this reason the one who attended the court in 1982 refused to use any other language until an interpreter had to be secured for him. The one who attended the civil court in 1989 said he had to speak in Ndebele since there was no Kalanga speaking interpreter. Interviews held for this study revealed similar situations in Chiredzi where in 1983 and 1992, two accused persons said that they were not given an option to speak using their native language Shangani and they had to defend themselves using Shona which was not a language of their choice. One of the Tonga speaking interviewees said that when she attended a court session as a defendant in Binga in 1985, she opted to speak in Tonga



but as the court proceedings developed, she realized that the court interpreter had problems interpreting some of the terms and expressions she used. She was informed after the court session that the interpreter was not a native speaker of Tonga although he could speak the language.

The interviews referred to above provide a typical indication of the predicament which befalls policy pronouncements in general and language policy in particular. In some cases a policy remains as a statement of intent which does not practically change anything on the ground or becomes a “declaration without implementation” (Bamgbose, 1991:11). Similarly, Kadenge and Mugari (2015:10) say “deliverables have always been the blind-spot plaguing language planning in Zimbabwe.” This implies that the crafting of the 1979 Constitution was lacking in terms of the implementation matrix. In other words the constitutional provision on court interpreting in Zimbabwean courts did not mention how this was going to be achieved. Consequently, the language behavior of participants in courtroom discourse as revealed by the above mentioned interviewees generally remained the same. Some native speakers of Shangani and Kalanga found themselves still compelled to use majority languages that is either Shona or Ndebele in civil courtroom discourse. In some situations, some of the court interpreters had problems giving appropriate interpretations as evidenced by interpreter who interpreted Tonga in the civil court in Binga district. Thus the sociolinguistic status of their languages in civil courtroom communication remained compromised as was the case during the colonial era.

From the analysis of the provisions of the 1979 Constitution on language and language usage in the courts, a deduction can be made that there was no significant change in terms of ensuring that minority languages cement their functional role as languages of courtroom discourse. Minority languages including Kalanga, Tonga and Shangani remained at the periphery in terms of usage in civil courtroom communication as was the case during the colonial era notwithstanding the fact that Zimbabwe was now an independent state with black majority rule. According to Nyabeze (2015:4), “there was no constitution making process worth talking about as regards the 1980 Constitution, it was a compromise to pave way for the ending of the liberation struggle and in anticipation of general elections.” This probably explains why the 1979 Constitution did not have a comprehensive national language policy thrust. Politicians must have been preoccupied with making sure that Africans attain self-rule to the extent that other crucial issues like the

development and promotion of languages especially those that had historically been marginalized since colonialism may not have been prioritised.

After the 1979 Constitution of Zimbabwe, there were other policy pronouncements made by the government of Zimbabwe the purposes of which were to develop a national language policy. These included the Cultural Policy of 1999, the Position Paper on Zimbabwe's Language Policy of 1997, the National language Policy Advisory Panel (NLPAP 1998) report as well as the Nziramasanga Report on Education and Training. The major focus of these policy documents was to reveal how the dominance of English in public life in general and education in particular had led to the marginalization and underdevelopment of indigenous languages (Kadenge and Nkomo, 2011; Kadenge and Mugari, 2015). Articles 82 and 87 of the Zimbabwean Constitution (1996), for instance, maintained that the language of courtroom discourse was English and in cases where either the plaintiff or the defendant could not speak in English, interpreters would be provided. There was thus no departure from the provisions of the 1979 Constitution. The NLPAP made far-reaching recommendations that were aimed at making sure that indigenous languages would be developed for ease of usage in all public domains of life but minority languages like Kalanga, Shangani and Tonga still maintained a rather restricted status in formal domains of life in general and the civil courts in particular.

The Constitution of Zimbabwe Amendment (No. 20) Act 2013 was a milestone in the development of a national language policy for Zimbabwe. The major development that this constitution should be applauded for was the fact that it gave official recognition to all languages that are used in the country most importantly those that are spoken by people who had been linguistically marginalized since the colonial era. Chapter 1 Section 6 subsection (1) of the constitution stipulates that:

(1). The following languages namely Chewa, Chibarwe, English, Kalanga, Koisan, Nambya, Ndau, Ndebele, Shangani, Shona, sign language, Sotho, Tonga, Tswana, Venda and Xhosa, are the officially recognized languages of Zimbabwe.

This section of the founding principles the constitution was an acknowledgement of the multilingual nature of the country and the need to ensure that people should be allowed to use a language of their choice in all official communicative situations. Kadenge and Mugari (2015) argue that there are more languages with pockets of speakers in Zimbabwe which were left out, a

scenario which undermines linguistic rights for certain language groups. Furthermore, referring to a language as just sign language is inappropriate since across the world there are several sign languages, for instance, American Sign Language and South African Sign Language (Kadenge and Mugari, 2015). Notwithstanding these glaring grey areas, the Zimbabwean constitution categorically states that all languages used in Zimbabwe do have official recognition by the authorities, thus upholding linguistic rights for speakers of different languages. The acknowledgement of the multilingual nature of Zimbabwe by the current constitution, “is a divorce from the 1979 Lancaster House Constitution which recognized very few minority languages” (Dziva and Dube 2014:411). According to Phillipson and Skutnabb-Kangas (1996:435), “the formulation and implementation of policies that respect linguistic human rights presuppose a recognition of the reality of linguistic hierarchies and the need to mitigate them.” This implies that the official recognition of all languages by the current Zimbabwean constitution was a reaction to the problems of language politics which had its roots in colonialism and had ranked languages with English at the apex followed by Shona and Ndebele with the rest of the indigenous languages least ranked. This resulted in the majority of indigenous minority languages being marginalized, underdeveloped and generally used in private life. Native speakers of minority languages were generally denied linguistic rights in public life. The crafting of the current Zimbabwean constitution with its stance on official recognition of all languages in the country was thus an effort to mitigate the marginalization of indigenous languages especially minorities.

From the perspective of the ecology of language, the official recognition of sixteen languages by the Zimbabwean constitution as a way to protect minority languages demonstrates that Zimbabweans view language as a fundamental human right. It created a “balanced ecology of languages as a linguascape where interaction between users of languages does not allow one or a few to spread at the cost of others and where diversity is maintained for the long-term survival of humankind” (Skutnabb-Kangas and Phillipson, 1994:2). The official recognition of sixteen languages by the constitution, therefore, set the stage for the usage of all languages thus ensuring opportunities for equal participation of all Zimbabweans in public life including the civil courts where linguistic minorities like the Kalanga, Tonga and Shangani were historically marginalized. According to Baker (2001:281), “in the language of ecology, the strongest ecosystems are the most diverse. Diversity is directly related to stability; variety is important for long-term

survival.” The official recognition of sixteen languages in Zimbabwe thus provided opportunities for the development, usage and continued survival especially of historically marginalized languages including Shangani, Tonga and Kalanga. This is in tandem with subsection (4) of section 6 of the constitution which says the “state must” make sure that all languages used in Zimbabwe must be developed.

It also needs to be acknowledged that the current Zimbabwean constitution was a success story from the point of view of status planning. Giving official recognition to all the sixteen languages meant that all the languages assumed the same status. According to Chivhanga and Chimhenga (2013: 60), “choosing a language or a group of languages for specific functions in a country has far reaching implications on the status of that language or that group of language.” No language assumed a superior status in comparison with other languages. If one looks at the bigger picture in the current political configuration in the country, this change was expected as the country was ceased with the urge for total liberation and emancipation. Thus anyone would have the freedom to use a language of their choice in any domain of life. This means that speakers of Kalanga, Shangani and Tonga according to the founding provisions of the current Zimbabwean constitution have a right to use their language in all public domains of life including the civil courts. Subsection 3(b) chapter 1 of the constitution says that language preferences of the people should be considered in conversational interaction in state institutions. This implies that according to the current constitution of Zimbabwe, the sociolinguistic status of Kalanga, Tonga and Shangani in public life in general and the civil courts of Zimbabwe in particular are the same as that of any other language referred to in the constitution. In other words functional space in formal domains of life for these languages is guaranteed by the constitution.

Section 70 of the current constitution of Zimbabwe, which is constituted by fundamental human rights and freedoms directly deals with the rights of accused persons. It says:

- (1). Any person accused of an offence has the following rights-
  - (j). to have the proceedings of the trial interpreted into a language that they understand;
- (2). Where this section requires information to be given to a person-
  - (a). the information must be given in a language the person understands; and

(b). if the person cannot read or write, any document embodying the information must be explained in such a way that the person understands it.

This section of the constitution brings to the fore the importance of having interpreters as facilitators of communication in a multilingual environment. It “embraces language as a basic human right and multilingualism as a national resource” (Hornberger 2002:30) which allows speakers of all available languages within a given linguistic ecology to participate in public institutions using a language of their choice. In this case speakers of the sixteen indigenous languages used in Zimbabwe including Tonga, Kalanga and Shangani have been empowered through language to the extent that they can conversationally interact in formal domains of life including the civil courts using their native languages.

While acknowledging that the Constitution of Zimbabwe Amendment (No. 20) Act of 2013 has provisions that allow for the protection of linguistic rights for different language groups in the country, it was also found out that the document had omissions that lacked a robust and effective implementation program which should have laid a strong foundation for the development and promotion of all languages especially those spoken by minorities in public domains of life. Chapter 1 Subsection 4 of Section 6 of the constitution categorically states that:

The State must promote and advance the use of all languages used in Zimbabwe, including sign language, and must create conditions for the development of these languages.

This provision was made in clear unequivocal terms making it mandatory for the authorities to ensure that Zimbabwean languages are intellectualised for ease of usage in the major public domains for the benefit of their speakers. However, there was no clarification on how this was going to be achieved. Thus “the provisions did not give any guidelines as to how they would be implemented...” (Nyika, 2008:460). In an attempt to describe such a situation Kadenge (2015:32) says “there is often a gap between policy intentions and practice”. This scenario is what is referred to by Skutnabb-Kangas (2000) as ploy by policy makers to water down the provisions and create opt-outs. In other words, it is a way of avoiding making commitments which members of the public are likely to question especially if they are not fulfilled by authorities.

The conditions for the development of all languages in Zimbabwe as stipulated by the current constitutional dispensation has remained anybody's guess and this has impacted negatively on the sociolinguistic status of minority languages in public life in general and the civil courts in particular. The vagueness of this policy pronouncement can be described as "a noble idea without a purpose" (Hadebe, 1996:10) since it lacks the crucial implementation matrix which should have translated policy into action. From a CDA standpoint, "the power of language... constitutes an immense, albeit opaque, discourse impediment that, unless deconstructed, will continue to undermine and subvert any attempts towards inclusion (Liasidou, 2008:485). The constitutional stipulation referring to the need for the state to promote and advance all languages appears to be a noble idea that should see all languages being intellectualized but a critical analysis of the statement reveals hidden reluctance and lack of commitment by the state to fulfil that mandate because of the absence of clear guidelines regarding the procedure for implementation.

The constitution of Zimbabwe has no legal framework which compels the government to prioritize issues of language development and promotion especially with reference to minority languages which were historically marginalized. For this reason, the sociolinguistic status of languages including Shangani, Kalanga and Tonga seems to have changed on paper but practically not much activity to promote and develop the languages has not been realized. This could probably explain why some native speakers of the languages under study still opted to speak in either Ndebele or Shona in courtroom discourse regardless of the fact that their native languages are equally recognized officially by the current constitution.

The absence of a clearly spelt out legal framework has become a cause for concern among a significant number of the Zimbabwean population and civic organisations. This supported by "Bulawayo-based Nhimbe Trust, a cultural expert member of a grouping of Civic Society Organisations (which) is lobbying on the proposed Languages Bill in which the Zimbabwe Institute of Applied Research are Converters" (*Dailynews on Sunday*, November 13-19, 2016). The proposed Language Bill, it was envisaged would assist in the fulfilment of the ideals of the provisions of the current constitution on the promotion of language and language usage in Zimbabwe. Kucaca Ivumile Phulu, in a keynote address on 'A Language Act for Zimbabwe' said over the years scholars and civic society have noted that there has been an inadequate or

incomprehensive approach in regulating the use of indigenous languages from the colonial period right through to the adoption of the 2013 Constitution. This implies that status planning which saw 16 languages in Zimbabwe being accorded official recognition is a crucial step whose success hinges on the need for the government of Zimbabwe to deliberately craft a Languages Act that should make it mandatory for the creation of units that should facilitate the development and promotion of all languages especially minorities in public life. In order to clearly highlight the deficiencies of the language policy framework of the Zimbabwean government, a comparison can be made with the achievements by the South African government.

With the advent of independence in South Africa, the governing authorities formulated a statutory board called the Department of Arts, Culture, Science and Technology whose division, the National Language Services focused on “managing and coordinating development projects for the African languages [with] the Terminology Section tasked with the development of new terminology for all official languages” (Nyika, 2007: 228). This shows that the South African government was committed to ensuring that all the languages given official status were developed and be languages of choice for anyone participating in any institution in the country. As a result of efforts by this statutory board, South African languages have attempted to keep pace with constitutional provisions. Lubbe (2000:381) gives an example of a case (*State vs Matomela* (1998)) which had been postponed several times due to lack of interpreters, where trial was “conducted in isiXhosa, the language all the judicial officers present were proficient in.” This demonstrates how beneficial the process of intellectualization of language has been to South African languages. The fact that the Zimbabwean constitution has remained silent on the critical issue of development of terminology for all languages given official recognition implies that the languages of the land have generally remained underdeveloped. This should probably explain the general attitude of some of the native speakers of Shangani, Tonga and Kalanga who opted to speak in either Shona or Ndebele in the civil courts thus compromising the sociolinguistic status of their languages in public institutions. If a populous country like China with close to one hundred minority languages (Tursun, 2010) can organize special bilingual courts in order to ensure that minority languages find functional space in the courts, it is also possible for Zimbabwe with less than twenty indigenous languages to ensure that its languages are promoted in public life.

In order to provide a robust and successful language promotion for all linguistic groups in South Africa, the South African government also created the Pan South African Language Board (PanSALB) “which is mandated by law to investigate complaints about language rights violations from any individual, organization or institution [and] in May 2001, PanSALB launched a campaign to raise the public’s awareness of their right to be served in their language at government institutions” (Mnyandu and Makhubu, 2015:61). This institutional support to language protection and development which has been provided for through legislation in South Africa has resulted in the official languages of the country finding space in public domains of life like the courts. The creation of PanSALB to deal with language rights has ensured linguistic inclusion for all citizens especially in public discourses. On the contrary, the Zimbabwean constitution seems to have glossed over crucial matters of linguistic rights which are of critical importance in the maintenance of the country’s linguistic ecology. Linguistic rights which are equated to human rights from the point of view of the ecology of language are not even referred to in the current constitution of Zimbabwe. There has not been a drive by the country’s authorities to ensure that different language groups are educated on the importance of their languages as well as their linguistic rights. This explains why some of the Kalanga and Shangani native speakers interviewed for this research never envisaged the usage for their languages in public life like the civil courts with others saying they were not aware of the provisions of the constitution on language.

In this study, the researcher interviewed three members of the Judicial Services Commission with a view to find out whether there are any statutory instruments which make reference to language and language usage in courtroom discourse. Since language is central to delivery of justice, the researcher expected that the Ministry of Justice in Zimbabwe would issue circulars or statutory instruments that make reference to language usage in the courts given the multilingual nature of the country. In the education domain, for instance, where language is central to all learning, the Ministry of Education has on several occasions been issuing circulars on the contentious issue of language. On the contrary, according to members of the Judicial Services Commission interviewed for this research, the language of law in Zimbabwe is English and any other language must be interpreted if it is to be used in the courts. They said that there was no statutory instrument written to that effect. This gives an indication that the issue of language choice and usage in the courts of Zimbabwe in general and the civil courts in particular has not



really been a matter of priority by the judicial authorities. This has impacted negatively on the sociolinguistic status of minority languages like Kalanga, Tonga and Shangani in the civil courts of Zimbabwe since there has not been regulations that guide their usage with the purpose to uplift them.

The constitutional provisions on language and language usage in the country were analyzed in this part of the chapter. The constitutional pronouncements examined are found in the 1979 Lancaster House Agreement and the Constitution of Zimbabwe Amendment (No.20) Act 2013. An analysis of the constitutional stipulations revealed a paradigm shift from the pre-independence constitutional pronouncements on language usage in general and the courts in particular. While the authorities during the colonial era were preoccupied with facilitating the entrenchment of the English language to the extent that reference to indigenous languages did not go beyond the acknowledgement of the existence of Shona and Ndebele, the post-independence constitutional dispensation especially the current constitution has embraced the multilingual nature of the country by giving official recognition to sixteen languages used in Zimbabwe.

Furthermore, the current constitution has elevated the status of all languages used in the country and they are now officially recognized. This has laid a foundation for the usage of these languages in public life like the courts unlike during the colonial era where minority languages were generally not recognized at all and thus had a peripheral space in public life in terms of facilitation of communication. However, the level of commitment by authorities in Zimbabwe to ensure that minority languages like Kalanga, Shangani and Tonga find space in civil courts of Zimbabwe has been questionable. The post-independence constitutional dispensation as given emphasis to the need for the development of all languages in the country so that they could be used in more domains of life but beyond those stipulations, there are no guidelines regarding how this would be achieved. For this reason the implementation dimension which is crucial for any policy was not adequately taken care of. Consequently, the development of minority languages like Tonga, Kalanga and Shangani for ease of usage in public life such as the civil courts has not been given the impetus it deserves and the languages have thus continued occupy the third tier status especially in public domains of life.

### **5.3 ISSUES IMPACTING ON THE USE OF KALANGA, SHANGANI AND TONGA AS MEDIA OF COMMUNICATION IN CIVIL COURTS OF ZIMBABWE**

Data gathering using semi-structured interviews with native speakers of Kalanga, Shangani and Tonga yielded a substantial amount of data. From the data identifiable factors which have contributed to the current sociolinguistic status of the languages under study within the context of civil courtroom discourse could be discerned. The population from which data was gathered included rural inhabitants of Chiredzi, Binga and Plumtree districts where Shangani, Tonga and Kalanga are spoken as native languages by a sizeable number of people respectively. The researcher managed to interview community members who have not attended civil court sessions before as well as those who have been to the courts either as complainants or accused persons. Because in rural areas people generally live in closed communities where they are able to interact with one another as individuals and as groups in community projects and meetings it became easy for the researcher to identify people who have attended the courts before either as complainants or accused persons through the process of referrals for the purposes of interviewing them.

Among native speakers of Kalanga, Shangani and Tonga that were interviewed in this study were community leaders who included chiefs and kraal heads who gave insights into the history surrounding the statuses of their languages in both the colonial and postcolonial Zimbabwe. In addition, a sizeable number of research participants were educationists some of whom were members of minority languages advocacy groups as well as court interpreters stationed at Binga, Chiredzi and Plumtree Magistrates' Courts.

From the interviews carried out with the above mentioned respondents, the researcher managed to identify language attitudes, court interpreting, initiatives by minority languages advocacy groups and reactions to new constitutional provisions on language in Zimbabwe as well as the role of language in the education domain as possible sources of issues that have influenced the sociolinguistic status of Kalanga, Tonga and Shangani as media of communication in the civil courts of Zimbabwe. For the purposes of data presentation and analysis, the researcher treated these aspects as themes each of which was given an in depth examination in order to give a thorough understanding of its influence on the status of the languages in question in courtroom communication in civil courts.

### 5.3.1 LANGUAGE ATTITUDES

Language attitudes are a sum total of a number of variables that give an idea about an individual or a group of people's perceptions of their language or other languages. There are, in other words a number of aspects that need to be examined for one to have an idea about an individual's or group's attitudes towards a language or languages. This implies that a detailed analysis of how the issue of language attitudes has affected the sociolinguistic status of Kalanga, Tonga and Shangani as media of communication in the civil courts of Zimbabwe should not take this phenomenon as a unitary construct. There is, therefore, a need for the researcher to tease apart a number of issues from the complex nature of the language attitude phenomenon in an attempt to critically analyze each one of them in order to decipher the impact of language attitudes on the sociolinguistic status of Shangani, Tonga and Kalanga in the civil courts of Zimbabwe.

According to Fasold (1984:148), language attitudes refer to "people's feelings and preferences towards their own language and other speech varieties around them, and what value they place on those languages." Richards (1992) and Crystal (1997) have also characterized the concept of language attitudes as sentiments a group of people hold about their language as well as those of others. Researchers' (See, for example, Fasold, 1984; Richards et al, 1992; Crystal, 1997; Romaine, 1995) description of language attitudes is not restricted to the perceptions of people on languages within their environment but includes attitudes directed towards speakers of a particular language or language variety as well as perceptions towards efforts to develop, protect and maintain a particular language.

From the above definitions of language attitudes, an inference can be made that the basic foundation for the study of language attitudes is the existence of a multilingual environment. There should, in other words be in existence a number of languages that should be competing for functional space especially in public domains of life within one speech community. In situations where people develop either favorable or unfavorable perceptions of certain languages there will be differences in terms of status among the languages in any identifiable speech community as is the case with the languages in this research.

Baker (1988:114) gives a general definition of attitudes as "hypothetical constructs that are inferred, conceptual inventions hopefully aiding the description and explanation of behavior;

attitudes are learned predispositions, not inherited or genetically endowed, and are likely to be relatively stable over time.” From this definition, one can discern that attitudes are an invisible mental property which can only manifest itself through observable human behavior. Baker (1992:29) goes on to characterize language attitudes as a multi-dimensional entity which comprises other identifiable sub-parts some of which include:

- Attitudes to a specific minority language,
- Attitudes to language groups, communities and minorities.
- Attitudes to uses of a specific language.
- Attitudes to language preference.

This researcher deliberately chose to focus on these four sub-categories of language attitudes as a result of their close link with the objectives of this study. Their analysis within the context of the present research goes a long way in assisting to determine the sociolinguistic statuses of Shangani, Kalanga and Tonga in courtroom interaction in the civil courts of Zimbabwe.

Of importance to research on language attitudes is the fact that people’s attitudes towards either their language or those of others play a critical role in determining one’s language choice in a given situation (Romaine, 1995). This implies that language attitudes largely influence language behavior of individuals or groups of people in speech communities including language choice especially in public life. Thus if one has a positive attitude towards a particular language, that person is intrinsically motivated to choose that language to communicate in a number of contexts. On the contrary, a negative attitude towards a language results in one feeling uncomfortable to use that language as a means of communication, especially, in prestigious domains of life. This means that in a community where the majority of the people harbor negative attitudes towards a particular language, that language’s status in public life becomes low vis a vis that of other languages spoken in that community.

In order to give a comprehensive analysis of language attitudes as a determinant factor to the measurement of the relative sociolinguistic statuses of Kalanga, Tonga and Shangani as languages of communication in the civil courts of Zimbabwe, the researcher examined language attitudes under sub-themes that included a number of variables including age, naming of

provinces in Zimbabwe, awareness of new constitutional provisions on language by minority language speakers and demographic factors.

### **5.3.2 AGE**

In this study, the variable of age proved to be one of the key aspects whose analysis assisted the researcher considerably in making a determination regarding the language attitudes of native speakers of Kalanga, Tonga and Shangani in public life in general and in courtroom discourse involving native speakers of these languages in civil courts of Zimbabwe. Data obtained from both semi-structured interviews and observations involving native speakers of the languages in question was analyzed. A combination of data collected through interviewing native speakers of Kalanga, Tonga and Shangani as well as observations of some of the speakers of the languages under study in live court sessions helped the researcher avoid overreliance on respondents' self-reports some of which could run contrary to behavior in real life contexts (Uchechukwu, 2006). Thus the use of the two methods of data gathering together ensured the researcher would get reliable data in terms of both quality and quantity.

During interviews respondents were asked whether or not they have ever attended court sessions in the civil court either as complainants or accused persons as well as what languages they opted to use as media of communication. Other native speakers of Shangani, Kalanga and Tonga who have never been arraigned before the courts were also asked what language they would prefer to use in courtroom discourse if they civil were to attend the civil court either as complainants or accused persons. A critical analysis of the responses to the two questions referred to above revealed that interviewees gave different responses but generally the answers given revealed that the ages of the respondents must have had an influence on the language choices that were made.

From the interviews held with native speakers of Shangani in Chiredzi district, the researcher found out that respondents whose language choice in courtroom discourse was Shangani were generally elderly people especially those that were in their forties and beyond. Conversely, middle aged people mostly in their twenties and thirties predominantly had Shona as their language choice if they were to be involved in civil court proceedings. Thus languages' competition for space in courtroom discourse among the Shangani native speakers who were interviewed for this study was found out to be between Shangani and Shona with the variable of age being largely the determinant factor influencing people's language choices. The responses

below are representative of middle aged interviewees' answers to the question of language choices in the context of courtroom discourse in the civil courts:

1(a). *Vanhu votala vatshamako lomu maChangana mara hitshamile hikahivulavula Shona hikuva in'wani yatirimi tinyanyako kutirhisiwa Zimbabwe. Hikokwalaho ekhotsweni nivulavula hiShona hikuva hiyona. Hirhisiwako ngopfu etikweni.* (Whilst the majority of the people in this area are native speakers of Shangani, we grew up speaking in Shona because this is one of the indigenous languages which were referred to as the national languages. So I would prefer to use this language in courtroom communication because we grew up with the perception that the language was more prestigious than Shangani.)

1(b). *Ningavulavula hiShona ekhotweni. Nikulele endawini ivulavuliwako Shona nachiChangana mara nidhondzileShona kufikela ke vhasiti, chiChangana kufikela kedhondzo yavunharu. Hikokwalaho nivulavula Shona kutlula tin'wani tirimi.* (I would choose to speak in Shona in a civil court of law because besides growing up in an area where Shangani and Shona were spoken, I studied Shona from primary school to university level and Shangani only up to grade three. Thus my mastery of Shona is so good that I can speak and understand the language better than any other language.)

1(c). *Anitshembi kumunhu angapfumetiwa ku a vulavula hichiChangana ekhotweni. Hikokwalaho nivulavula hiShona leyi nivulavulako siku nasiku.* (I do not even think one would be allowed to speak in Shangani in a court of law. So I would not even consider the possibility of speaking in Shangani in the civil court. Thus I would speak in Shona in court since I speak the language every day.

1(d). *Hikwako echibhedhla, mapoliseni, eswikolweni nele switupeni vatiri votala vavulavula nahina hiShona. Hikokwalaho nanyuma kutavulavulachiChangana ekhotsweni.* (I would prefer to speak in Shona because for people in our community to get services from most institutions including the police, clinics, the registrar's offices and local schools, the majority of the service providers would be speaking in Shona with few of them serving clients in Shangani. So I would feel shy to speak in Shangani in court.)

1(e). *ChiChangana hilona lirimi nihirhisako ekhotwseni hikuva hilona lirhimi lamanani wamina.* (My language choice in courtroom communication is Shangani because it's my mother tongue.)

From the answers given above in 1(a) through 1(e), it is clear that younger native speakers of Shangani generally exhibited positive attitudes towards Shona

and they indicated that they were more competent in speaking the language than they were in their native language.

In response to the question about their language choices within the context of civil court proceedings, the elderly people's answers revealed their positive attitudes towards their mother tongue Shangani as demonstrated by the following reactions:

2(a). *Nivulavula chiChangana naShona mara katimhaka tinikhomako mbilu nivulavula kahle hichiChangana. Hikokwalaho hilona lirimi leli nitirhisako ekhotsweni.* (I speak Shangani and Shona but when I talk about serious matters that affect my emotional well-being, I can express myself much better in Shangani. Thus I would use Shangani in the civil court.)

2(b). *Nivulavula hichiChangana ekhotsweni lingalirimi lingane nawu nematshamelo ahina nakambe natinyungubwisa hilona.* (I would use Shangani to express myself in a court of law because I speak the language every day and I am proud of the language as part of my identity and culture. It is, however, sad that some of our young children can hardly speak the language but we encourage them to speak their mother tongue.)

2(c). *Mhaka leyi hingavulavula yashanisa. Lirimi lahina lichuvukeliwe hansi kakarhi woleha. Hitshikeleliwe hiShona kusukisela hingasokuma kuchucheka katilo mara lirimi lahina halilava.* (The issue you are raising is an emotive one. Our language has been marginalized for a long time. Shona was historically imposed on us well before independence but we love our language and are prepared to use it at every given opportunity.)

Data gathered in Plumtree district from native speakers of Kalanga produced almost similar results with those found in Chiredzi (1a. through 1e.). Interviewees' responses were also divided into two broad categories with the aspect of age also coming in handy in people's language choices. Just like the research subjects interviewed in Chiredzi, middle aged respondents regardless of gender opted for Ndebele as the language they would prefer to use as the medium of communication in the civil court. On the contrary, elderly people showed passion and enthusiasm while expressing their willingness to use Kalanga their mother tongue in courtroom

communication. In response to the question about their language preferences in a court proceedings, some of the middle aged research subjects had this to say:

3(a). *Imi ndingahala lebeleka netjiNdebele mukhuta ngobe ndigo lulimi gwandakakula ndileba Titji kunabakwinya bangu banjinji banowandisa lebeleka netjiNdebele kupinda tjiKalanga.* (I would opt to speak in Ndebele in court because this is the language I grew up speaking in the town of Plumtree where the majority of my peers usually communicate in Ndebele than they do in Kalanga.)

3(b). *Imi ndinhu unolebeleka tjiNdebele mulubaka gunjinji. NdinKalanga nezwegwa koga ndakakulila kaBulawayo. Ndizo ndotubula lebeleka ndiwakala netjiNdebele kupinda gumwe lulimi.* (I have been speaking Ndebele the greater part of my life. I am a native speaker of Kalanga but I grew up in Bulawayo. Thus I can express myself better in Ndebele than in any other language.)

3(c). *Ndakati ndilikukwele, hanganyila kwangu netjiKalanga kwakakupelela kanyi koga. Kukwele ndakadiyiwa tjiNdebele setjidiyo tjimunlayo kakale ndakandilebeleka tjiNdebele kukwele kose napahle kwekwele.* (When I was in school, my exposure to Kalanga was only limited to the home. In school I learned Ndebele as an academic subject and I spoke in Ndebele in and outside the school.)

3(d). *Kene ndilinKalanga nezwegwa, ndolebeleka netjiNdebele kukhuta ngobe ndigo lulimi gunolebwa nebanhu banjinji mahuba ose. Ngeno kanyi, tolebeleka netjiKalanga utila mihingo ngobe beni bemihingo banolebeleka tjiNdebele.* (Though I am a native speaker of Kalanga, I would choose to speak in Ndebele in court because this is the language the majority of the people speak every day. Locally we communicate in Kalanga but if you go to Plumtree town you speak predominantly in Ndebele for business purposes because most service providers speak Ndebele.)

3(e). *Andina buthatha hingisa tjiNdebele kene tjiKalanga mukhuta ngobe ndinalubaka gulefulefu ndihingisa ndimi dzose dzedzi bubili gwadzo.* (I have no problems using either Ndebele or Kalanga in the courtroom because I have had a prolonged period of time speaking both languages.)



The above responses (1a.- 1e. and 3a.-3d.) which provide a representative sample of the answers that were given by most of the middle aged Kalanga native speakers regarding their language choices in courtroom discourse showed that the younger respondents generally demonstrated positive attitudes towards Ndebele. It would seem the majority of the middle aged respondents had assimilated Ndebele as a medium of communication at the expense of Kalanga their mother tongue.

Some of the answers that were given by the elderly in response to the same question regarding their language choices when communicating in the civil courts include the following:

4(a). *Imi ndingalebeleka netjiKalanga ngobe ndigo lulimi gwangu gwez wagwa gwandakafanila ba nemanyuku nago apa ndiguhingisa mukati napahle kwekuta.* (I would speak in Kalanga because it is my mother tongue which I should feel proud to use in and outside courts of law.)

4(b). *Kene nditubula lebeleka nyana tjiNdebele, ndozwida apa ndihingisa tjiKalanga, lulimi gwangu gwez wagwa gwandinohingisa gose lubaka / lubaka gunjinji. Ndizo ndingahala bebeleka netjiKalanga mumakhuta.* (Though I can speak a bit of Ndebele, Shona and English, I am comfortable expressing myself in my mother tongue which I speak most of the time. So I would choose to speak in Kalanga in the civil court.)

4(c). *Ndakatongoyenda kukhuta yemagistrate mugole la1982. Ndakalebeleka netjiKalanaga ntoliki akatjenama koga. Ndakabudza magistrate kuti ndohaka leba lebeswa lose kakale ndingakuthana nejele apa ndihingisa lulimi gwangu, tjiKalanga. Kundili akungatikale kuti ndihale gumwe lulimi apa kungayi ndibwilile kakale kukhutha kene pani, kuhhe kwetjiKalanga.* (I once attended a court session at the magistrates' court in 1982. I spoke in Kalanga and the interpreter who wanted me to speak in either Ndebele, Shona or English was taken by surprise. I then told the magistrate that I wanted to say the whole truth and I could only perfectly do that using my mother tongue, Kalanga. So for me there can never be any other choice of language if I were to attend another court session anywhere except Kalanga.)

4(d). *Tjinhu tjiyapo, wuti kene kukhuta ndolebeleka netjiKalanga, lilimi gwangu gwez wagwa. Sasebhuku, ndobudza banhu nelubaka gwemihangano, yedu tilebeleke netjiKalanga ngobe lulimi gogu gukan'ompela nemipanga yedu*

*yakafanila bigila basanhu bazwagwa banobuya hule kwedu.* (I would obviously opt to speak in Kalanga in the courts because it's my mother language which I am very proud of. As a Kraal head, I actually make it a point that during our village meetings and courts we converse in Kalanga all the time because this language is part of our heritage which we want to keep for future generations.)

The answers provided by the elderly native speaker of Kalanga revealed that they have positive attitudes towards their language. Thus they preferred to use Kalanga as a medium of communication in civil court proceedings. This is partly because of the sentimental value they attach to their mother tongue as part of their priceless heritage.

It was interesting to note that results from interviews held by native speakers of Tonga in Binga on the issue of language choice in civil court proceedings were not as varied as those found in the Kalanga and Shangani speaking areas of Plumtree and Chiredzi districts respectively. The Tonga speaking people demonstrated how passionate and proud they were about their language regardless of age differences between the respondents. Their responses were generally the same as revealed by the following answers they gave:

5(a). *Twabeleka changuzu kukulwaizya akusumpula mulaka wesu kwachiindi chilamfwu. Nokuba kuti tuli muchinkoso mujanika baNdebele banji, tuluuyanda mulaka wesu alimwi ngomulaka ngwekonzuya kubelesya munkuta.* (We have worked hard to develop and promote our language for a long time. Though we share a province with a significant number of Ndebeles, we are very proud of our language and that is the language I would use in civil courtroom communication.)

5(b). *Tuluuyanda mulaka wesu alimwi mbuli mwami, ndeelede kubakumbele/kusolola. Aboobo, inga ndabelesya ciTonga munkuta.* (We value our language and as a chief, I should lead by example. I would, therefore speak in Tonga in the civil courts.)

5(c). *Ndiyakwaambuula muciTonga munkuta nkaambo oyu ngomulaka ngwenywa kabotu kwiinda milaka yoonse. Chimwi chiindi ndakanjila munkuta mbuli sikutongooka mumwaka wa 2000 aboobo ndakakkomana kuzumizigwa kubelesya mulaka wangu. Echi chakandigwasya kupandulula kabotu-kabotu chakuti mulandu wakamuwlole ngwindakwali kuzeakaawe.* (I will speak in Tonga in the civil courts because besides being able to express myself very well in the language, this is the language I understand more than any other. I once attended a civil court session as a complainant in 2000 and I was happy to be

allowed to use my mother tongue and that helped me adequately give my side of the case which I eventually won.)

5(d). (I can only fully express my feelings and emotions in my mother tongue Tonga. Thus I would speak in Tonga in the civil court in order to adequately reveal my side of the story.)

5(e). *Ndiyoobelesya ciTonga nochiba ciNdebele nkaambo ndilaambawula misyobo yoonse eyi kabotu-kabotu. Baama mbaNdebele, baata mbaTonga. Abboobo ndakakomena nkekanana/nkiwambuula misyobo eyi.* (I will use either Tonga or Ndebele because I can speak both languages fluently. My mother is Ndebele and my father is Tonga. So I grew up speaking the two languages.)

The above responses are a typical representation of the answers which were given by the native speakers of Tonga. Data from interviews showed that the native speakers of Tonga were focused on making sure that their language stabilizes itself in public life, for instance, the civil courts. For this reason, those that were interviewed for this study said they would use Tonga as a medium of communication if they were to be brought to the civil courts as participants in courtroom proceedings.

The varied nature of responses given by native speakers of Shangani, Tonga and Kalanga who were interviewed for this study reflected their attitudes towards their native languages as well as other languages in their 'linguistic repertoire' which Gumperz (1964) describes as a sum total of the styles one needs to have for the purposes of adequately and effectively fulfilling his or her communicative needs. The study of language choices and attitudes is premised on the existence of multilingual or bilingual communities. The native speakers of the minority languages under study generally have majority languages, Shona and Ndebele in their linguistic repertoire with some of them also able to express themselves in English as evidenced by 5(d) and 5(e) who opted to be interviewed in English by this researcher. From the interviews carried out for this study, the researcher found out that native speakers of Kalanga could also speak Ndebele with some of them also able to express themselves in Shona and English. The native speakers of Shangani who were interviewed for this study could also speak Shona with others being able to communicate in English. Most of the native speakers of Tonga could also speak in Ndebele and some of them were able to express themselves in English and Shona.

The language contact situation described in the preceding paragraph gave a strong foundation for the study of language attitudes and choices which became the basis for the analysis of the sociolinguistic status of the languages under study in civil courtroom discourse. In this research, attitudes seem to have largely influenced minority language speakers' language choices in conversational interaction in general and particularly in formal domains like the civil courts. A scrutiny of the language choices of the native speakers of the languages under study using the ecology of language as an analytical tool gave a clear understanding of the sociolinguistic status of Kalanga, Tonga and Shangani in the civil courts of Zimbabwe. It is from this perspective that in this research, the language preferences and usage of the speakers of Tonga, Kalanga and Shangani within the context of civil courtroom discourse were analyzed considering the variable of age which was found out to have an influence on the language choices made by the respondents.

In an attempt to explain the ecology of language in any given multilingual environment, Haugen (1972) came up with a template of questions that could be used as a guideline for researchers. From the set of questions provided there is one that interrogates the issue of the attitudes of the users of a language as well as its status and personal identification which is also referred to as ethnolinguistics. This crucial aspect of the ecology of language came in handy in this researchers' attempt to analyze how the variable of age influenced a variety of reactions to the question on the language choices of the native speakers of Kalanga, Tonga and Shangani in courtroom discourse in the civil courts.

The fact that majority of middle aged native speakers of Kalanga and Shangani opted to use Ndebele and Shona respectively could be attributed to one of the outcomes of language contact situations in linguistic ecologies. According to Thomason and Kaufman (1988) and Rosenberg (2001), language shift from one language to another is one result of language contact among others. According to Crystal (2000:17), language shift is "the gradual or sudden move from the use of one language to another." In an attempt to characterize the process of language shift, Fishman (1991:1) says this activity occurs in "speech communities whose native languages are threatened because their intergenerational continuity is proceeding negatively, with fewer and fewer users or uses every generation." This implies that the process of language shift is, among

other factors, heavily influenced by the language behavior of speech communities with the variable of age playing a crucial role on language attitudes and choices.

The process of language shift can affect either an individual or a group of people. In situations where language shift impacts on a sizeable group of people in a given community, one language can be stripped of some of its functional roles resulting in another language assuming a larger functional load. Data in this study revealed that middle aged native speakers of Kalanga and Shangani would generally opt to converse using Ndebele and Shona respectively because there seems to have been a gradual language shift that impacted on the relationship between their native languages and the majority languages.

As could be deduced from responses given by interviewees 1(a) to 1(d) who opted to use Shona at the expense of their native language Shangani and answers given by respondents 3(a) to (d) who chose Ndebele, not their native language Kalanga, the question of the relationships between languages within a clearly defined linguistic ecology or environment impacts on the language attitudes and choices made by people whose linguistic repertoire is characterized either by bilingualism or multilingualism. Respondents 1(c) and 1(d) said they would choose to speak in Shona at the expense of their native language Shangani because Shona is the language that is predominantly used by various service providers and they are exposed to the language on a day to day basis because the majority of the people speak the language. Native speakers of Kalanga as represented by interviewees 3(a) and 3(d) also gave the same reasons for opting to speak in Ndebele in court at the expense of their native language.

The historical marginalisation of minority languages in colonial and postcolonial Zimbabwe created a relationship of power and dominance between languages through language policy and planning activities and as a result minority languages including Shangani and Kalanga lost ground to Shona and Ndebele the majority languages. Thus because of the dominance of Shona and Ndebele, native speakers of Kalanga and Shangani as demonstrated by middle aged respondents in this study have found themselves using the dominant languages in everyday interactions with peers as well as when they conduct business transactions. The co-existence of dominant and non-dominant languages which has seen native speakers of Shangani and Kalanga using the majority languages every day and in official domains like education, government offices and business, for instance, banks must have made them have the perception that their

native languages have no space in formal domains of life like the civil courts. This scenario is as a result of the Zimbabwean linguistic ecology whose structure tallies with Batibo's (2005) triglossic network of relationships in the Zimbabwean linguistic ecology. Thus the triglossic language situation which saw the ranking of languages with English occupying pole position, followed by Shona and Ndebele, the majority languages with the rest of the indigenous languages including Shangani and Kalanga must have influenced linguistic minorities to think that dominant languages should be the languages of social and public contexts like the courts.

According to May (2003:112), "... minority languages may be important for identity but have no instrumental value, while majority languages are construed as primarily instrumental... in the case of minority languages, their instrumental value is often constrained by wider social and political processes that have resulted in the privileging of other languages in the public realm." Muhlhausler (1994) makes reference to the importance of the influential role of social practices among other factors in language ecologies thereby emphasizing on the importance of differences in usage of languages in any language environment. This characterization of the relationship between minority languages and majority languages in linguistic environments is a crucial determinant factor in language attitudes and choices in any given linguistic ecology.

The fact that Shona and Ndebele historically occupied a higher status in comparison with other indigenous languages courtesy of language planning and policy processes resulted in majority languages having a higher instrumental value. Consequently, this has instilled the thinking among some minority language speakers to believe that their native languages are not suitable for certain functions especially in public domains such as the civil courts. It is for this reason that for respondent 1(c), it appears it was unimaginable to even think that one could be allowed to articulate their views in Shangani within the context of the civil court.

The language attitudes and choices reflected in the responses of most of the middle aged native speakers of Kalanga and Shangani have had a debilitating effect on the sociolinguistic status of their languages in civil courtroom discourse. Their language preferences have resulted in the languages occupying a rather subdued space in courtroom communication in geographical areas where they are supposed to be spoken by the majority. Thus the process of language dominance and shift seems to have affected the psyche of a sizeable number of minority language speakers to the extent that some of them now believe that it is unacceptable for one to use Shangani and

Kalanga as media of communication in court. Crystal (2002:86) refers to such a situation as ‘language suicide’ in order to adequately explain how the attitudes of native speakers of a language could lead to that language’s death. The fact that the native speakers of Shangani and Kalanga use the majority languages every day as indicated by respondents 1(a) who grew up thinking that Shona is more prestigious than Shangani and 3(a) who grew up speaking Ndebele in Plumtree town implies that Kalanga and Shangani have a diminished sociolinguistic status among younger generations in the civil courts since not many of them would not prefer to use the languages as media of communication in courtroom interaction.

As already mentioned in this study, unlike most of the middle aged people, the elderly native Kalanga and Shangani respondents interviewed for this study opted to use their native languages as media of communication in courtroom communication. Respondents 2(a) and 2(b) made reference to their ability to adequately and effectively express themselves in Shangani especially in serious emotional matters as well as the importance of using their native language as a marker of pride, identity and culture. Respondent 2(c) went to the extent of regretting the historical marginalization of their language while bemoaning the language practices of young people who seemed to have a low opinion about their mother tongue. Respondents 4(a) and 4(b) also highlighted that Kalanga was their mother tongue and they were able to express themselves better using their native language. Interviewee 4(d) who happened to be a kraal head spoke glowingly about his role as a custodian of his people’s language and culture, thus for him the need to preserve the Kalanga language and culture ranked as one of his major priorities. So for him, Kalanga would be his sole choice for the language of courtroom communication in the civil courts.

It was also interesting to note that among the Kalanga speaking interviewees in Plumtree was an elderly man (4c) who spoke about an incident when he was arraigned before the magistrate in the civil court and was asked to speak in Ndebele in 1982. Despite the fact that he was able to speak not only in Ndebele but also fluent in English as well since he was an educationist, he said he wanted to speak the whole truth and he could only do that in his mother tongue Kalanga. That had to delay court proceedings because there was no one to interpret his messages from Kalanga to English. The responses given by the elderly members of the Kalanga and Shangani speaking communities give a semblance of a recognizable sociolinguistic status in civil courtroom

discourse to the minority languages. Such positive attitudes go a long way in trying to mitigate chances of a complete language shift or even language death.

The perceptions of Kalanga and Shangani elderly community members to their native languages are in tandem with the ideals of cultural diversity. According to Romaine (1994: 7), “language death is symptomatic of cultural death: a way of life disappears with the death of a language.” In the same vein, Skutnabb-Kangas (2000:252) has characterized languages as “depositories of diverse knowledge for sustainability.” Similarly, Majidi (2013:33) says, “like majority languages, minority languages are one of the influential ways to keep a nation in touch with its heritage.” The languages are intricately linked with the historical experiences and developments of a people including their core values. It is from this perspective that elderly native speakers of Shangani and Kalanga interviewed in this research exhibited positive attitudes towards their languages. For them their native languages need to be valued, protected and used in public domains such as the courts.

Languages are in a sense valued since their preservation and usage maintains the culture of the speakers. Thus language death is perceived as a danger to the continued existence of a culture and its people. This argument tallies with the sentiments of interviewee 4(c) who said when they hosted COPAC during the gathering of people’s views about the constitution, “I spoke heartily on the issue of language because I feel if you do not recognize a person’s language, it’s tantamount to killing that person.” Even the Kalanga kraal head who was interviewed for this research said that language is part of a people’s heritage and as a custodian of that heritage, he would always see to it that the language is used in the community and beyond. A language’s usage and continued survival according to this view ensures the continued existence of its speech community. The language continues to play a role in the linguistic ecology. It is for this reason that the elderly native speakers of Kalanga and Shangani spoke passionately about their willingness to make sure that their languages retain space both in the communities as well as the civil courts.

The other reason why the elderly native speakers of Shangani and Kalanga demonstrated positive attitudes towards their languages is that they uphold language as an important marker of identity. According to Darmody and Daly (2015:1), “the language we speak is part of our identity as individuals and makes us part of our community.” Edwards (2010) says if people realize that



their language is a crucial component of their identity, they are more inclined to want to speak it as well as advocate for its survival. Gumperz (1982:239) says that language “not only creates identity for its speakers but also identifies their social group membership.” One elderly man said at some point in the history of the Kalanga speaking community, there was hardly any infiltration from other tribes like the Ndebele. Another native speaker of Kalanga had this to say, “We are proud to be identified as Kalanga and it’s sad that history imposed Ndebele on us leading to the destruction of our social structure and social fabric.” The Kalanga speaking community, thus once lived as a homogeneous group of people who had their own way of life including a common language which bound them together. This implies that the identity of a person as an individual and as a group is largely influenced by the language spoken.

According to Sallabank (2010:60), “many recent writers, influenced by postmodernism, see identities as not fixed, formal realities, but rather as fluid, constructed ...”. In support of this position, Dorian (1999) and Tabouret-Keller (1985) argue that language is only but one in a variety of features that can give a group of people identity and this implies that people can still maintain their ethnic identity even after a total loss of their native language. Whilst there is a semblance of validity in the argument put forward by these researchers, it needs to be clearly highlighted that language is one factor that plays a key role in giving people identity and its influence should not be underestimated. According to Romaine (2008:19), “the preservation of a language in its fullest sense ultimately entails the maintenance of the community who speaks it... distinctiveness in culture and language has formed the basis for defining human identities.” Thus language is taken here to be an important factor which assists in giving as well as maintaining a people’s identity. This standpoint dovetails with the perceptions of the elderly native speakers of Kalanga and Shangani interviewed for this research. Their responses exhibited how valuable language was to them as a marker of identity and means of expression hence their choice of the native language in courtroom discourse.

In an effort to highlight the importance of language as a marker of identity, Haji-Othman (2005:87) had this to say “although it is possible that an individual can have multiple linguistic identities, it is often assumed that every individual has only one ethnolinguistic identity: a person speaks one language (the mother tongue), and has only one ethnic identity.” This clearly explains the role of one’s first language as one aspect that defines who somebody is and generally people

are proud of the possibility of being identified as a unique group on the basis of speaking a different language. It is for this reason that regardless of the fact that the Shangani and Kalanga people have been dominated by the majority languages Shona and Ndebele respectively for a long time, their elders still appreciate their identities and the need to be respected as a people among other ethnic groups hence their pride in using their native languages in public institutions like the civil courts.

The language attitudes of the elderly native speakers of Kalanga and Shangani are of paramount importance to this research endeavor since they presented a different way of appreciating the role and sociolinguistic status of the languages in question in the context of civil courtroom discourse. The contrasting language attitudes of the middle aged and elderly native speakers of Kalanga and Shangani pose a challenge to the continued survival of the languages in question in terms of usage generally in public life and within the contexts of courtroom discourse in particular.

The fact that the elderly people are a generation most of whose members are dying poses a challenge regarding the sociolinguistic status of Kalanga and Shangani in the civil courts of Zimbabwe. This is so because most of the middle aged respondents who are expected to instil in future generations positive attitudes towards their languages and emphasize on the need to ensure their continued use and survival generally exhibited negative attitudes towards the languages. From the responses given by the Kalanga and Shangani interviewees in this research, a deduction can be made that only a few middle aged interviewees as represented by 1(e) and 3(e) opted to use Shangani and Kalanga respectively as media of communication in the civil court. The respondents argued that since the languages in question were their mother tongue, they had to make the languages a priority. Thus the fact that only a few of the middle aged respondents demonstrated positive attitudes towards their native languages is a threat to the current and future sociolinguistic status of Kalanga and Shangani in the courtroom discourse in general and the civil courts in particular.

It was interesting to note that while Kalanga and Shangani respondents' answers to the question about what language they preferred to use as a medium of communication revealed mixed feelings with the variable of age coming in handy as a determinant factor, responses by the Tonga speaking community were generally the same. Native speakers of Tonga interviewed for

this study demonstrated positive attitudes towards their native language. Thus they opted to converse in the civil court using their native language. The respondents appeared to have been reading from the same script notwithstanding their differences in terms of age.

Respondents 5(a) through (d) passionately expressed positive sentiments towards their mother tongue including the fact that they fought hard in order for them to promote and protect their linguistic rights. It was only interviewee 5(e) who indicated that for him using either Ndebele or Tonga in court was never a problem since his father was Tonga whilst the mother was Ndebele. From this interviewee's response it still should be noted that the reaction did not indicate negative attitudes towards Tonga but for him the language had equal chances of being chosen as a medium of communication in courtroom discourse.

The attitudes of the native speakers of Tonga can be explained from the perspective of Haugen's (1972) ecology of language's psychological domain which focuses on the examination of the relationship between a language and other languages considering what bilingual or multilingual speakers think about the languages within their environment. In other words, "... the mental and emotional forces that necessitate certain choices in appropriate contexts" (Derni, 2008:27) reflect one's attitude towards their language or other people's languages in any linguistic ecology. Thus the mindset of individuals or a group of people is influential in the choice of language as a medium of communication in a multilingual environment and it is the mindset which determines whether or not people will have a positive attitude towards a language or different languages in any given language environment.

From the responses given by the Tonga native speakers, one can conclude that the people interviewed for this study were proud and passionate about using their native language not only in every day communication but also in public life, for instance, in the civil courts as a medium of communication. From the perspective of the psychological domain of the ecology of language, it seems these people's mental processes including their thinking and feelings about their native language relative to other languages in their speech community have always told them that their mother tongue is just as good as any other language. They must have thought that despite the historical dominance of English, the colonial language and Ndebele and Shona as the majority languages within their linguistic landscape, their mother tongue psychologically should

assume an equal status with other languages or better still surpass other languages in terms of space in formal domains of life like the civil courts.

Thus attitudes reflecting the mental state of the native speakers of Tonga regarding their language and other languages used in the same linguistic ecology must have influenced the people's choices of the language to be used in the civil courts as a medium of communication. This implies that the sociolinguistic status of Tonga in the civil courts in the district of Binga was found out to be high in this research because the interviewees who participated in this study generally opted to converse in Tonga in courtroom communication regardless of their ages. Even respondent 5(e) who said for him using either Tonga or Ndebele in the civil courts was not a problem must have in his mindset the thinking that both Ndebele and Tonga languages are equal in status. The interviewee's response showed that both Tonga and Ndebele had equal chances of being chosen by him as media of communication in the civil courts and this demonstrated positive attitudes towards the two languages. Therefore, choosing what language to speak in the civil courts was never a problem for the native speakers of Tonga because those that were interviewed demonstrated a positive attitude towards their language.

The attitudes shown by the Tonga speaking community of Binga towards their language as reflected in their language choices in the civil courts are crucial to this study. They gave a reflection of the sociolinguistic status of the Tonga language in the civil courts. The positive attitudes towards their native language as shown by their language choices meant that notwithstanding the historical marginalization of their language both during and after the colonization of Zimbabwe, they never lost pride in their language. The fact that psychologically they generally believe that their native language is an important asset which they should be able to utilise in all contexts whether private or public has seen them striving towards the development and promotion of Tonga as a language. Their concern for the promotion of their native language can also be demonstrated by one interviewee who said that during the collection of views for the current Zimbabwean constitution by COPAC, the Tonga people's major issue revolved around the need to have their language regaining its status and making sure that it is developed, learnt at the highest levels of education and used predominantly in the major public domains of life.

From the foregoing discussion, an argument can be made that the aspect of language attitudes is a critical determinant factor of the sociolinguistic status of any given language in any given domain of language usage. From the broad concept of language attitudes, one can tease apart the variable of age which can be influential in people's language choices and usage in both private and public life. Data gathered using interviews in this research revealed that the aspect of age largely determined the language choices of middle aged native speakers of Shangani and Kalanga within the context of courtroom discourse in the civil courts. Most of the middle aged respondents, it appears, were affected by the process of language shift to the extent that Shona and Ndebele appeared to be natural choices as media of communication in civil courts. On the contrary, elderly Shangani and Kalanga native speakers demonstrated positive attitudes towards their native languages, thus opting to use them as media of communication in civil courts proceedings.

From the point of view of Haugen's (1972) psychological domain to the ecology of language, one can argue that the differences between the thinking of middle aged native speakers of Kalanga and Shangani and their elderly counterparts regarding languages in their linguistic ecologies impact significantly on the sociolinguistic status of the languages under study. Whilst the mindset of the elderly respondents point to some positives regarding the sociolinguistic status of Kalanga and Shangani in the civil courts, the responses given by middle aged native speakers impact negatively on the languages' functions as media of communication in courtroom interaction as a result of possible language shift.

Data analysis in this study revealed that the language attitudes and choices of the Tonga speaking community interviewed for this study was generally not affected by age as a linguistic variable. Respondents generally expressed their determination to use Tonga their native language in the civil courts and their mindset seemed to have a good appreciation of how important it was for people to develop courts. Even civil courtroom observations made by the researcher revealed that the majority of the people attending court sessions as either complainants or accused persons generally chose to speak in Tonga regardless of their age thus indicating that the intergenerational transfer of values regarding the role of one's mother tongue as an asset in communication, means of identity and culture must be robust in the Tonga speaking community and this has made it possible for their language to find space in public domains of life in general

and the civil courts in particular. Thus one can conclude that the variable of age and its impact on the sociolinguistic status of the languages under study had a toll on Shangani and Kalanga with Tonga's status generally remaining resolute notwithstanding the potential dominance of Ndebele in the community's linguistic ecology.

### **5.3.3 DEMOGRAPHIC CONSIDERATIONS**

Demographic patterns obtaining in any given multilingual environment play a significant role in influencing language attitudes and choices in both private and public life. In other words demography can be used to predict the language behavior of people in a given linguistic ecology. "Demography variables include absolute numbers, proportion of group size and the space it occupies all of which have a role to play towards a group's survival" (Nyota 2014:3). Giles et al (1977:313) say, "minority language group speakers who are concentrated in the same geographical area may stand a better chance of surviving as a dynamic linguistic community by virtue of the fact that they are in frequent verbal interaction and can maintain feelings of solidarity." This implies that issues of demography impact a linguistic group's language attitudes and choices. Demographic issues have the potential to influence the extent to which a language is used by people in different domains of life. Thus the sociolinguistic status of languages in any identifiable domain or institution can be influenced by the differences in the number of speakers that use the languages on a day to day basis.

The demographic factor that was relevant and considered in this research was the number of speakers who speak different languages in the geographical areas where the languages under study are spoken as native languages by the majority and how this has impacted on the attitudes of the native speakers of Kalanga, Tonga and Shangani as well as their language choices in public life especially in the civil courts of Zimbabwe. According to Riagain (2002:7), "demographic linguistics, sometimes referred to as demolinguistics... examines the relationship between... demographic variables and linguistic phenomena, such as the trends and the spatial and social distribution of speakers of a given language, bilingualism and multilingualism." The subject matter of demographic linguistics in other words relates to how some languages dominate other languages as a result of their demographic strength. Those languages that are

spoken by the majority end up assuming a prestigious status in comparison with other languages within the same linguistic ecology to the extent that even speakers of other languages would want to be associated with the language. Under such circumstances the relationship between the languages would be in favor of the dominant language which then eventually assumes a larger functional load in comparison with the minority languages. This normally has a negative effect on the status of those native languages spoken by minorities especially in formal domains of life. It is against this background that the present study examined how demographic issues particularly the number of speakers that generally use Kalanga, Tonga and Shangani vis a vis the majority languages spoken in Zimbabwe has impacted on language attitudes, choices and eventually statuses in courtroom communication within the context of the civil courts.

One of the questions native speakers of Tonga, Shangani and Kalanga were asked was, which language is most widely spoken in your area? This question sought to examine the impact of the use of a particular language on attitudes towards that language and other languages within the same linguistic ecology. From the responses given by research participants, the researcher managed to understand people's language attitudes which would determine their language choices in courtroom discourse. Some of the responses that were given by native speakers of Kalanga are:

6(a). *Banhu banolebeleka tjiNdebele kene beli maKalanga. Pamwe bamwe ndiko kwaba tjowobona bukulu gwelulimi gwabo.* (People speak Ndebele even if they are Kalanga. Maybe some of our people are yet to realize the importance of their language.)

6(b). *Wanda kwetjiNdebele nentha yetungamigwa nebamwe banhu kwakabulaya lulimi gwedu. Banhu banobelekela tjiNdebele ngobe pakati kwabo kunabanhu banjinji banoteba tjiNdebele.* (The historical dominance of Ndebele because of colonialism did not spare our language. Those speaking Kalanga are outnumbered by Ndebele speakers because even among the Kalanga, many people speak Ndebele.)

The responses 6(a) and 6(b) are representative of what the native speakers of Kalanga said about the relationship between their mother tongue and Ndebele in their community. The answers given reflected the dominance of Ndebele in every day conversational interaction involving the Kalanga in terms of the number of speakers.

In response to the same question on language usage and demography, the native speakers of Tonga had this to say:

7(a). *Akaambo kakuti zyina lyachinkoso chesu ngu Matabeleland ngwali kunika bantu banji bsyoma kuti bamaNdebele bajisi nguzu zinji kwiinda baTonga. Aboobo nokuba kuti tulakaka, ciNdebele chilizundide muBinga kwamyaka yoonse iikunze.* (The fact that even the name of our province is Matabeleland North has made some people to believe that Ndebele is more superior to Tonga. Thus despite our resistance, Ndebele has historically been a dominant language in Binga.)

7(b). *Kzunda kwaciNdebele muzyikolo zyesu chipa kuti bunji bwabantu nibamana chikolo kabazumanana kubikka kumbele mulaka waciNdebele kwiinda mulaka wesu mumasena motukkala.* (The dominance of Ndebele in our schools has created a scenario in which the majority of school leavers in our communities have perpetuated the dominance of Ndebele over our native language.)

The answers given by the native speakers of Tonga revealed the dominance of speakers of Ndebele in terms of language usage in every day conversational interaction in numerical terms in comparison with Tonga.

The answers provided by the native speakers of Shangani to the question on demographic matters were similar to those given by the Tonga and Kalanga speakers. Some of the answers given were:

8(a). *Hina himaChangana mara maShona atele lomu nakambe avalavi kudhondza lirimi lahina. Hikokwalaho vavulavulako Shona vatele kuhihindza.* (Whilst our native language is Shangani, we have many Shona speakers around and they have refused to learn our language because they think they are more superior. So the people who speak Shangani have eventually been outnumbered by Shona speakers.)

8(b). *Eswikolweni, ekembini yamapholisa nele chibhedlela vavulavula nahina hiShona. Edhorobheni laChiredzi katsinini kukuma vavulavulako hichiChangana.* (If we visit local institutions like schools, the police station or clinic for services, people generally speak to us in Shona. It's even worse if you go to Chiredzi, the town in our district where you rarely find people conversing in Shangani except Shona.)



The above responses given by the native speakers of Shangani, Tonga and Kalanga revealed that the question of the numerical superiority of the users of dominant languages namely Shona and Ndebele has had an impact on the usage of minority languages in both private and public life. The dominance of Shona and Ndebele as the majority languages in Zimbabwe seems to have influenced some speakers of minority languages in their communities to use the majority languages at the expense of their own native languages. This occurrence is what Haugen (1972:336) calls “linguistic demography”, an ecology of language phenomenon that interrogates aspects including the numerical attributes of users of a language as well as their social standing and religion.

Native speakers of Tonga, Kalanga and Shangani are confronted with a situation in which there are unequal power relations between their mother languages and the demographically dominant Ndebele and Shona languages. In a UNESCO (2003:15) document focusing on the safeguarding of endangered languages, it was reported that, “when languages have an unequal power relationship, members of the subordinate group usually speak both their native language and the dominant language. Speakers may gradually come to use only the dominant language”. In Botswana, minorities like Kalanga and the Khoisan (Khoisan is a group of Khoe and San languages) speak Setswana fluently but the Tswana people do not speak these languages. In Zimbabwe, most Ndebele people can speak Shona while the majority of Shona people do not speak Ndebele. This explains the extent to which the power asymmetry between languages coming as a result of numerical superiority of one language group over other language groups impacts on the language preferences of linguistic minorities. It is in this regard that the process of language shift must have crept into the language behavior of the Tonga, Kalanga and Shangani speakers thereby putting a dent on the sociolinguistic status of the languages in question not only in everyday communication but also in formal domains of life like the civil courts.

The language situation in Zimbabwe is constituted by sixteen languages, the majority of which are of Bantu origin except Tshwawo, which is Khoisan (Hachipola, 1998). Shona is the most widely spoken language in Zimbabwe with at least 75% of the population being mother tongue speakers of the language. The second largely spoken language after Shona is Ndebele which commands roughly 16.5% of the Zimbabwean population. The other indigenous languages that

are smaller in terms of numbers of speakers share about 6% of the population between them and these include Kalanga, Shangani, Chewa, Venda, Tonga and Nambya. The rest of the languages spoken in Zimbabwe share a population of less than 1% between them. From the numerical distribution of languages in terms of usage in Zimbabwe, a deduction can be made about the historical dominance of Shona and Ndebele as the majority languages. It is this dominance which has impacted on the language attitudes and choices of the speakers of minority languages in every day conversational interaction. These attitudes seem to have even permeated language choices in public life like the civil courts thereby negatively affecting the sociolinguistic statuses of minority languages in public institutional discourse.

As indicated by the respondents 6(a) and 6(b) the majority of the people generally speak in Ndebele though Plumtree should be a predominantly Kalanga speaking community. The same could be said about the Tonga speaking community of Binga where interviewee 7(b) bemoaned the influence of school leavers who have learnt Ndebele as an academic subject in school and have in the process developed positive attitudes towards the language at the expense of Tonga their native language. This has resulted in the number of Ndebele speakers ballooning in an area that is supposed to be predominantly Tonga. This research also revealed that more people seem to be using Shona as a medium of communication in Chiredzi, yet Shangani is the native language of the original inhabitants of that community. Respondent 8(a) said that most of the Shona speakers in their communities are not keen to learn Shangani since they think their language is more superior and this has resulted in Shona speaking people being the majority in Chiredzi. Interviewee 8(b) also weighed in saying most of the employees in service providing local institutions spoke in Shona and it was rare to find Shangani speakers in Chiredzi town regardless of the fact that the town is situated in a Shangani speaking community. The language behavior of some of the people in Plumtree, Chiredzi and Binga as demonstrated by the answers given by interviewees in this study have implications on language attitudes and choices as well as the sociolinguistic statuses of Kalanga, Shangani and Tonga respectively in day to day conversational interaction in general and public life like the civil courts in particular. It has to be clearly pointed out that this language behavior clearly understood by examining the historical circumstances that appear to have given birth to it.

According to Nyika (2007:123), “the general perception in Zimbabwe is that the country can be divided into two blocks, Ndebele and Shona-speaking areas, a situation that demonstrates the entrenchment of the hegemony of the two endoglossic languages.” This scenario depicts how demographic issues among other factors can influence people’s understanding of certain situations. The perceptions about the dichotomous nature of the country on the basis of the two majority languages in Zimbabwe have their origins in the colonial and subsequent postcolonial language policies which designated English as the official language while Shona and Ndebele were recognized as the national languages. The fact that these two languages assumed this status meant that their position was elevated in comparison with other indigenous languages. This meant that native speakers of other indigenous languages now wanted to be associated with either of the two languages depending on their geographical location as an ethnic group. For this reason the two majority languages were given the leverage to spread their tentacles into areas where minority languages were dominant. Because of the infiltration of Shona and Ndebele into the strongholds of minority languages, the number of speakers using majority languages increased significantly thereby surpassing the number of those that spoke the minority languages only. This eventually had an impact on the attitudes of speakers of minority languages, thus influencing their language choices in both private and public life. This had a knock on effect on the status of minority languages in public domains like the civil courts.

In an effort to explain the history behind the demographic dominance of Ndebele in areas where minority languages are spoken, Hachipola (1998:3) pointed out that “In Zimbabwe, Ndebele is mother-tongue to most African people living in Matabeleland North and South provinces. As these two provinces are inhabited by people other than the Ndebele it means that the other ethnic groups in the region have also adopted Ndebele as their mother tongue or at least as their means of communication”. This explains how the speakers of Kalanga and Tonga in Matabeleland South and North provinces respectively were affected by the process of language shift. The native speakers of Tonga and Shangani found themselves confronted with a linguistic ecology that had Ndebele as the dominant language.

In order to demonstrate the hegemony of Ndebele and Shona over other indigenous languages in Zimbabwe, NLPAP (1998) revealed that “out of Zimbabwe’s 55 administrative districts, 42 are in predominantly Shona-speaking area and 13 are in the predominantly Ndebele-speaking area.”

This gives an indication of the numerical dominance of speakers of Shona and Ndebele in Shangani, Tonga and Kalanga speakers among the speakers of other smaller linguistically marginalized groups.

According to Jamai (2008:118), “the relative number of speakers of language X in relation to the speakers of the language of the majority, could be regarded as an indicator of the health of the particular language. Any decrease in the number of speakers of language X would put more pressure on it and encourages its speakers to shift towards the language of the majority.” This underscores the significance of the “demographic strength”(Jamai 2008:118) of speakers of one of the languages in any given language environment in determining the general language behavior of people in society. In other words demographic strength should be considered as a crucial predictor of language behavior in any multilingual language situation since it fosters positive attitudes towards the dominant language at the expense of other languages. It is from this perspective that the demographic strength of Ndebele and Shona in Plumtree and Binga as well as Chiredzi respectively must have led even native speakers of Kalanga, Tonga and Shangani to opt to speak in Ndebele and Shona at the expense of their mother languages. The fact that they were confronted with situations which encouraged the usage of these languages in most institutions including schools, clinics and police stations must have made them believe that it was the ‘natural’ way or ‘the norm’ for one to use the majority languages in public life like the civil courts. This eventually led to their native languages assuming a rather subdued sociolinguistic status in public life in general and the civil courts in particular.

From the point of view of the sociological dimension of the ecology of language, the process of interaction between languages in an identifiable language environment determines the assignment of roles to the different languages and this has serious implications on the different languages’ survival (Mora, 2014; Muhlhausler, 1994; Hornberger, 2002). It is from this perspective that issues of power and dominance manifest themselves since the dynamics of interaction between the languages in such an environment is characterized by competition for limited space especially in public life. Languages that have a numerical advantage in terms of speakers tend to be dominant under such circumstances because of their appeal that creates positive attitudes even among speakers of other languages as was the case with the native speakers of Kalanga and Tonga. Though native speakers of Tonga interviewed for this research

generally bemoaned the dominance of Ndebele over their native language, the observation of civil court proceedings at Binga magistrates court revealed that the majority of the members of the Tonga speaking community opted to speak in Tonga. This indicated that the majority of the Tonga people were proud of their language. This scenario could be attributed to their demographic strength especially in Binga where they are a dominant group. According to Ndhlovu (2011:536), “the Tonga people are to a large extent a linguistically homogeneous group and clearly geographically defined, and this has preserved their identity.” Hachipola (1998) and Tremel (1994) also argue that in comparison with other minority language groups in Zimbabwe, the Tonga language group seems to have generally stayed aloof with less contact with other linguistic groups. This might have impacted positively on their attitudes towards the Tonga language to the extent that using it in public institutions such as the civil courts would not be a problem.

The foregoing discussion demonstrated that the demographic strength of speakers of certain languages in a given linguistic ecology plays a significant role in shaping speech communities’ attitudes towards their languages and those of others. A language whose speakers outnumber the speakers of other languages usually assumes a prestigious position in comparison with other languages. This results in speakers of other languages developing positive attitudes towards the language with numerical strength at the expense of their native languages. This influences the language choices of speakers of other demographically inferior languages in the sense that they end up opting to use the languages spoken by the majority of the people especially in public life like the courts as revealed by the findings of this study. Consequently, this negatively affects the sociolinguistic status of the languages spoken by fewer people as was the case with Kalanga, Shangani and to some extent Tonga which seemed to be outcompeted by Shona and Ndebele in terms of usage in the civil courts of Zimbabwe.

#### **5.3.4 NAMING OF PROVINCES AND THE DOMINANCE OF ENGLISH AND SHONA ON THE ZIMBABWEAN LINGUISTIC LANDSCAPE**

Zimbabwe is divided into ten administrative provinces, two of which, namely Harare and Bulawayo are cities which assume provincial statuses. The naming of these provinces except for Midlands seem to have generally been based on the dominance of certain languages spoken in

the respective geographical areas given the multilingual nature of the country. It appears the naming of the Midlands Province must have been based on the fact that the province seems to have a fair share of speakers of both Shona and Ndebele, the two majority languages spoken in Zimbabwe such that adopting one and leaving out another in the naming process could probably have led to rejection of the name by the ethnic group that felt unaccommodated by the given name. Thus the name Midlands, which does not have nuances of any one of the indigenous languages spoken in the country but points to the geographical centrality of the province in the country was preferred.

A scrutiny of the names of the rest of the provinces in Zimbabwe gives an indication of the connotations of the dominant language spoken in each respective province. The names do have traces of either Shona or Ndebele as the dominant languages spoken in each province. The names Bulawayo, Harare and Masvingo, whilst they do not possess any syllabic forms from the names of the languages predominantly spoken in their respective regions, their origins both etymologically and phonologically indicate that they are derived from Ndebele and Shona respectively.

The naming of Masvingo, Bulawayo and Harare provinces has had serious implications on the perceptions of speakers of different languages with native speakers of Shona and Ndebele holding their languages in high esteem as superior languages relative to other indigenous languages spoken in Zimbabwe. Linguistic minorities living side by side with speakers of majority languages have generally failed to resist the perceptions held by Ndebele and Shona speakers about the status of majority languages in comparison with minority languages. The naming process seems to have created a structured hegemony for Shona and Ndebele over other indigenous languages leading to language shift. This development has eventually created a scenario in which speakers of minority languages have generally accepted the asymmetrical relationship between minority languages and the dominant languages.

From the naming of Masvingo, Harare and Bulawayo Provinces, it can be concluded that the naming process must have led to the ranking of indigenous languages with minority languages occupying the lower tier in comparison with Shona and Ndebele. This saw Ndebele and Shona assuming a prestigious status even in areas where speakers of minority languages like Shangani, Tonga and Kalanga among others are in the majority. This impacted on the attitudes of minority

languages even to their native languages since some of them have been made to believe that their languages are inferior to Shona and Ndebele. This has negatively affected the sociolinguistic status of minority languages in every day conversational interaction and in public life like the civil courts.

Nyika (2007:162) asserts that “the naming of the country’s provinces... points to an orientation towards the language-and-territory ideology... This language-and-territory ideology is applied by the state in a way that enhances Shona and Ndebele hegemony in that the state disregards the situations where the minority languages are spoken by the majority of the residence in the area.” This observation was in reference to the naming of the majority of the provinces in Zimbabwe whose names are laden with connotations of the dominant languages spoken in each province.

The names Mashonaland East, Mashonaland West, Mashonaland Central, Matabeleland North and Matabeleland South have been used by the establishment to create “asymmetrical linguistic relations” (Ifesieh and Orginta 2013:10) among the Shona and Ndebele on the one hand and speakers of other indigenous languages on the other hand. Thus the naming of the provinces in Zimbabwe has become an albatross to the development and promotion of other indigenous languages especially in public life since the language behavior of speakers of other indigenous languages has generally tended to be submissive to the dominance of Shona and Ndebele. It is because of such language behavior and attitudes that the majority of the Kalanga and Shangani speaking middle aged interviewees in this research generally opted to use Ndebele and Shona as media of communication in the civil courts at the expense of their own native languages.

To further elaborate on the dominance of Ndebele and Shona over other indigenous languages in Zimbabwe, Nyika (2007:163), says, “... in areas such as Plumtree where the Kalanga are dominant, Beitbridge where the Venda are dominant or Binga where the Tonga are dominant, the government recognizes these as Ndebele-speaking areas.” Thus the naming of these provinces seems to have been done oblivious of the fact that in these provinces there are pockets of speakers of other indigenous languages.

During the collection of data for this study, respondents were asked whether or not their views were taken on board during the crafting of the current constitution of Zimbabwe. In response to this question, one kraal head in Binga district gave the following response:

9(a). Peepe, twakali kuyanda mulaka wesu aba Tonga kuti babe aachinkoso chabo chitwa kuti Zambezi Valley nkaambo tatuli baNdebele pesi asunu twaambwa kuti tubalilwa mu Matabeleland nkwali kunyika. (No, we wanted our language and the Tonga people to have their own province called the Zambezi valley since we are not Ndebele but we are still said to be part of Matabeleland North.)

Another respondent who is a member of the community in Binga said:

9(b). *Kulika chinkoso chesu kuti Matabeleland nkwali kunyika chipa kuti bantu batazyi kabotu bayeeye kuti aswebo mulaka waciNdebele. Twakayeeya kuti eechi chililubide aboobo chakee* (Naming our province Matabeleland North gives the impression to those that have not been here before that we are native speakers of Ndebele. We felt this is a misrepresentation that needed to be corrected.)

In Plumtree, one respondent said:

9(c). *Ndizo sabona hakika kwezita yekuti tipe tjigaba tjedu zina dzwa nekongwa kwahulumentu kothama bana bedu bekabona ngatilebeleka netjiNdebele kuna manyuku kupinda lebeleka netjiKalanga.* (The failure to recognize the need to rename our province by the authorities has made our children to believe that speaking in Ndebele is more prestigious than speaking in Kalanga.)

The above responses namely 9(a), 9(b) and 9(c) clearly indicate how the naming of provinces has become a cause for concern for speakers of Kalanga and Tonga. It psychologically impacts on the perceptions some of them have about languages spoken in their respective communities. They believe that the naming of the provinces should have been revisited during the crafting of the current constitution of the country. Their responses gave an indication that Plumtree and Binga communities are generally agreed that the naming of the provinces influences language attitudes, choices and eventually the sociolinguistic statuses of their native languages especially in formal domains of life like the civil courts since the naming of the provinces have left their native languages in perpetual obscurity as a result of the dominance of Ndebele. As revealed by respondent 9(b), if one hears about the name Matabeleland North and has never been to the place, what quickly comes to their mind is that the people in that area are a linguistically homogeneous group whose mother tongue is Ndebele. Thus the naming of provinces in Zimbabwe has had serious implications on the dominance of the majority languages over other indigenous languages as a result of its effects on language attitudes.



From the foregoing discussion on the naming of provinces in Zimbabwe, an inference can be made that the naming process was generally done on pure linguistic lines. Provinces were given names on the basis of the majority languages spoken in the different geographical regions. This created the impression that only two languages, Ndebele and Shona are legitimate while the other indigenous languages were largely ignored as if they did not have space in the linguistic ecology of the country. This eventually created negative attitudes towards the minority languages even from the native speakers of these languages. Consequently, the process of language shift crept in resulting in many speakers of Kalanga, Shangani and Tonga among others opting to speak in the dominant languages especially in public spaces like the civil courts as has been alluded to by respondents 1(a) to 1(d) and 3(a) to 3(d) whose reactions demonstrated that they had succumbed to the dominance of Shona and Ndebele by choosing these languages for communication purposes in courtroom interaction.

The process of naming geographical locations as revealed in this research is not a neutral activity but it is done for a purpose. The names that were given to the ten provinces of Zimbabwe testify to the fact that the naming clearly indicated the authorities' preferences about what language should predominantly be used in each one of the designated provinces. Even language-in-education policies in postcolonial Zimbabwe which initially had English, Shona and Ndebele as the languages of education testify to this fact. In a way, it was an indirect instruction given to the people in each province to embrace the usage of either Shona or Ndebele notwithstanding the fact that in these provinces there were significant numbers of speakers of other languages. This development, therefore, created an unfair advantage for Shona and Ndebele relative to other indigenous languages, Shangani, Kalanga and Tonga included especially in the competition for space in public domains of life like the civil courts. The naming of provinces, therefore, became an endorsement of the supremacy of Shona and Ndebele over other indigenous languages, thus influencing the language attitudes and language behavior of linguistic minorities. The net effect of this was language shift with some minority language speakers abandoning their native languages for either Shona or Ndebele in public life like the civil courts. This impacted negatively on the sociolinguistic status of the minority languages in courtroom discourse as they have continued to occupy a diminished position in terms of usage in comparison with Shona and Ndebele in geographical areas where linguistic minorities are in the majority.

### 5.3.5 AWARENESS OF CONSTITUTIONAL PROVISIONS ON LANGUAGE USAGE BY LINGUISTIC MINORITIES

One of the aspects which have impacted on the sociolinguistic status of minority languages in the civil courts is the level of awareness about constitutional safeguards on language usage in public life by speech communities. Native speakers of minority languages who have an awareness of constitutional provisions that make reference to the functional load of their respective languages in formal domains of life are most likely to have positive attitudes towards their mother languages. They are likely to choose the languages as media of communication in the prescribed domains, thus impacting positively on the sociolinguistic status of the languages concerned. On the contrary, speakers of minority languages who have no idea about any constitutional safeguards that guarantee the usage of their native languages in public life may not feel there is a need to opt for the usage of their languages in certain domains that have historically been dominated by some languages in any given multilingual environment.

In this study, respondents were asked whether or not they were knowledgeable about what the current constitution of Zimbabwe says regarding languages and how they should be used in Zimbabwe especially in public life. Responses to this question yielded mixed reactions with some interviewees saying that they knew what the current Zimbabwean constitution says about the functional roles and statuses of different languages in formal domains of life while others intimated that they had no knowledge about any constitutional safeguards on languages and language usage in Zimbabwe. In Plumtree, Kalanga speaking members of the community said:

10(a). *Atitoziba kene mikumbulo yedu yakasiwa muConstitution ngobe akuna nhu wakahanduka kutili newhalo dzeCostitution. Ndizo atitoziba kuti inotini nelulimi gwedu.* (We don't know whether our ideas were included in the constitution because no one came back to us with the new constitution. So we are not aware of what it says about our language.)

10(b). *Banhu abatokudza lulimi gwabo ngobe abatoziba kuti gwebe gumwe gwendimi dzinobangwa kumuukyo.* (Generally people still do not value their language because they are not aware that it is now an official language.)

10(c). *Tjinu tjikulu kube nemilidziwa netolela penhugwi ndimi dzedzi. Kose koku kobhatsa nediya banhu nebukulu gwelulimi gwabo. Constitution ingabe iti*

*tjiKalanga tjabe lulimi nekwenlayo koga bamwe banhu abatogala bakuziba ikoko.* (The most important thing is to have awareness. This will help in educating people about the importance of their language. The constitution might be saying that Kalanga is now an official language but some people don't even know that.)

10 (d). The constitution says that Kalanga should be treated equally like any other language spoken in Zimbabwe. It should be taught and used as a medium of instruction in schools.

10(e). The current constitutional stance which gives official recognition to all languages spoken in Zimbabwe is a very good starting point for the development and promotion of our language in public life like the courts you are talking about.

The above responses revealed that some of the native speakers of Kalanga showed an awareness of the provisions of the current constitution on language usage in Zimbabwe. However, other responses indicated that there was lack of awareness among a significant number of the people with regard to what the constitution says about languages in Zimbabwe.

Some of the responses given by the Tonga speaking community in Binga included the following:

11(a). *Mulawo wachisi ukulwaizya kuti mulaka misyoonto yeelede kusumpulwa alimwi mizokolo yeelede kubelesegwa kuyiisya.* (The constitution encourages that minority languages be promoted and in schools they should be used as media of instruction.)

11(b). *Kuyandisisya nkotujisi iyoonse kujatikizya mulaka wesu kwabikkwa mumilawo yachisi. CiTonga sunu chilalemekwa alimwi ndila chibelesya iyoonse.* (The pride we have always had about our language has been vindicated by this constitution. Tonga is now recognized and I use it regularly.)

11(c). *Twalwana kapati kuti tusike waano. Mulawo wachisi watusumula aboobo sunu tulabalwa mbuli bachisi mbuli iimwi msyobo mbuli baShona abaNdebele.* (We have fought hard to achieve this milestone. The new constitution has put us in the limelight and we are now recognized as equal citizens with other ethnic groups like the Shona and Ndebele.)

The responses 11(a), 11(b) and 11(c) that the researcher got from the Tonga speaking community of Binga indicated a high level of awareness about the official recognition of their language

among others in Zimbabwe by the constitution. The respondents were quite enthusiastic about the provisions that speak to the official recognition of all languages spoken in the country.

In response to the question as to whether people were aware of the current constitution's pronouncements on language and language use in Zimbabwe, some of the native speakers of Shangani had this to say

12(a). *Van'wani vanhu vaswitiva ku nawu ukulu watiko urhinganisile tirhimi hikwato mara vahleketa ku Shona, Ndebele na Chilungu hitona tirhimi tale khotsweni.* (Some of the people know that all the sixteen languages are now officially recognized but they still believe that English, Shona and Ndebele are the languages of the court.)

12(b). *Nawu ukulu watiko urhinganisile tirhimi hikwato mara kuna van'wani vanhu vahleketako kuvaatswile kuhlula van'wani vanhu.* (The constitution advocates for the equality of all languages but I do not think this will be achieved because some language groups think they are more superior to others.)

12(c). *Anivonangi nawu ukulu watiko hikokwalaho nihava leswinitivako swingatisiwa.* (I have not seen the constitution. So I don't even know what new things it has brought us with regard to languages in the country.)

12(d). *Vangavona nawu ukulu watiko veri utsaliwe hiChilungu. Hikokwalaho hambinouvona Chilungu chakona anichitoti. Veyeni kuutsalavo hilirhimi rahina?* (Those that have seen the constitution say it is written in English. So even if I get hold of it, I will not know what it says about languages because I don't understand the language. Why are they not translating into our own language?)

The responses given by the native speakers of Shangani also revealed that some of them were aware of the constitutional pronouncements on languages as espoused in the current constitution of Zimbabwe while others indicated that they had never seen the constitution.

As already highlighted in the introduction to this part of the study, interviewees' responses to the question about whether the native speakers of Kalanga, Shangani and Tonga were aware of constitutional provisions on language and language usage in Zimbabwe revealed varied reactions. Some of the reactions were laden with positive attitudes towards the recognition of all languages used in Zimbabwe from the speakers of the languages in question. The Kalanga-speaking respondents 10(d) and 10(e), for instance, applauded the constitutional safeguards on

language, particularly the equality of all languages in Zimbabwe as well as indicating that the provisions were a good starting point for the promotion of their language in formal domains of life. The native speakers of Tonga as reflected by the respondents 11(a) to 11(c) clearly indicated that the respondents were knowledgeable about the provisions of the current Zimbabwean constitutional provisions regarding the status of all languages used in the country. Similarly, some native speakers of Shangani as indicated by respondents 12(a) and 12(b) revealed that some of the members of the speech community were well informed about the constitutional safeguards on languages in the current constitution of Zimbabwe though they expressed skepticism about the implementation of the constitutional provisions.

The fact that some of the speakers of the languages under study were well informed about the constitutional developments in the current constitution of Zimbabwe means that they have kept track with issues surrounding their native languages. These speakers demonstrated that they were concerned with the social standing of their languages in comparison with other languages (Hornberger 2002) within the same linguistic ecology. This auger well with positive attitudes towards the respective native languages as well as an indication of their language choices and the eventual sociolinguistic statuses as media of communication in the civil courts.

The constitutional pronouncements that speak about the official recognition of sixteen languages used in Zimbabwe can also be regarded as symbolic of the institutional support the governing authorities of the country have rendered to the historically linguistically marginalized linguistic minorities of Zimbabwe including the Tonga, Kalanga and Shangani. This is in line with one of Haugen's (1972) ecology of language questions which interrogates the issue of the institutional support given to a particular language within a given linguistic ecology as a measure of the language's chances of survival in a multilingual environment. Being knowledgeable about the institutional support given to a language helps fostering positive attitudes towards the language leading to the choice of that language as a medium of communication in both private and public life like the civil courts. It is in this regard that interviewee 11(c) applauded the current constitution of Zimbabwe for putting the Tonga speaking community in the limelight as well as showing that there was equality among all citizens of the country notwithstanding one's native language.

Unlike the Kalanga and Shangani native speakers who demonstrated mixed reactions regarding knowledge of constitutional provisions on language, the level of awareness about official recognition of all languages spoken in Zimbabwe demonstrated by the Tonga speaking respondents has positive implications on the sociolinguistic status of their native language in formal domains of life in general and the civil courts in particular. Those that were interviewed for this research demonstrated that they had an idea about the current constitutional provisions on language and language usage in Zimbabwe. They generally demonstrated positive attitudes which they seemed to have had towards their language as revealed by their responses. It appears the new constitutional dispensation only reinvigorated the zeal they already had about the development and promotion of their language in public life. Even the observations that were done in civil courts proceedings for this research revealed that most of the Tonga people that came to court either as complainants or accused people opted to speak in Tonga. This gave an indication that the Tonga language seemed to be regarded highly by its native speakers and this impacted positively on its sociolinguistic status in the civil courts.

Whilst some of the Kalanga and Shangani native speakers also demonstrated awareness about constitutional developments on language and language usage in Zimbabwe, the researcher found out that they still had reservations about the implementation matrix of the constitutional pronouncements. Respondents 12(a) and 12(b) who happened to be native speakers of Shangani, for instance, felt that powerful language groups would not be supportive of the developments which saw historically marginalized languages finding space in public domains of life. In addition, they felt that the people would still hold the belief that Shona, English and Ndebele are the languages of the court. These responses do not auger well with the need to make sure that speakers of historically marginalized languages take advantage of their linguistic rights which are now recognized in public life like the civil courts. The respondents seemed to have resigned to the dictates of the colonial triglossic inequalities between minority languages and the two majority languages, Shona and Ndebele, as national languages as well as English as the official language. The long history of marginalization of minority languages coupled with the dominance of English, Shona and Ndebele on the Zimbabwean linguistic landscape might have led some native speakers of Kalanga and Shangani to believe it was not possible for their native languages to find space in domains that were historically reserved for Shona, Ndebele and English.

The hopeless attitude demonstrated by some native speakers of Kalanga and Shangani can also be explained by McGroarty's (1996:5) conceptualization of attitude which is said to have "cognitive, affective and conative components (i.e. it involves beliefs, emotional reactions, and behavioral tendencies". Thus the responses given by these informants are an indication of what is now considered to be a strongly held belief by some minority language speakers that certain language functions are a preserve of specific languages. This means that the dominance of Shona and Ndebele as the majority languages spoken in Zimbabwe must have in a way instilled certain beliefs even among the minority language speakers to the extent that to them minority languages may never be able to share functional space with them in public life.

Some of the respondents thus seemed to have a low opinion of their native languages, an attitude which has affected the sociolinguistic status of the languages since it would automatically influence one's language choices within the context of the civil courts. Thus, they demonstrated skepticism towards the possibilities of their languages getting recognition as media of communication in public life like the civil courts. As indicated by respondent 12(a) who said that even if people knew the constitution, they would rather choose to speak in Shona, English or Ndebele which are believed to be the languages of the courts. This attitude can be explained from the point of view of the CDA concepts of power and dominance. A number of CDA researchers (Wodak and Meyer, 2008; van Dijk, 1993; Fairclough 1989) have contributed to the understanding of the notions of power and dominance which can be discerned from the usage of language in society.

Powerful language groups in society use language as a means of dominating smaller language groups by creating a hierarchical structure determining the statuses of languages with minority languages assuming the lowest status. This has curtailed the use of minority languages in public life like the courts for a long period of time. Language usage has in this sense been structured as a medium of dominance in which minority language groups have no option but to use dominant languages especially in public life like the civil courts and some of them now hold the belief that no other language except Shona, Ndebele and English in the case of Zimbabwe are the languages of public discourse. According to Wodak and Meyer (2008:8), "When most people in a society think alike about certain matters, or even forget that there are options to the status quo, we arrive at the Gramscian concept of hegemony". Thus the dominance of Shona, Ndebele and English on

the Zimbabwean linguistic ecology has seen some native speakers of minority languages taking an ideological stance in their mindset to the extent that for them there can never be space for their native languages in public discourse, an attitude that has weakened the sociolinguistic status of minority languages in formal domains of life like the civil courts.

In an attempt to explain the powerful nature of ideology, van Dijk (1993:258) argues that “ideologies are ‘worldviews’ that constitute ‘social cognition’: ‘schematically organized complexes of representations and attitudes with regard to certain aspects of the social world e.g. the schema [...] whites have about blacks’”. It is in this regard that some minority language speakers as revealed by their responses in this research hold a system of beliefs about what languages are appropriate in which domains of life while relegating their own native languages to the periphery especially in public discourse courtesy of the historical allocation of roles to languages through language policy and planning by powerful language groups in the country.

As revealed by some of the interviewees for this research, some of the Kalanga and Shangani native speakers indicated that they were not aware of the constitutional provisions on language and language usage in Zimbabwe. One of the Kalanga speaking interviewees, 10(a) said she had never seen the constitution and as a result she did not know whether their views as a community were taken on board during the crafting of the constitution. Respondents 10(b) and 10(c) also expressed the same sentiments in addition to saying that the lack of awareness about constitutional provisions on language and language usage in Zimbabwe was counterproductive since people generally would not embrace the new status bestowed upon their languages by changing their language behaviors. Kalanga speaking interviewees 12(c) and 12(d) said they had not seen the constitution and it was said to be written in English which they did not understand. *The Dailynews* issue of 25 January 2017 had an article which indicated that a survey conducted in 2016 by the Matabeleland Institute of Human Rights (MIHR) established that only 20% of Zimbabwe’s 13 million plus population has had access to the current constitution. In the same article, Benedict Sibasa, the general secretary of MIHR was quoted as saying, “it is disheartening to note that since the year 2013 when the new Constitution came into force, the government of Zimbabwe has not made deliberate efforts to ensure that more copies of the Constitution are printed and public awareness of the Constitution is made (*The Dailynews*, 25 January 2017).” This supports the views given by some of the respondents (12c. and 12d.) in this study.



The fact that some minority language speakers were not aware of the contents of the constitution in general and provisions on language usage in particular as a result of a linguistic barrier meant that their language behavior was unlikely to see them embracing multilingualism as an asset to be used to their advantage especially in public life. According to Kadenge and Mugari (2015:11) “it constitutes a serious breach of human and constitutional rights to linguistically exclude some sections of the populace from national programs.” In this case failure to avail copies of the constitution in minority languages meant that they would not be able to access important information, for instance, the elevation of the status of their languages which would have benefited them in courtroom discourse in general and the civil courts in particular. The lack of awareness about the official recognition of all languages spoken in Zimbabwe was also evidenced by observations of civil court proceedings that were carried out in Chiredzi and Plumtree where the majority of court attendees opted to speak in either Shona or Ndebele. This was regardless of the fact that Chiredzi and Plumtree are predominantly Shangani and Kalanga speaking areas. When this researcher observed court proceedings in Chiredzi during the festive season, an observation was made that all Shangani speaking court interpreters were on leave leaving only Shona speaking interpreters. This cemented the idea that most people who come to the courts opted to speak in Shona regardless of the fact that Chiredzi is a predominantly Shangani speaking area.

Of importance also was the fact that some community members raised issues about the fact that the constitution as an important national document was supposed to have been translated into all languages for the benefit of everyone. The fact that some of the people in Zimbabwe never accessed the country’s current constitution and in some cases those who accessed it only had access to the one written in English. This raises issues about Zimbabwean authorities’ sincerity regarding the need to have the constitution embraced by the entire citizenry. The problem is even worse especially considering that some of those that have not seen the constitution are the very people who have been linguistically marginalized for a long time.

The fact that the current constitution of Zimbabwe gives official recognition to sixteen languages used in the country must have been a welcome development especially to linguistic minorities. The constitutional provisions on languages are ecological in the sense that they provide a platform “for all languages to thrive instead of enhancing the emergence of one or two

‘powerful’ ones...” (Muhlhausler, 1996: 123). It set the stage for ensuring that the status of minority languages is raised through their usage in public institutions. Thus the current constitution of Zimbabwe has been forthright in uplifting the status of Shangani, Tonga and Kalanga among other minority languages in Zimbabwe. The achievement of these noble intentions, however, seems to have been negatively affected by failure by the authorities to make sure that the majority of the country’s population especially rural communities are made aware of the contents of the current constitution as revealed by some of the interviewees for this research.

The Founding Provisions of the Constitution of Zimbabwe Amendment (No. 20) Chapter 1 Subsection 7 makes reference to the need to ensure that there is public awareness of the constitution. Subsection 7 says “The State must promote public awareness of this Constitution, in particular by- (a) translating it into all officially recognized languages and disseminating it as widely as possible”. This statement is written in clear obligatory terms as indicated by the use of the verb ‘must’ which means that the State is obliged to make sure that members of the public should get access to copies of the constitution which are written in their mother languages. Now that some of the respondents in this research said that they had not seen the constitution and those that saw it got the English version means that Zimbabwean authorities probably did not do much in terms of abiding by the Founding Provisions of the constitution.

If members of the public are not aware of the new provisions of the constitution, then it will not be possible for them to play their part in the implementation of that constitution. It is for this reason that some Shangani and Kalanga speakers never envisaged the practicality of using their native languages as media of communication in the civil courts because they were not aware that their languages are now officially recognized by the constitution. To cement this view, a member of the Kalanga community who is an educationist had this to say “The current constitutional stance is a very good announcement. Implementation is where the challenge is. An announcement can be made, live and die on paper only.” This view underscores the fact that for people to fully embrace an idea, they should be made to know about it as well as understand it. Failure of the constitution to take off at the Founding Provisions stage is not encouraging for the majority of the people who wish to have the constitution implemented. This lack of awareness about the new status of minority languages has left some members of linguistic minorities

unaware of their linguistic rights as enshrined in the constitution and this has impacted negatively on the sociolinguistic status of minority languages in the civil courts and other public domains.

An analysis of the level of awareness native speakers of Kalanga, Tonga and Shangani have of the constitutional provisions on language was significant in shading light on the sociolinguistic status of the languages under study in civil courts. Interviews held with Tonga speaking research participants revealed that the respondents were highly knowledgeable about the fact that the constitution of Zimbabwe gives official recognition to all the sixteen languages spoken in the country and they have shown that they have embraced this development. Even observations of civil court proceedings involving native speakers of Tonga in Binga gave testimony to the fact that the Tonga speaking community used their language as the medium of communication extensively in the spirit of the new status their language has acquired among other languages in the country. This has impacted positively on the sociolinguistic status of Tonga in the civil courts.

Interviews with native speakers of Shangani and Kalanga, however, revealed mixed feelings with some respondents saying that they are aware of constitutional provisions that have uplifted the status of languages in the country. It was also found out that some of the interviewees who had read the constitution demonstrated skepticism about the practicality of using their native languages as media of communication with another group of people saying that they had not seen the constitution. Issues of power and dominance appeared to have taken a toll on those that still believed that Shona, Ndebele and English were the only languages of the courts. Others said the copies of the constitution they heard about were written in English, a language they did not understand. The mixed reactions from the Kalanga and Shangani research participants provided corresponding views on language attitudes and choices in public domains of life in general and the civil courts. It seems negative attitudes towards the usage of Kalanga and Shangani did outweigh positive attitudes and this position was also vindicated by the language behavior of the native speakers of Shangani and Kalanga in the civil courts. The court sessions observed in Plumtree and Chiredzi generally showed that courtroom attendees preferred to use either Ndebele or Shona respectively in courtroom discourse at the expense of their native languages. This seemed to put a dent on the sociolinguistic status of Kalanga and Shangani in courtroom

discourse. This demonstrated how the aspect of knowledge about constitutional safeguards on language and language usage can affect people's language attitudes and language behavior in public life as well as the sociolinguistic statuses of the languages in question in a given linguistic ecology.

#### **5.4 LANGUAGE-IN-EDUCATION POLICY AS THE FOUNDATION FOR LANGUAGE STATUS IN OTHER PUBLIC DOMAINS**

There is a close relationship between the role of language in education and its sociolinguistic status in other formal domains of life in any multilingual environment. In a linguistic ecology constituted by many languages, there is bound to be competition between the languages in terms of functional roles in education and that tussle for functional space actually permeates into other public domains of life. Those languages that cement their roles as the languages of education both as media of instruction as well as academic subjects from primary school to tertiary education usually assume the strength to find space in other important formal domains of life including the media, administration, industry and commerce as well as courtroom discourse. Conversely, languages that find themselves at the periphery of the education domain in terms of function or having no role at all find themselves not making any significant inroads in terms of usage in other public domains of life.

A number of scholars (Bentahila and Davies, 1993; Skutnabb-Kangas, 2000; Phillipson, 1992; Crystal, 2000; Nyika, 2007) have acknowledged the pivotal role played by education in the promotion and development of minority languages. Related to that Spolsky (2004:46) intimates that "of all the domains for language policy, one of the most important is the school". Similarly, Nyika (2007:158) argues that "one of the central features of the schools is developing the language competence of young people", an activity that ensures that there is an intergenerational transfer of language thus ensuring its maintenance and influential role in terms of usage in both private and public life. It is from this perspective that the present researcher gave a particular focus on examining the functional role of language in education in Zimbabwe with a view to have a critical appreciation of how the status of Shangani, Kalanga and Tonga in education might have impacted on the sociolinguistic status of the languages in the civil courts.

In order to understand the part played by education in influencing language usage in other public domains of life, it is important to trace the trajectory language-in-education policy and planning

has taken historically within the borders of Zimbabwe. The background to the language-in-education policy in Zimbabwe has its roots in colonial language policies. According to Bamgbose (2011:1), “it is well known that the colonial powers imposed their language in each territory they governed as the language of administration, commerce and education...: the language of the colonial power was dominant and African languages took a secondary position in status and domains of use.” The colonial languages thus became the official languages with the rest of indigenous languages finding it difficult to find space in public domains except majority languages that were designated as national languages. The remaining languages with fewer numbers of native speakers were not even recognized by the colonial authorities, thus their sociolinguistic status in public life like the civil courts was almost non-existent.

Muchenje, Goronga and Bondai (2013:1) point out that “in Zimbabwe the Doke Report of the 1930s set the stage for a colonial language policy in education where English was declared the official language and the medium of instruction in the education system. Shona and Ndebele became the only indigenous languages taught in the education system”. This scenario created a situation in which the majority of the indigenous languages in Zimbabwe including Kalanga, Tonga and Shangani were neglected and did not have any functional role to play in education. It was only after Zimbabwe’s attainment of independence that authorities tried to craft language policies that acknowledged the multilingual nature of the country. This saw the crafting of the 1987 Education Act.

The 1987 Education Act stipulates that Zimbabwe’s ‘three main languages’ which include English, Shona and Ndebele are supposed to be taught from grade one with Shona and Ndebele taught in all the areas where the majority of the people speak the languages up to grade three. Subsection (1) of the 1987 Education Act mention that these languages ‘shall be taught in all primary schools’. The use of the verb ‘shall’ implied that there were no options to that provision and it was actually a must that schools had an obligation to abide by that pronouncement, thus uplifting the functional roles of the languages in question in education. From grade four, English was declared the only medium of instruction in education. Subsection 4 of the same act stipulates that:

In areas where minority languages exist, the Minister may authorize the teaching of such languages in primary schools in addition to those specified in subsections (1), (2) and (3).

From a CDA perspective, a scrutiny of the 1987 Education Act reveals that the crafting of the Act demonstrated power relations at play with those entrusted with the power to formulate policies seeking to dominate others through policy making. In other words language use in society is seen as a form of ‘social practice’ (Fairclough and Wodak, 1997:258) which prescribes language usage between different groups of people in society and the language behavior of these people reveals social inequalities between them. The wording of the 1987 Education Act thus lays a foundation for “discursive practices... that... help produce and reproduce unequal power relations between ... ethnic/cultural majorities and minorities through the ways in which they represent things and position people” (Fairclough and Wodak, 1997:258). This implies that the education authorities representing the government of the day came up with an education policy which apparently at face value was a panacea to the restoration of linguistic rights for previously marginalized language groups. However, an analysis of the Act reveals that it provided cosmetic solutions to the failure of the colonial authorities to uphold the values of the multilingual nature of the country.

The 1987 Education Act still undermined the intellectualization of minority languages in Zimbabwe since it empowered Shona, English and Ndebele as the main languages of education the people of Zimbabwe were obliged to learn. Whilst English was expected to be used as the medium of instruction from grade four with Shona and Ndebele taught as academic subjects, minority languages could be taught in areas where they existed courtesy of the Minister’s whims. The use of the word ‘may’ meant that it was only the Minister who could decide on behalf of the speakers of the other indigenous languages whether or not the languages could be used in education. This demonstrates the structural social inequalities created by the 1987 Education Act where speakers of majority indigenous languages were empowered through the functional roles their native languages assumed in education while, the Minister, an individual was empowered to determine the fate of a host of other indigenous languages’ usage in education.

The reference to Shona, Ndebele and English as the ‘main languages’ of Zimbabwe connotes that the rest of the languages that are part of Zimbabwe’s linguistic ecology are minor languages with an inferior status in comparison with the three. According to Ndlovu (2011:321), “the terms main and major languages imply a ranking order and they suggest a hierarchically structured relation of status between the languages...”. This impacts negatively on efforts that aim to

promote the development of teaching and learning of official minority languages, because they are reduced to languages of secondary importance.” This ranking must have permeated other public domains of language use to the extent that minority languages like Kalanga, Tonga and Shangani have generally had a compromised functional role in public life like the civil courts.

A scrutiny of randomly selected subsequent Statutory Instruments generated by government through the Education Secretary reveals a half-hearted commitment to the need to make education reflect the multilingual character of the nation. The Secretary’s Circular Number 3 of 2002 as well as the Director’s Circular Number 26 of 2007 still give emphasis on the need for primary school learners to “communicate effectively in both written and spoken forms of either Shona, or Ndebele and English”. This meant that priority in education was given to the three languages while ignoring the other indigenous languages. It was also stipulated in the Director’s Circular Number 26 of 2007 that Kalanga, Tonga, Nambya, Shangani, Venda and Sotho should be treated as optional subjects whose choice in schools was conditional, for instance, on the basis of the preferences of the earners. The Secretary’s Circular Number 1 of 2002 says that “... it is now mandatory that Ndebele and Shona be treated exactly like English in formal learning situations. They can also be used in the teaching of other subjects where this facilitates learning. The Secretary’s Circular Number 26 of 2007 also had a section saying Shona, Ndebele and English should be “taught in on an equal time basis in all schools up to Form Two level”. The above mentioned circulars which informed the language-in-education policy in Zimbabwe is not exhaustive of all the statutory instruments that gave guidelines relating to the part played by language in the Zimbabwean education system.

In fact this researcher did not really go into the details of all the instruments that have dealt with the contentious issue of the language- in-education policy in Zimbabwe because this is not really the focus of the present study. The reason why reference was made to this issue was to demonstrate how the language-in-education policies in Zimbabwe created inequality between Shona, Ndebele and English on the one hand and minority languages including Kalanga, Tonga and Shangani on the other hand. It is the asymmetry in terms of status in education between the two categories of languages that must have impacted negatively on the use of the languages under study in other public domains in general and civil courtroom discourse.

An examination of the few selected statutory instruments on language usage in education clearly gave an indication of the trajectory language-in-education policies have followed in post-independence Zimbabwe. According to Bamgbose (2011:7), “the use of African languages as media of instruction brings to the fore the question of intellectualization of these languages. Where adequate terminology does not exist, it will need to be developed so that African languages can be used in a wider range of domains.” The argument raised by Bamgbose (2011) gives emphasis on the point of convergence between the importance of language usage in education and its relationship with language status in other domains of life. A language policy that upholds the usage of a particular language in education improves the versatility of that language in other domains because of the process of intellectualization it undergoes in every day educational interaction. It is from this perspective that this researcher argues that the fact that the 1987 Education Act stipulated that it was obligatory for Shona, English and Ndebele to be learnt in school did create a platform for the intellectualization of the languages. This was, however, done to the disadvantage of other indigenous languages. This meant that the creation of new terminology through the usage of Shona and Ndebele would foreground their functional role in other domains of life like the civil courts. This implies that the 1987 Education Act as a pioneer statutory instrument which was supposed to be the foundation underlining the emancipation of all indigenous languages especially minorities appears to have had a false start. This explains why the sociolinguistic status of these languages in courtroom discourse seems to be comparatively higher even in areas like Plumtree and Chiredzi where Kalanga and Shangani are dominant languages.

Observations of civil court proceedings in Chiredzi, Binga and Plumtree revealed that in Binga, the native speakers of Tonga generally preferred to use their mother tongue in courtroom discourse while in Chiredzi and Plumtree Shona and Ndebele seemed to dominate courtroom discourse at the expense of Shangani and Kalanga, languages of the majority respectively. The reason for these differences could be partly because of the status of the minority languages under study in the education domain. Because of exposure to Ndebele and Shona through education, many native speakers of Kalanga and Shangani developed positive attitudes towards Shona and Ndebele while looking down upon their native languages. Some of them studied Shona and Ndebele up to university level, which they could not do in their native languages. This explains why most of the middle aged native speakers of Kalanga and Shangani opted to speak in either



Ndebele or Shona in civil courtroom discourse, something which impacted negatively on the sociolinguistic status of their native languages in courtroom communication. In Binga, Tonga has cemented its position as both a medium of instruction and an academic subject courtesy of robust advocacy activities by the community and TOLACCO to the extent that the first O' level Tonga examinations were written in 2015. Teachers' colleges including United College of Education and Hillside do have students studying Tonga. In addition, the University of Zimbabwe enrolled the first group of students studying Tonga in 2016 and Great Zimbabwe University has Bachelor of Education students studying Tonga. This implies that Tonga has been at the forefront in terms of intellectualization and this has raised its prestige such that it has influenced the language behavior of its native speakers in public domains of life like the civil courts.

The success story of the Tonga language in education is unmatched by its minority language counterparts Shangani and Kalanga hence the latter languages' comparatively diminished sociolinguistic status in civil courtroom discourse. Whilst Shangani examinations are being written at grade seven level, the same cannot be said about Kalanga which the education authorities are trying to make sure that it becomes examinable at grade seven. All this gives an indication of the subdued status of Shangani and Kalanga thus negatively affecting the sociolinguistic status of the languages in the civil courts. Though the respondents interviewed from Binga, Plumtree and Chiredzi district bemoaned the dominance of non-Kalanga speaking teachers who were tasked to teach their children, they generally showed their understanding about the importance of making sure that their languages are learnt at the highest levels of education as a way to make sure that the languages could be developed and promoted in other domains of life.

From this discussion, a deduction can therefore be made that education plays a critical role in the development and promotion of language. A language which plays a critical role in the education domain assumes a higher or prestigious status in society and this makes it possible for the language to increase its functional load through usage in other critical public domains of life like the civil courts. On the contrary, a language that has a limited or no role at all in education does not develop and the chances of it making an impact in terms of usage in public life are also limited.

## **5.5 THE IMPACT OF COURT INTERPRETING ON THE SOCIOLINGUISTIC STATUS OF MINORITY LANGUAGES IN CIVIL COURTROOM DISCOURSE**

The role played by court interpreters in court proceedings involving people from different linguistic backgrounds is critical. According to Hale (1994:1), “as a pivot of the courts, the interpreter bears a heavy responsibility in the administration of justice, because upon him depends, to a large degree, the proper elucidation of the issues, thereby avoiding miscarriage of justice, i.e. upon his word may depend the liberty, reputation or, at times, the very lives of the accused persons.” This clearly explains the critical role played by court interpreters in the justice delivery system of any nation. In any multilingual environment, court interpreters are the machinery that drives court proceedings by facilitating communication between accused persons, witnesses and complainants on the one hand and court officials on the other hand if some of the people involved in the case are unable to or choose not to use the language of the courts. In situations where the services of a court interpreter are not found when they are required then a court case may have to be postponed.

The media in Zimbabwe is always awash with court cases in which the court interpreter is not available for a court case leading to the postponement of trials. This underscores the critical importance of court interpreters as facilitators of communication in a multilingual environment. An example to support this is a newspaper report which said “the state is struggling to acquire an Urdu interpreter to facilitate communication in the trial of a gang that allegedly robbed an Indian businessman of 56 000 dollars after mounting a fake roadblock along Hudson Road in Belvedere, Harare. (*Dailynews*, November 8, 2016). On 29 October 2015, Southern Eye reported a matter in which an armed robbery trial failed to take off after the State had failed to secure the services of a Tswana language translator. This happened notwithstanding the fact that Tswana is one of the 16 officially recognized languages by the Zimbabwean constitution. There is also a case in *The Herald*, in which it was reported that “the non-availability of an interpreter for the witchcraft case pitting former education Minister Aeneas Chigwedere and his son... forced outgoing Chief Justice Godfrey Chidyausiku to switch to vernacular languages (*The Herald*, 20 February, 2017) All these cases are just a tip of the iceberg which clearly indicates that court interpreting is an indispensable job in the trial of cases and unavailability of court interpreters or having poorly equipped court interpreters stalls court processes.

In Zimbabwe where English has been the sole language of the courts before and after independence, all other languages used in courtroom discourse have to be interpreted to English. Now the quality of court interpreting impacts on the sociolinguistic status of the languages that are being interpreted into the designated language of the law. If court interpreters are not adequately equipped, they fail to discharge their duties effectively and this might negatively influence the outcome of a court case.

For the purposes of this study, the researcher examined the part played by court interpreting in Zimbabwe before and after independence with a view to reveal how court interpreting has affected the sociolinguistic status of Kalanga, Tonga and Shangani in civil courtroom communication. The purpose of taking a historical approach was to examine how the court interpreting started in the country, how it has developed over the years, the stage at which it is now and the effects of these developments on the sociolinguistic status of the languages in question in civil courts of Zimbabwe.

### **5.5.1 COURT INTERPRETING DURING THE COLONIAL ERA**

When the white administration colonized Zimbabwe in the 1890s, they found out that the country's inhabitants were multilingual with Shona and Ndebele as the two large language blocks. There were also smaller language communities who were a part of the country's linguistic ecology. Because of this multilingual nature of the country, there arose a need for the facilitation of communication in different spheres of life between the British South Africa Company (BSAC) and the indigenous people so that the white colonial authorities would be in a position to exercise their rule over the Africans, for example, collecting taxes and enforcing colonial orders. For this reason, there was a need for the authorities to employ people who would work as interpreters between English, the official language and the indigenous languages in the Native Affairs Department. This department dealt with all issues involving Africans including the courts where interpreting was a significant component of court proceedings.

Svongoro and Kadenge (2015) provide a background of the history of court interpreting during the colonial era in Zimbabwe. They argue that with the advent of Western education in Southern Rhodesia, few Africans, educated to Standard 3 and 4 were employed as clerks in the Native Affairs Department. Such people together with their white counterparts doubled as clerks and

court interpreters with basically no form of training in court interpreting. Svongoro (2016:106) says, “the first interpreters in Zimbabwe, then Rhodesia, were brought in from South Africa by the first white settlers in the 19<sup>th</sup> century. The interpreters’ duties were those of a clerk, and therefore, he had to be able to read and write.” This underscores the point that court interpreting was never considered a profession during the colonial era and this had serious repercussions on justice delivery.

It is interesting to note that the people employed in the Native Affairs Department were not competent speakers of indigenous languages but they developed their language expertise through interaction with Africans. The people who were believed to have expertise in indigenous languages were traders who interacted with Africans as they moved from place to place selling their wares. According to Makoni, Dube and Mashiri (2006:394), “traders and adventurers were the main sources of language expertise. The traders acquired their oral and cultural competencies in African languages through their daily encounters with Africans.” This shows that the people who were referred to as experts in African languages actually had a very basic grasp of the indigenous languages such that relying on them on language related issues like court interpreting impacted negatively on the quality of the interpretation as well as the sociolinguistic status of the languages in question.

In the Native Affairs Department, interpreters were required in the police and the criminal courts. However, the people who were employed to do the job had no form of training neither did they have any qualification. In fact the majority of the people employed to provide interpreting services were white people who were not first language speakers of indigenous languages. Jeater (2001:452) says, “in Melsetter District, a ‘colonial native’ was initially employed as a court interpreter, which made the Law Department uncomfortable, but was accepted ‘as it appears impossible to get anybody else and an interpreter is a necessity.’” This example demonstrates the extent to which standards in court interpreting were compromised during the colonial era in Zimbabwe. The colonial authorities were not really concerned with the quality of court interpreting but they were only worried about at least having some people to do the job.

Jeater (2001:453) gives a typical example of how poor court interpreting standards were during the colonial era when he says “in March 1901, William Webster, a semi-illiterate orphan from one of the original Afrikaans-speaking trekking families, was given the job... despite being

described as ‘comparatively illiterate’, Webster was able to make a living as an interpreter in the magistrate’s courts in Mesetter and Chipinga until he was able to acquire a farm.” After Webster acquired a farm, the position of the court interpreter is said to have for some time circulated between three prominent farming families namely the Steyns, Ferreiras and Odendaals. This indicates that court interpreting was not considered a profession at all since whites without exposure to any form of schooling except picking vernacular language skills from interaction with children of farm workers as was the case with Webster could be employed as court interpreters. This impacted negatively on the sociolinguistic status of indigenous languages including Kalanga, Tonga and Shangani in courtroom discourse in general and civil court procedures in particular.

In addition, as already alluded to in this chapter when attempts were made to train court interpreters in indigenous languages, the training was done in Shona and Ndebele implying that minority languages were not included. Thus the role of these languages in courtroom discourse was not even prioritized by the colonial administration. From the “typology of ecological classification, which will tell us something about where the language stands and where it is going in comparison with other languages of the world” (Haugen, 1972:336), it could be argued that minority languages including Kalanga, Tonga and Kalanga’s lack of recognition in the training of would be interpreters in the courts during the colonial era meant that the prospects of having their sociolinguistic status improving in comparison with Shona and Ndebele, let alone English was always going to be difficult. They remained at the periphery of the country’s linguistic ecology since their role in one of the key domains of life; the courts would be problematic because of underdevelopment. The net effect of this was the infringement of minority languages speakers’ linguistic rights in sensitive areas like the civil courts. According to Makoni. Dube and Mashiri (2006:395), “the BSACO felt that good interpretation played an important role in the delivery of justice to Africans, particularly in court trials. Yet archival records are replete with instances in which injustice is acknowledged to have been meted out by both Native Commissioners and court interpreters.” This implies that the language issue which is central to the process of court interpreting remained a contentious issue during the colonial era and to a large extent, minority language speakers probably bore the brunt of the miscarriage of justice in the courts because those court interpreters that received training were taught in either Shona and Ndebele thus leaving out minority languages.

The fact that the whites who were employed as court interpreters only acquired indigenous languages from their interaction with Africans meant that these untrained employees of the Native Affairs Department were always going to encounter problems of lack adequate terminology for legal terms. Having basic knowledge of a language would not have been adequate enough for one to be effective as an interpreter since even those that are highly competent in their language would still find it difficult to translate legal terms into their language since the language of law is very highly technical. In addition, there was the problem of the nature of Bantu languages which are rich in figurative expressions including idioms and proverbs which the white people employed as court interpreters were expected to grapple with.

The above discussion was an attempt to examine how court interpreting during the colonial era in Zimbabwe might have influenced the sociolinguistic status of minority languages, particularly Kalanga, Tonga and Shangani in the civil courts of Zimbabwe. It was revealed that the fact that court interpreting services were obtained from untrained farmers, traders, adventurers and hut tax collectors of an inferior educational level who had little knowledge of African languages in general and minority languages in particular meant that the sociolinguistic status of the minority languages in the civil courts was rather subdued. Furthermore, languages like Kalanga, Shangani and Tonga played a peripheral role in civil courtroom discourse in civil courtroom discourse given the dominance of Shona and Ndebele, the majority languages in the country which were imposed by the colonial authorities even in areas where the minority languages in question had demographic dominance.

### **5.5.2 COURT INTERPRETING IN POST-INDEPENDENCE ZIMBABWE**

With court interpreting during the colonial era contributing to the subdued sociolinguistic status of minority languages including Tonga, Kalanga and Shangani in civil courtroom discourse during the colonial era in Zimbabwe, it would be interesting to explore how court interpreting after independence has also influenced the current sociolinguistic status of the languages in question in the same domain of language usage. In order to do that, this researcher examined responses to interview questions by court interpreters working at the magistrate's courts in Plumtree, Binga and Chiredzi where Kalanga, Tonga and Shangani are spoken as native languages by a wide cross-section of society respectively.

Data gathered at the magistrate's courts in Plumtree, Binga and Chiredzi revealed that Kalanga, Tonga and Shangani court interpreters were available at the courts respectively. This was evidence to suggest that the Zimbabwean government through the Ministry of Justice and the Judicial Services Commission have acknowledged the need to protect linguistic rights for minorities in sensitive domains of life like the courts. The researcher managed to observe civil court proceedings where the languages under study were used as media of communication. As soon as the court proceedings started, the researcher found out that the first question both the accused persons and complainants were asked was about what language they wanted to use in the court for purposes of interpretation. Some of the native speakers of Kalanga and Shangani chose to speak in Ndebele and Shona respectively and as the trial proceeded, it was found out that they seemed to struggle to articulate their ideas in the chosen language. When the court interpreters were asked to explain such occurrences, they said that some of the members of the public thought if they spoke in a language that is different from that of the one used by the person involved in the same court case with them, their case may not come out clearly or rather they could probably lose the case. Thus they opted to use the language spoken by the complainant if they were involved in the same case as the defendant. The general trend of this occurrence, however, was inclined towards the usage of Shona and Ndebele the dominant majority languages in the country. The critical issue of language attitudes could probably explain this scenario especially given the fact that the majority of the people opted to speak in either Shona or Ndebele in civil courtroom communication. According to Spolsky (2005:2154), "language ideology or beliefs designate a speech community's consensus on what value to apply to each of the language variables or named language varieties that make up its repertoire." This implies that the historical dominance of Shona and Ndebele courtesy of the language-and-territory colonial ideology (Nyika, 2007) of the colonial powers might have influenced the choice of the majority languages as media of communication by people who later found themselves struggling to use them in court. Such beliefs and language practices have negatively affected the sociolinguistic status of the languages under study in civil courtroom discourse.

One of the critical issues which has undermined the sociolinguistic status of minority languages including Kalanga, Tonga and Shangani in the civil courts of Zimbabwe is the lack of training for court interpreters. According to Svongoro (2016:109), "in Zimbabwe, pre-service training is still not a requirement for interpreters. The majority of interpreters working in Zimbabwean court

rooms remain untrained bilinguals, yet interpreting tasks require a very high level of not only bilingualism but also biculturalism and adequate training and practice.” This underscores the predicament court interpreting finds itself in in Zimbabwe. The fact that Zimbabwe is a multilingual country which has officially recognized sixteen languages used in the country implies that “not only are court interpreters a necessity, but it is now recognized that their provision is a vital means of breaking language barriers” (Mnyandu and Makhubu, 2015:61). Court interpreting, in other words needs to keep pace with developments in language planning processes and in this case it should buttress the official status which was conferred to minority languages in Zimbabwe through the constitution. It is for this reason that properly trained court interpreters have become a prerequisite for fairness in justice delivery and the quality of court interpreting impacts either positively or negatively on the sociolinguistic status of the languages being used during the process of court interpreting.

As has already been highlighted in this chapter, court interpreters during the colonial era were never trained for the job but they were generally traders and farmers who acquired African languages orally as they communicated with Africans and they lacked the required expertise to properly discharge their duties. Now with the attainment of independence in Zimbabwe, more native speakers of indigenous languages got employed as court interpreters. However, the critical aspect of the training of court interpreters especially in minority languages was not immediately addressed. This probably could have been the case because whilst section V11 subsection 1 (g) of the 1979 Lancaster House Constitution had a provision on the need to have court interpreters, the emotive language issue which could have given credence to the need for the training of interpreters for different languages was never mentioned in the constitution.

Like the 1979 Lancaster House Constitution, the current constitution of Zimbabwe’s section 70 subsection 1(j) also acknowledges the need for interpreters in the courts. However, there is no mention of the training of this critical group of personnel that facilitates communication during courtroom interaction. Interviews with court interpreters in Binga, Chiredzi and Plumtree revealed that soon after independence in Zimbabwe, the requirements for one to be ‘trained’ as a court interpreter included having five Ordinary level passes including English and knowledge of two or three indigenous languages. According to Svongoro (2016: 107), “new candidates are tested by the chief interpreter using self-devised tests. The recruits are then to receive on-the-job



training from senior interpreters.” This implies that court interpreters in Zimbabwe generally have not been exposed to a specialized and rigorous form of training and this has impacted negatively not only on the quality of service they provide but also on the sociolinguistic status of the minority languages they interpret in courtroom communication. Kalanga, Tonga and Shangani court interpreters interviewed for this study, for example, highlighted that they have generally encountered problems of lack of equivalent terms for legal jargon some of which is laden with Latin during court proceedings and this has compromised on the quality of their interpreting.

During interviews, the Kalanga, Tonga and Shangani court interpreters raised a number of issues which they said were militating against the quality of the service they are providing during court proceedings. One Kalanga interpreter expressed concern over her failure to understand some of the deep Kalanga words and expressions used especially in cases involving elderly people from the rural areas. An explanation to this problem could be that besides being a first language speaker of Kalanga, she never learnt the language at school where she could have studied idioms, proverbs and other figures of speech in the language. In addition, there could even be dialectal differences in the language, an aspect which researchers have not focused on. Another interpreter who interpreted Shangani said she had serious challenges especially in cases involving culturally sensitive matters since some of the terms did not have English equivalents.

Other problems that were raised by the court interpreters had to do with the fact that notwithstanding the problems of the dearth of terms and expressions that are equivalent to some of the legal terms and expressions in Kalanga, Tonga and Shangani, they still had to make sure that their renditions had to be done promptly yet in a court of law one can never predict what the participants in the court case are going to say. Another interpreter highlighted that as a court interpreter, one needs to be a jack of all trades. If people come from the medical field bring a medical report, the court interpreter still need to interpret it to the complainant so that he understands. If it is a case involving road traffic issues, the interpreter will need to grapple with the terminology associated with road traffic matters. This implies that to be effective as a court interpreter, one needs to be knowledgeable about the jargon used in different fields of life and be in a position to promptly find a way of interpreting it into indigenous languages.

All the court interpreters interviewed for this study said that they had received the basic form of training which the in-service training was and they have been trying to improve the quality of their interpreting from experience. This is despite the fact that they said there is now a Diploma in Translation and Interpreting that is being offered by Lupane State University and the Judicial Services Commission had the first group of interpreters enrolled for the program around 2009. This development demonstrates the realization by the JSC of the need to improve the quality of interpreting services in the courts appreciating that those that are offering interpreting and translation services in the country are unskilled people. At the University of Zimbabwe, the first group of students is expected to begin their studies in February 2017. However, according to the court interpreters interviewed for this research, the JSC has since stopped giving court interpreters study leave to enroll for the eighteen month long program.

The failure by the JSC to send more court interpreters to study towards the Diploma in Translation and Interpreting at the Lupane State University has negatively affected the quality of service provided by the court interpreters as revealed by the above mentioned problems that affect court interpreters in the discharge of their duties. An examination of the problem of failure by court interpreters to study towards a qualification towards interpreting and translation can be done beginning with what the post-independence Zimbabwean constitutional dispensation says about court interpreting.

Whilst both the 1979 Lancaster House Constitution and the Constitution of Zimbabwe Amendment (20) Act make reference to the need for interpreters in the courts of Zimbabwe, they have not gone further to elaborate on implementation issues. As a result, statutory bodies like the JSC seem to have no obligation to have court interpreters trained thus maintaining the status quo. This has resulted in failure to eradicate some of the problems raised in interviews with Kalanga, Tonga and Shangani interpreters interviewed for this study. Armstrong (1999:81) contends that “legislation... is a political mechanism through which exclusion is ordered.” The constitution just provided guidelines on the need to have interpreters but it is silent on a number of other issues like training, conditions of service among other pertinent issues associated with any clearly designated profession. This in a way must have denied linguistic minorities meaningful participation in legal processes since interpreters would not be well equipped enough to ensure their linguistic presence would facilitate effective communication by minority language

speakers. Maybe an Interpreters Act could have been promulgated in order to deal with all these contentious issues to the extent that the quality of court interpreting involving the minority languages under study would improve thereby ameliorating and cementing the sociolinguistic status of Kalanga, Shangani and Tonga in civil courtroom discourse.

From the perspective of CDA, there are two approaches that can be used to analyze policy provisions. The first one examines linguistic microstructures of the text while the other one focuses on the historical and social context of the text and the ways in which social relations and identities are discursively constituted (Fairclough, 2003). It is within this context that Liasidou (2008:488) contends that “the analysis of the linguistic features of the text are, therefore, meaningless unless it is placed within the discursively constituted social context, something that can only be achieved by the higher stages of analysis, namely explanation and interpretation.” This should mean that the analysis of constitutional provisions that make reference to court interpreting in independent Zimbabwe should not only focus on the wording of the stipulations but should go beyond that and focus on the prevailing social context in order to get a satisfactory explanation of issues. The 1979 Lancaster House Constitution, for instance, was a compromise agreement between African nationalist leaders and the whites. Thus focus on that document was more inclined towards political rather than social issues leading to the neglect of other crucial existential issues like interpreting in the court within a multilingual environment and this compromised the sociolinguistic status of minority languages in the civil courts.

The crafting of the current constitution of Zimbabwe while it has been applauded for officially recognizing all languages used in the country seems to have retained the wording of the 1979 Lancaster House Constitution and the colonial provisions on court interpreting. This is so because in the constitution, there was never an attempt to provide provisions on how issues of court interpreting would be implemented. According to Johnson (2011:270), “language policies rely on intertextual and interdiscourse links to multiple past and present policy texts and discourses... this copying and pasting, from one policy to the next, is an essential aspect of the language policy genre.” This explains the apparent similarities in the crafting of the pre-independence and post-independence constitutional provisions on court interpreting in Zimbabwe and how the continued lack of training and professionalization of court interpreting in the country have contributed to a plethora of interpreting problems especially in the civil courts

in cases where linguistic minorities like the Shangani, Tonga and Kalanga are involved. Consequently, this scenario has impacted negatively on the sociolinguistic status of the languages in question in civil court verbal interaction.

## **5.6 MINORITY LANGUAGE ASSOCIATIONS' ROLE IN THE DEVELOPMENT AND PROMOTION OF KALANGA, SHANGANI AND TONGA LANGUAGES IN PUBLIC LIFE**

The three minority languages whose sociolinguistic status is under scrutiny in terms of usage in the civil courts of Zimbabwe do have language groups that carry out advocacy work with a view to make sure that their respective languages are developed so that they could be used as media of communication in the key public domains of life. Kalanga, Tonga and Shangani are represented by Kalanga Language and Culture Development Association (KLCDA), Tonga Language and Culture Committee (TOLACCO) and Shangani Promotion Association Trust (SPAT) respectively. The background to the inception of these advocacy groups was the realization by the native speakers of the respective languages that their languages had historically been marginalized since the colonial era and not much had changed even after the attainment of independence in Zimbabwe. Kalanga, Tonga and Shangani, among other minority languages were generally not recognized by the colonial authorities especially in formal domains of life like education, trade and commerce, administration, education, media and the courts as media of communication. The attainment of independence in Zimbabwe in 1980 instilled hope among linguistic minorities but after a realization that the development and promotion of their native languages in public domains of life was taking long to take off, they continued to push for that.

The language policy of the colonial era in Zimbabwe during the period 1923 to 1980 was characterized by the recognition by of English, Shona and Ndebele as official languages, with English maintaining its hegemony as the language of business while Shona and Ndebele played a peripheral functional role in education (Makoni, Makoni and Nyika 2008). Shona and Ndebele, the majority indigenous languages in Zimbabwe were imposed on speakers of minority languages in public domains of life like education and the courts on the basis of the provisions of the colonial language polices which divided the country into two blocks, Matabeleland and Mashonaland based on linguistic lines. This scenario saw the “increasing pressure from ‘minority’ language groups who vociferously demanded the recognition of their languages as

languages of instruction in schools and business in their own locale (Makoni, Makoni and Nyika” (2008:417). Thus language groups representing minority languages increased efforts that were aimed at ensuring that their native languages did not continue to be neglected but would make inroads into other public domains of life. This would eventually lead to their development, maintain their existence as well as protect linguistic rights for their users. It is from this understanding that the present researcher examined the initiatives by minority language associations (KLCDA, SPAT and TOLACCO in order to understand what role they have played in the development and promotion of the languages under study in public life in general and in the civil courts of Zimbabwe in particular.

### **5.6.1 INITIATIVES BY SPAT, KLCDA AND TOLACCO**

As already mentioned in this chapter, the emergence of language advocacy groups namely SPAT, KLCDA and TOLACCO was attributed to pressure from minority language speakers who felt that their native languages were being neglected by both pre-independence and post-independence Zimbabwe governing authorities to the extent that their functional load was generally confined to private life. They realized that the concerns of their respective communities regarding the need to make sure that their linguistic rights are upheld in public life were not getting the attention they deserved, thus they formed language associations in order to articulate their demands to government in an organized fashion.

It was interesting to note that whilst the three language advocacy groups together with others representing other minority language groups had primarily the same concerns which they needed to be attended to, they were not formed during the same year. One of TOLACCO committee members said that TOLACCO was formed in 1976. The current chairman of KLCD said KLCD came into existence in 2015 but being a follow up to previous organizations that existed and failed and some other loose groupings of Kalanga speaking people. He went on to say that the lead organization was called Kalanga Promotion Society (KPS) and it was formed three months after independence in 1980. An educationist and a board member of KLCDA who was one of the pioneers of the association said KLCDA was a product of a long process that started in 1981 involving two other people and himself. As for the formation of SPAT, an educationist who was at the helm of the language association from 2003 to 2010 and is currently its patron said it was

formed before independence. At its inception it was called Shangani Association and it was after independence that the name changed to SPAT.

From the point of view of the ecology of language, the emergence of the minority language advocacy groups which represent Kalanga, Tonga and Shangani is part of the institutional support a language requires to survive in a given linguistic ecology especially if it is demographically inferior to other languages in the same language environment. According to Nyota (2014:8), “institutional support is multifaceted since it involves informal and formal” initiatives. Informal support entails advocacy work done by language associations in order to better the situation of minority languages. Thus the emergence of SPAT, KLCDA and TOLACCO was a significant development contributing to the continued survival of Shangani, Kalanga and Tonga in a linguistic ecology that was dominated by English, Shona and Ndebele.

The language activists behind the formation of SPAT, KLCDA and TOLACCO had clear objectives that they wanted to achieve. A member of SPAT, for example, said that most of the people who were involved in the formation of SPAT were teachers. For this reason, their key objective was about lobbying for the teaching and learning of Shangani in schools. Two native speakers of Kalanga representing KLCDA also said that the reason for the formation of KLCDA was to advocate for Kalanga to be taught in schools. A member of TOLACCO also gave the same reason for the emergence of the Tonga language advocacy group. According to Makoni, Makoni and Nyika (2008:426), “a key concern of TOLACCO was that the Tonga language was not taught in schools to any significant level... TOLACCO decided to incorporate other language groups defined as minorities by the Zimbabwean Constitution so that a concerted effort could be made from a broader base.” The other language groups referred to included Shangani, Kalanga, Nambya and Venda. This is a clear demonstration that the formation of SPAT, KLCDA and TOLACCO among other minority language associations was premised on the need to ensure that the native speakers of the respective languages should learn the languages at school as well as use them as media of instruction.

The lobbying for the teaching and learning of Tonga, Kalanga and Shangani by the languages’ representative associations was a significant initiative aimed at answering to the question of a language’s domains of usage as a determinant factor that gives an understanding of the nature of a given languages’ ecology (Muhlhausler, 2003). So by advocating for the teaching of their

native languages, language activists were aiming at ensuring that their languages' functions go beyond usage in private life but also permeate into other domains of life beginning with education. From the point of view of language planning, they wanted to influence acquisition planning, sometimes referred to as language-in-education, largely an attempt (Makoni, Makoni and Nyika (2008:423) "to alter the capacity of a community" (Spolsky, 1997: 100). The process of language-in-education has also been referred to as "a key implementation procedure for language policy and planning" (Kaplan and Baldauf, 1997:122). Acquisition planning which minority language groups advocated for is crucial for the development and promotion of language not only in education but eventually in other key domains of public life. This is so because the language that has a key functional role to play in education develops to the extent that it can be used more easily in other public domains because its improved terminology and expressions.

Researchers (see, for example, Cooper, 1989; Daoust, 1991; Fishman, 1974, 1983; Haugen, 1966a, 1966b; Kloss, 1978) agree that intellectualization is a significant component of language planning. It has far reaching effects on the sociolinguistic status of a given language in a number of key domains of language usage in society. Thus this researcher analyzed the role played by language advocacy groups in the intellectualization of Kalanga, Tonga and Shangani with a view to understand how minority language usage in education courtesy of lobbying by TOLACCO, KLCD and SPAT could have impacted on the sociolinguistic status of the languages under study in civil courtroom discourse. Finlayson and Madiba (2002:40) describe language intellectualization as "a dynamic process, characteristic of most languages which are developing an expanded range of functions in society." Garvin (1973:43) also weighs in saying "intellectualization is a way of providing a more accurate and detailed means of expression, especially in the domains of modern life, that is to say in spheres of science and technology, of government and politics, of higher education, of contemporary culture, etc." The role a language plays in the education domain is a key determinant factor of the success or failure of the process of intellectualization.

Representatives of language associations were asked about what achievements they had registered in their advocacy work since the formation of their organizations. In response, a member of SPAT said that their association successfully produced syllabi for both primary and

secondary education up to O' level including textbooks. In addition, the first grade 7 Shangani examination was written in 2012, registering 100% pass rate and they were anticipating to have the first O' level Shangani examinations to be written in 2017. The grade 7 Shangani pass rate which surpassed previous Shona pass rates encouraged more schools to offer Shangani as a subject at primary school level according to the SPAT representative. The member of SPAT also said initially, there was resistance to the introduction of Shangani as an academic subject from some of the headmasters for a number of reasons including staffing and attitudes in some cases but it has since been embraced with the majority of rural primary (55) and rural secondary schools (11) now offering Shangani as an academic subject. Members of KLCDA interviewed for this study said that their association contributed significantly to the production of Kalanga teaching material for primary schools and they were in the process of producing textbooks to be used for teaching and learning of Kalanga in secondary schools. In response to the same question about the achievements of their language association since its formation, a committee member of TOLACCO said TOLACCO had registered a lot of successes in terms of ensuring that Tonga is taught as an academic subject in schools.

In addition, the committee member of TOLACCO said the first grade 7 Tonga examinations were written in 2011 with the first O' level Tonga examinations written in 2015 and plans were at an advanced stage to have Tonga examined at A' level. According to Sibanda (2013:347), "Tonga community scored a first for the minority languages in Zimbabwe following the formalization of the Tonga language in schools...." and this means that Tonga through advocacy work by TOLACCO, its partners and the Tonga speaking community, managed to find space in the education system earlier than other historically marginalized languages. Other achievements registered as a result of advocacy activities by TOLACCO included the introduction of degree programs in Tonga at Great Zimbabwe University, University of Zimbabwe as well as diploma programs at United College of Education and Hillside teachers' college.

Responses from representatives of KLCDA, TOLACCO and SPAT revealed that these language associations have worked hard to ensure that their languages expand in terms of functional base through usage in the education domain. However, the Tonga language appears to have been at the forefront in terms of expanding its functional space in education and as a result it has become better than Shangani and Kalanga in terms of intellectualization. The success story of the Tonga



and their association TOLACCO has been attributed to their history. In an attempt to explain the success story of Tonga, Makoni, Makoni and Nyika (2008:415), say “it appears that one of the lessons which the Tonga might have learnt from the construction of the Kariba dam was the need to be actively engaged with national government in all aspects which directly affect their lives, including language.” In other words, the construction of the Kariba dam which destabilized their livelihood through displacement from their ancestral places made them resolve to work together as a disadvantaged group of people who would at every opportunity strive to fight for their rights including linguistic rights. Thus the Tonga speaking community must have realized the need to fight for their linguistic rights earlier than other minority languages as evidenced by the formation of TOLACCO as early as 1976. This probably explains why the Tonga traditional leaders including chiefs and headmen went to the extent of expelling headmasters who were not interested in embracing the teaching and learning of Tonga in schools. TOLACCO with the cooperation of traditional leaders and the community at large thus had a robust language advocacy program which registered more achievements than other minority languages including Kalanga and Shangani which are yet to be examined in secondary schools.

The success story of Tonga courtesy of language advocacy activities of TOLACCO among other stakeholders appears to have impacted positively on the sociolinguistic status of the language in public domains of life like the civil courts. As already highlighted in previous sections of this chapter, the researcher observed that in civil courtroom proceedings in Binga, the majority of the people regardless of age were using Tonga as medium of communication. Those that were interviewed also generally indicated that they would opt to speak using their native language Tonga if they were to be arraigned before the civil courts. On the contrary, the Kalanga and Shangani native speakers were generally divided based on age with the elderly opting to use their native languages whilst the middle aged members of the community generally chose to speak in either Shona or Ndebele at the expense of their native languages.

From the above discussion on the role played by language associations, one can argue that the success of language in the field of education is crucial to the general status of that language in society. A language like Tonga which has done relatively well in terms of usage in education has assumed a prestigious position among its native speakers to the extent that it has become a language of choice in other domains of life including the civil courts even by the younger

generation most of whom learned Ndebele in school at the expense of their mother tongue. Whilst KLCDA and SPAT are doing a splendid job of advocating for the usage of their native languages in education, they need to do more in order to influence attitudes among their communities.

While acknowledging the successes of KLCDA, TOLACCO and SPAT in education, it was interesting to note that when members of these language associations were asked about what other public domains of life they were targeting in terms of language functions, they generally indicated that their advocacy work mainly focused on the teaching and learning of their native languages from primary schools up to tertiary institutions. The representative of SPAT said that since most of their members were still in the teaching fraternity, they had not really thought about advocating for the usage of Shangani in other public domains but they were intending to coopt new members from other backgrounds who would inject new ideas into the association. Members of KLCDA who were interviewed for this research said they were also pushing for Kalanga to cement its position in the media but they had never considered courtroom discourse as another important area deserving attention. A TOLACCO representative also said that the issue of language usage in the courts had not been considered though he appreciated the possibility of misunderstandings if court interpreting was not properly handled.

The responses by the language associations gave an indication that their concerns were generally on advocating for the teaching and learning of their native languages so that they could not be lost. This is a welcome development which lays a foundation for the intellectualization of the languages under study so that they can also find functional space in other public domains. The researcher, however, is of the view that whilst their concerns are important as they give foundation to the development of the languages in question, they should also vociferously advocate for linguistic rights for their communities in other key domains of life in general and the civil courts in particular. This would assist in influencing language policy, thus potentially raising the sociolinguistic status of their languages in more public domains of life.

## **5.7 CONCLUSION**

Data analysis in this chapter was premised on the need to clearly highlight the historical and contemporary sociolinguistic status of Kalanga, Tonga and Shangani in the civil courts of

Zimbabwe. The data that was presented, discussed and analyzed was collected using semi-structured interviews and observation of courtroom proceedings involving native speakers of the languages under study. The analysis was extended to language policy documents including the constitution of Zimbabwe. Key aspects that were examined in this research included pre-colonial and post-colonial language provisions on language usage in Zimbabwe, the history of court interpreting in Zimbabwe, the role of education in enhancing language status and the initiatives by language advocacy groups representing Kalanga, Tonga and Shangani languages. In addition, this chapter focused on the influence of language attitudes by speakers of the languages under study with a view to understand how they have impacted on the sociolinguistic status of the languages under study in courtroom discourse within the context of civil courts of Zimbabwe. Aspects put under scrutiny from the point of view of language attitudes included the variable of age, demographic issues, naming of provinces as well as minority languages speakers' level of awareness of constitutional provisions of language and language usage in the country.

Whilst postcolonial language planning and policies in Zimbabwe seem to have slowly embraced the multilingual character of the country, guidelines for their implementation appear to have been non-existent and this has resulted in the sociolinguistic status of minority languages including Tonga, Shangani and Kalanga being restricted in civil courtroom communication. Also, the naming of provinces on linguistic lines has had an impact on some minority languages' language choices. Court interpreting, which has historically not been professionalized has also created problems especially for minority language speakers in courtroom communication because of lack of training for the court interpreters. Language advocacy groups have contributed to communities' awareness of linguistic rights as well as influencing the language in education policy of the country and they have registered commendable successes in the teaching and learning of their native languages, thus enhancing the intellectualization, status and attitudes towards their languages. This has impacted positively on the sociolinguistic status of the languages under study in the education domain and to some extent in civil courtroom discourse with the Tonga language's success story unmatched by the other two languages under study.

## **CHAPTER 6**

### **CONCLUSION AND RECOMMENDATIONS**

#### **6.1 INTRODUCTION**

This chapter presents the conclusions and recommendations of the study that are premised on the objectives of this research as well as the data presented, discussed and analyzed. The chapter, in a nutshell gives a summation of the examination of the factors that have influenced the historical and contemporary sociolinguistic status of Shangani, Tonga and Kalanga as media of communication in the civil courts of Zimbabwe. A scrutiny of the findings from interviews, documentary analysis and observations of civil court proceedings involving native speakers of Kalanga, Shangani and Tonga as either accused persons or complainants foregrounds the conclusions that are discussed in this chapter.

#### **6.2 SUMMARY OF RESEARCH FINDINGS**

The findings from this research revealed that language legislation in both the colonial and post-colonial Zimbabwe played a critical role in determining the sociolinguistic status of the languages under study in civil courtroom discourse. Constitutional provisions on language and language usage in public life were examined bearing in mind the historical circumstances in which they were crafted with a view to understand the motivation behind the language legislation and its impact on the functional role of the minority languages in question in the civil courts of Zimbabwe. An examination of some of the colonial provisions on language usage during the colonial era established that language legislation was one way of making sure that the colonial authorities would be in a position to firmly establish their grip on governing the black majority. In order to effectively subjugate Africans, they had to make sure that they restricted their participation in public life. For this reason, language planning and policy activities during the colonial era in Zimbabwe were aimed at ensuring that the usage of English in public life, for instance, education, administration, the courts, industry and commerce became entrenched at the expense of indigenous languages especially minority languages like Kalanga, Tonga and

Shangani whose existence was not even constitutionally acknowledged by the colonial government throughout its rule.

The analysis of the provisions on language and language usage during the colonial era in Zimbabwe including Ordinance 7 of The Statute Law of Southern Rhodesia, from 1<sup>st</sup> January 1911 to 31<sup>st</sup> December 1922, Education Ordinance No. 1 of 1903, Chapter VII of The 1969 Rhodesian Constitution and The Magistrates Courts Ordinance of 1911 revealed that the white colonial government was bent on uplifting the sociolinguistic status of English in public institutions especially in education and the courts while undermining indigenous languages. The textual analysis of these constitutional provisions from a historical perspective revealed that the colonial authorities intended to curtail the usage of indigenous languages in formal domains like the civil courts. The analysis of the above mentioned colonial provisions on language and language usage in public life giving emphasis on the examination of discourse as historical (Fairclough and Wodak, 1997) made it possible for the researcher to understand how historical circumstances can be used as a springboard that ushers certain ideological positions especially by those people that possess political power.

From a CDA standpoint, Fairclough (1989, 1992, 1995) and Huckin (1997), argue that text analysis should include, among other aspects, focusing on how dominant ideologies are brought to existence and sustained through the choice and usage of vocabulary especially in the crafting of policy documents. It is from this perspective that the analysis of constitutional pronouncements on language and language usage during the colonial era made this researcher conclude that in their language planning and policies, the colonial authorities were preoccupied with making sure that minority languages including Tonga, Kalanga and Shangani played a diminished role in public life like the civil courts with Shona and Ndebele having more functional space while English had unfettered functional dominance in formal domains of life. Consequently, language rights for linguistic minorities in sensitive institutions like the civil courts were not guaranteed because their usage in public life was not backed by any clear piece of legislation in the constitutions crafted by the colonial authorities at different stages of white rule. For this reason, besides English, minority language speakers had to choose between Shona and Ndebele, the majority languages which were constitutionally recognized as media of communication in courtroom discourse at the expense of their native languages.

This research established that language legislation in Zimbabwe took a turn with the advent of independence to the extent that minority languages including Shangani, Tonga and Kalanga that were never directly mentioned in the constitutions of the colonial governments in Zimbabwe began to be acknowledged. In addition, the wording of the constitutional provisions on language and language usage in the 1979 Lancaster House Agreement and the Constitution of Zimbabwe Amendment (No. 20) Act 2013 emphasized on the need for authorities to make sure that speakers of languages other than English should be provided with interpreters who speak their languages of preference in public institutions like the civil courts. This implies that the constitutional dispensation that came with independence in Zimbabwe acknowledged the multilingual nature of the country, thus observing linguistic rights for minorities in public institutions. This shift from the colonial constitutional provisions on language usage which gave official status to English could be attributed to the historical circumstances or political context (Gale, 1999; Armstrong, Belmont and Verrilon, 2000; Liasidou, 2008) that had seen African nationalist leaders assuming political power in Zimbabwe with the attainment of independence wanting to make sure that the emancipation of the majority of the black population included among other issues the need to ensure that language rights especially in public life are protected. Thus the post-independence constitutional dispensation in Zimbabwe especially the current constitution which gives official recognition to 16 languages provided a platform for upholding language rights for all indigenous citizens in the country.

Whilst the post-independence constitutional pronouncements on language and language usage could be appreciated for elevating the status of indigenous especially minority languages, a critical analysis of the 1979 Lancaster House Agreement and the Constitution of Zimbabwe Amendment (No. 20) Act 2013 revealed the absence of a clear implementation program meant to ensure that minority languages like Kalanga, Tonga and Shangani would find unfettered functional space in public institutions such as the civil courts. This scenario is in line with arguments by scholars (Hadebe, 1998; Liasidou, 2008; Nyika, 2008; Kadenge and Mugari, 2015; Bamgbose, 1991) who agree that the major downside of language policy and planning especially in an African country like Zimbabwe has been the absence of a well thought-out and clear implementation matrix for any given constitutional pronouncements. This has resulted in the failure for minority languages including Kalanga, Tonga and Shangani to cement their role in civil courtroom discourse as evidenced by a number of native speakers of these languages who

still maintained that they would opt to speak in either Shona or Ndebele in the civil courts regardless of the provision of interpreters who can facilitate communication using these minority languages. The lack of robust and clear guidelines which could have been packaged within a legal framework like a Language Act could have seen the language status planning enshrined in the current constitution being put into action with clear timelines thus ensuring that all languages used in the country are developed for ease of usage in public institutions such as the courts. This implies that the sociolinguistic status of minority languages like Kalanga, Shangani and Tonga is still restricted despite the fact that the government through the JSC makes provisions for the availability of interpreters in any court session.

Another critical aspect which has a bearing on the sociolinguistic status of the languages under study in civil courtroom communication that was unearthed by this study was the absence of any statutory instruments on language and language usage in the courts generated by the Ministry of Justice and administered through the JSC. Since language is critical to justice delivery anywhere in the world, the fact that Zimbabwe is a multilingual country with a number of languages spoken by minorities that have historically been marginalised in public discourses should have provoked authorities to craft statutory instruments on how the language issue should have been dealt with, with a view to ensure fairness in justice delivery from a linguistic point of view. This implies that the business as usual approach to language usage in courtroom discourse inherited from the colonial Zimbabwe has left minority languages like Kalanga, Shangani and Tonga at the periphery of courtroom discourse.

This research also established that language attitudes, a key aspect in Haugen's (1972) conceptualisation of the ecology of language constitute a complex variable that influences the sociolinguistic status of a given language within an identifiable domain. These language attitudes were examined in conjunction with other variables like age as was the case with the present research. From an examination of the language attitudes of native speakers of Kalanga, Shangani and Tonga, this research established that the aspect of age differences played a key role in language choices in civil courtroom communication among the native speakers of Kalanga and Shangani while Tonga language speakers' language speakers did not seem to have been affected by this variable.

Middle aged Kalanga and Shangani speakers interviewed for this study generally opted to speak in Ndebele and Shona respectively in the civil courts at the expense of their mother languages citing a prolonged exposure to these languages in education, health institutions, police stations, registrar general's offices and everyday interaction with peers. Positive attitudes exhibited by middle-aged native speakers of Kalanga and Shangani towards the Ndebele and Shona respectively and their eventual effects on language choices in civil courtroom discourse have impacted negatively on the sociolinguistic status of Kalanga and Shangani in the civil courts. The process of language contact between Kalanga and Shangani with Ndebele and Shona, the majority languages seems to have influenced the language attitudes and choices of the middle aged native speakers of Kalanga and Shangani to the detriment of the status of their mother languages' status in courtroom communication. Researchers (Crystall, 2000; Thomason and Kaufman, 1998; Rosenberg, 2001; Fishman, 1991) emphasize on language shift as an outcome of a language contact situation where in most cases members of a given speech community are likely to be tempted to shift to the dominant language within their linguistic repertoire. The majority language as reflected by the language choices of the middle aged speakers of Kalanga and Shangani in civil courtroom discourse assumes an instrumental value (May, 2003) in public communication thus elevating its sociolinguistic status at the expense of minority languages.

From an analysis of the variable of age, this study also revealed that contrary to middle aged members of the community, elderly native speakers of Kalanga and Shangani demonstrated positive attitudes towards their mother languages as they opted to use them as media of communication in civil courtroom discourse. Similarly, the Tonga speaking people of Binga generally opted to speak using their native language in the civil courts notwithstanding the age differences among members of the community. The choice of the mother tongue as a medium of communication in civil courtroom communication by elderly speakers of Kalanga and Shangani as well as the Tonga speaking people interviewed for this study could be attributed to the influence of the attitudes they have towards their native languages and the sentimental value they put on them. The elderly must have used them as part of their heritage and culture before the imposition of majority indigenous languages by the colonial authorities. The psychological domain which gives emphasis on the relationship between a language and other languages within the same linguistic ecology and what members of a given speech community think about the relation must have swayed in favor of native languages that is the languages under study.



Language binds a people together and gives them an identity in addition to carrying that people's culture, world view as well as heritage (Gumperz, 1982; Darmody and Daly (2015; Haji-Othman; 2005; Majidi, 2013; Skutnabb-Kangas, 2000). This explains why the elderly native speakers of Kalanga, Shangani and the majority of the Tonga speaking community managed to easily shrug off the general tide of language shift from their native languages to the dominant majority languages in courtroom communication contrary to the language behavior of the middle aged Kalanga and Shangani speakers.

This research also found out that demographic issues played a critical role in influencing the language choices of the native speakers of Shangani, Tonga and Kalanga in civil courtroom communication. In this study, linguistic demography (Haugen, 1972:336), a rather complex phenomenon which includes a characterization of the users of a language in terms of the number of its speakers, religion, social class and the size of the geographical area occupied by language users was examined focusing on the number of people speaking the languages under study relative to speakers of dominant languages. Native speakers of Shangani, Kalanga and Tonga interviewed for this study were asked a question relating to which language was predominantly used in their geographical areas. From the answers given by respondents, the general thrust of the responses revealed that the speakers of Ndebele and Shona appeared to outnumber the speakers of the minority languages under study.

The demographic strength of Shona in the Shangani speaking area of Chiredzi, for example, appears to have elevated the prestige of the Shona language to the extent that some native speakers of Shangani opted to speak in Shona in civil courts. The fact that most of the Shona speaking people have not been keen on learning the Shangani language has resulted in Shona having a perpetual dominance over Shangani not only in private life but also in public life including civil courtroom discourse. This has had a knock on effect on the sociolinguistic status of Shangani in civil courtroom interaction. The Tonga and Kalanga speaking interviewees bemoaned the dominance of Ndebele in their geographical areas including schools as some of the sources of their native languages' marginalization in public life. This has influenced their language attitudes and choices in civil courtroom communication with some of them opting to speak in Ndebele in the civil courts, thus undermining the sociolinguistic status of Tonga and Kalanga in civil courts conversational interaction. Jamai (2008) emphasizes on the influence of a

language group's numerical dominance over other language groups arguing that demographic strength facilitates language shift by speakers of minority languages to the dominant majority languages. The demographic dominance of majority languages in Kalanga, Tonga and Shangani speaking communities has, therefore, created unequal power relations within the Zimbabwean linguistic ecology resulting in some speakers of minority languages choosing either Shona or Ndebele as media of communication in public life thus impacting negatively on the sociolinguistic status of the languages under study.

Closely related to the influence of demographic strength on language attitudes and choices is the aspect of naming of provinces which in Zimbabwe seems to have been done in recognition of Shona and Ndebele while the existence of other indigenous languages was not acknowledged. The naming of provinces in Zimbabwe except for the Midlands province had connotations of the dominant language spoken in each province and it impacted on language attitudes and choices especially in public life. According to Nyika (2007) and Ifesieh and Orginta (2013), the naming of provinces in Zimbabwe which seems to have been done on purely linguistic lines elevated the status of Shona and Ndebele while undermining minority languages in areas where they were expected to be dominant in terms of usage. This has had a debilitating effect on the sociolinguistic status of Kalanga, Tonga and Shangani in civil courtroom discourse among other public domains of life since some speakers of these languages have found themselves succumbing to the dominance of Shona and Ndebele, thus neglecting their native languages. It is for this reason that some of the Kalanga and Tonga speakers interviewed for this research expressed reservations about the names that were given to their provinces since they give recognition to Ndebele instead of the respective native languages of the areas.

Data analysis for this research established that knowledge of the constitutional pronouncements on language and language usage in a given linguistic ecology can be a predictor of a community's language behavior and the sociolinguistic status of a language. The question Shangani, Tonga and Kalanga speakers were asked was whether or not they are aware of what the current Zimbabwean constitution says about languages. The speakers of Tonga interviewed for this research revealed that they were aware of the constitutional provisions on language and they showed their appreciation of the new status bestowed on their language among other languages. The level of awareness about the constitutional provisions on language instilled

positive attitudes towards Tonga by the Tonga speaking community. This explains why the majority of the Tonga people opted to speak in Tonga in the civil courts. The native speakers of Kalanga and Shangani interviewed for this study, however, gave varied views with most people saying they have not seen the constitution while others said they saw the English version notwithstanding their inability to understand English.

The fact that some speakers of Kalanga and Shangani were not aware of the current constitutional provisions on language contributed to the diminished sociolinguistic status of Kalanga and Shangani in civil courtroom communication. These speakers remained unaware of the new status bestowed upon their languages leading to the continued marginalization of their native languages in public life and civil courtroom discourse in particular. This explains why a significant number of Kalanga and Shangani speaking people opted to converse using either Ndebele or Kalanga to participate meaningfully in public institutions (Rubio-Marin, 2003; Tsuda, 1999; Skutnabb-Kangas and Phillipson, 2008). Lack of awareness of the current constitutional status of all languages spoken in the country has instilled an unfounded belief in the minds of some native speakers of Shangani and Kalanga to the extent that using either Shona or Ndebele in public life has become an unchallenged ideology (van Dijk, 1993) which they have to live with.

This study also found out that language-in-education policies in Zimbabwe have, to some extent, contributed to the sociolinguistic status of Shangani, Kalanga and Tonga in terms of language usage in public life in general and civil courtroom discourse in particular. The examination of some of the statutory instruments that focus on language usage in education revealed that language-in-education policies have undermined the development of indigenous languages in Zimbabwe especially minorities. Education has a critical role to play in the development and promotion of a language (Bentahila and Davies, 1993; Skutnabb-Kangas, 2000; Crystal, 2000; Nyika, 2007, Bamgbose, 2011). The process of intellectualization which comes with the use of a language in education from primary school up to tertiary education is a foundation for the creation of terminology which keeps pace with developments in a variety of domains of language use (Bamgbose, 2011). This process culminates in the versatility of any given language to the extent that besides assuming a prestigious status as a language of education, it also becomes

practical and easy to use as a language of business in a variety of key domains in any given speech community.

The Zimbabwean language-in-education policies which have a foundation in the language policies of the colonial era have not done any good to the development and promotion of minority languages. The post-colonial Zimbabwean authorities inherited the language policies of pre-independence Zimbabwe which had English, Shona and Ndebele as the languages of education. This culminated in the crafting of the 1987 Education Act which declared that English, Shona and Ndebele must be the languages of education while the teaching of other indigenous languages was optional. All the other language-in-education policy pronouncements have not done much to promote minority languages in the education domain and this has stalled the development of Kalanga, Tonga and Shangani among other minority languages. The net effect of the discriminatory nature of Zimbabwean language-in-education policies against minority languages has been the lack of intergenerational transfer of language between the young and old speakers of minority languages like Kalanga, Tonga and Shangani. In their private life, the young could be speaking using their native languages but at school they found themselves having to learn either Ndebele or Shona, a situation which stifled the development of minority languages. This has resulted in the middle aged speakers of Kalanga, Shangani opting to use Ndebele and Shona in civil courtroom communication in civil courtroom communication, language behavior which has undermined the sociolinguistic status of the minority languages under study in the civil courts.

This research also established that court interpreting plays a significant role in the determination of the sociolinguistic status of any given language. The quality of interpreting as reflected by the level of interpreters' training and language competence, in other words are closely related the role a language plays in facilitating communication in courtroom contexts. This study took a historical approach in examining the relationship between court interpreting and the sociolinguistic status of Shangani, Kalanga and Tonga in civil courtroom discourse. Data analysis in this research revealed that court interpreting during the colonial era was not considered as a profession since it did not have any formal training. Furthermore, those people who were employed as court interpreters were whites most of whom were traders, farmers and adventurers who acquired indigenous languages through interaction with native speakers of the

languages. The fact that during the colonial era court interpreters were at some stage trained in either Shona or Ndebele, courtesy of colonial language policies which recognized only these two indigenous languages, meant that minority languages including Kalanga, Shangani and Tonga were never considered as languages of the courts. Thus courtroom discourse became a preserve of English, Shona and Ndebele and this undermined minority languages' role in public institutions.

The advent of independence in Zimbabwe seems not to have significantly improved court interpreting as a career. The absence of training for people employed as court interpreters has continued even after the attainment of independence in Zimbabwe. Thus the treatment of court interpreting by authorities in Zimbabwe has continued to undermine the job thus impacting on the delivery of services especially in minority languages like Tonga, Kalanga and Shangani which were historically marginalized. Constitutional provisions on court interpreting in both the 1979 Lancaster House Constitution and the Constitution of Zimbabwe (Amendment No. 20) 2013 have proved to be deficient in terms of the implementation matrix and this has not only impacted on court interpreting as a trade but has also negatively affected the sociolinguistic status of Kalanga, Tonga and Shangani as revealed by interpreters who generally maintained that there was a need for them to receive some training in their job. The court interpreters who were interviewed for this study only received in-service training from senior interpreters, a trend that has come to characterise the training of court interpreters in Zimbabwe (Svongoro, 2016). Some of them complained about the complexity associated with legal jargon which they said required training on their part so that they would be able to do a better job. The professionalization of court interpreting through rigorous training should have contributed significantly to the sociolinguistic status of Kalanga, Tonga and Shangani in the civil courts. However, the fact that authorities in Zimbabwe have not done much to improve the status of court interpreters in the country through training has impacted negatively on the status of indigenous languages in courtroom discourse as well.

As part of this research, the role played by language advocacy groups representing the languages under study was put under scrutiny. This was done in order to find out what the language associations have achieved in their advocacy work and how it might have been linked to the promotion of the usage of Shangani, Tonga and Kalanga in civil courtroom discourse. Thus the

activities of KLCDA, SPAT and TOLACCO were examined. Interviews carried out with representatives of these language associations revealed that the main objectives behind their formation was to make sure that the languages they represent find space in the education domain. The background to this key objective must have been the marginalization of minority languages in education with minority language speakers having to choose to learn either Shona or Ndebele as in schools at the expense of their native languages. The advocacy work carried out by minority languages associations referred to in this study was part of the informal institutional support whose major priority was to lobby for the teaching and learning of Shangani, Kalanga and Tonga in schools.

The activities of TOLACCO, SPAT and KLCDA did register varied success stories in their bid to have their native languages permeate into the education domain. SPAT, for instance, produced syllabi and textbooks from primary school to O' level with the first grade 7 Shangani examination written in 2012. KLCDA also produced learning material for Kalanga from primary school to O'level. TOLACCO also vociferously advocated for the learning of Tonga in schools and they successfully managed to to have the first grade 7 Tonga examination written in 2011, with the first O'level Tonga examination written in 2015. Because of the robust approach to language advocacy by TOLACCO among other stakeholders, the first Tonga A'level examination is going to be written in 2017.

TOLACCO, SPAT and KLCDA's initiatives have played a part in the process of the intellectualization of Tonga, Shangani and Kalanga respectively. Thus the use of Tonga, Kalanga and Shangani as languages of education has kick-started the development of new terminology (Bamgbose, 2011) which could see the languages finding space in other public domains of life including civil courtroom discourse. Bamgbose (2011:7) says "... one major advantage of extending the use of African languages to domains in which they they were previously not used is the resulting prestige they acquire through intellectualization". This implies that the usage of Tonga, Kalanga and Shangani as languages of education, courtesy of initiatives by TOLACCO, KLCDA and SPAT respectively have not only contributed to the intellectualization of the languages but has also uplifted their status thereby instilling positive attitudes towards them by native speakers. This explains why the success stories of the languages under study in education seem to correspond with the statuses of they have in civil courtroom discourse. Tonga, for

example, seems to have cemented its position as the language of civil communication in Binga where it has also successfully permeated the education domain from primary school to tertiary education. This explains why most of the Tonga speaking people interviewed for this research generally opted to use Tonga as the medium of communication in the civil courts. Kalanga and Shangani which are still making inroads in the education domain still play a crucial but rather limited functional role in civil courtroom discourse as revealed by their native speakers' language choices in civil courtroom discourse which were generally varied. It could, therefore, be argued that SPAT, TOLACCO and KLCDA have played a significant role in facilitating the intellectualization of their native languages and their relative success stories in education have contributed to the sociolinguistic status of Shangani, Tonga and Kalanga respectively in civil courtroom communication.

### **6.3 RECOMMENDATIONS**

Below is a list of recommendations that were derived from this research. They primarily focus on what could be done in order to improve the sociolinguistic status of Kalanga, Tonga and Shangani in civil courtroom discourse involving minority languages in Zimbabwe.

#### **6.3.1 RECOMMENDATIONS FOR FUTURE PRACTICE**

1. On the basis of the the findings of this research, the investigator recommends that language policy and planning activities in Zimbabwe should make a paradigm shift from its characteristic silence on matters of implementation to clearly spell out practical guidelines that speak to implementation procedures. The language policy and planning activities should also have clauses that provide a deliberate discrimination that is aimed at ensuring the development and promotion of minority languages in public life

2. There is also a need for the crafting of a Language Act and an Interpreters Act. The Language Act should clearly articulate what should entail language usage in public institutions including statutory bodies that should monitor the implementation process of the Language Act. The Interpreters Act should give emphasis on formal training as a prerequisite for one to be employed as a court interpreter in order to empower court interpreters with the necessary skills for competent discharge of their duties. This should culminate in the formation of an interpreters'

council which should be constituted by translation and interpreting professionals. In addition, prospective court interpreters should be certified linguistically competent in the languages they intend to interpret as part of the training process.

3. After finding out that there are no statutory instruments focusing on language usage in courtroom discourse crafted by the Ministry of Justice in Zimbabwe, this researcher recommends that there is a need for the ministry to design constitutional provisions that talk about language and language usage in the courts of Zimbabwe especially given the multilingual nature of the country since language is central to the process of justice delivery.

4. Of critical importance is also that the government of Zimbabwe should make an effort to make sure that the current constitution of the country is printed in all languages spoken in the country so that all the citizens become familiar with all the rights entitled to them including linguistic rights given the official recognition of the 16 languages spoken in the country.

5. Furthermore, the government of Zimbabwe, through the Ministry of Primary and Secondary Education should work closely with civic organisations, minority language communities and other stakeholders with a view to ensure that all minority languages spoken in the country are developed and promoted at all levels of education. This would necessitate their intellectualization, intergenerational transfer and instill positive attitudes in speakers leading to increased usage in public life including the civil courts.

### **6.3.2 RECOMMENDATIONS FOR FUTURE RESEARCH**

For the purposes of further research, the investigator recommends that future research studies should focus on semiotic dimensions of communication, for example, posters and notices that are found in buildings that house courtrooms. The posters and notices also speak volumes concerning the sociolinguistic status of minority languages in civil courtroom communication. Other studies could also focus on examining the sociolinguistic status of the rest of the minority languages in order to have a more detailed understanding of the functional role of all minority languages in civil courtroom discourse.

Since the Tonga, Kalanga and Shangani are cross-border languages spoken in Zambia, Botswana and South Africa respectively, future research could also focus on comparative studies of the



sociolinguistic status of the three minority languages in general or specific domains of public life such as the civil courts.

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## APPENDICES

### APPENDIX A: INTERVIEW GUIDE FOR TONGA, KALANGA AND SHANGANI SPEAKING COMMUNITY MEMBERS

Dear Sir/Madam

My name is Patson Kufakunesu, a PhD student with the University of South Africa (UNISA). As a requirement for the fulfilment of this programme, I am conducting a thesis on **The Historical and contemporary sociolinguistic status of Selected Minority Languages in Civil Courts of Zimbabwe**. The languages under study include Shangani, Tonga and Kalanga. This research is premised on the historical marginalization of the majority of indigenous languages in public life including the courts with English, Shona and Ndebele getting unfettered functional space thereby creating communication problems for native speakers of other indigenous languages in sensitive areas like the courts. This study, therefore, interrogates the historical and contemporary sociolinguistic status of Shangani, Kalanga and Tonga in civil courtroom interaction especially given the new constitutional dispensation which gives recognition to sixteen languages used in Zimbabwe.

I am, therefore, seeking your voluntary participation and informed consent to answer interview questions for this study. The information you provide will remain strictly confidential and shall be used solely for this particular research endeavour.

#### THE QUESTIONS:

1. How old are you?
2. What has is your mother tongue?
3. What has been the historical position/status of your mother tongue in terms of usage in public domains of life like the courts before the current constitution?
4. Have you ever read or heard about the provisions of the current constitution of Zimbabwe on languages?
5. If yes, what does the constitution say about the promotion and development of indigenous languages in Zimbabwe?
6. Were your views on language usage and development taken on board during the crafting of the current constitution?
7. If not, what important aspects do you think should have been included in order to enhance the sociolinguistic status of your native language in public institutions such as the civil courts?
8. Do you think the government has done enough to craft policies that make it possible for the use of your native language in public institutions such as the civil courts?
9. What else do you suggest the government should do in order to uplift the status of your native language in civil courts of law?
10. Have your ever attended a civil court session either as a complainant or defendant?



11. If yes, when was that and what language options were you given for usage as media of communication during the court session?
12. Was there an imposition as to which language you should use during court proceedings?>  
If yes, what were the reasons given for that?
13. If you were provided with options, what language did you choose as your preferred medium of communication and can you give reasons for your choice?
14. Were you happy about how the process of interpretation was conducted by the court interpreter?
15. If you have never appeared before a magistrate in a civil court of law, what language would you prefer to use if you were to be brought to the courts either as a complainant or defendant?
16. Do you have anything you feel the researcher needs to know concerning the status of previously marginalized languages in Zimbabwe?

Thank you very much sir/madam for your time and acceptance to participate in this research.

## **APPENDIX B: INTERVIEW GUIDE FOR COMMUNITY LEADERS (VILLAGE HEADS, CHIEFS AND COUNCILLORS)**

Dear Sir

My name is **Patson Kufakunesu**, a PhD student with the **University of South Africa, (UNISA)**. As a requirement for the fulfilment of the programme, I am conducting a thesis on **The Historical and Contemporary Sociolinguistic Status of Selected Minority Languages in Civil Courts of Zimbabwe**. The languages under study include Shangani, Tonga and Kalanga. This research is premised on the historical marginalization of the majority of indigenous languages in public life with English, Shona and Ndebele getting unfettered functional space thereby creating communication problems for speakers of other indigenous languages in sensitive areas like the courts. This study, therefore, interrogates the historical and contemporary sociolinguistic status of Shangani, Tonga and Kalanga in civil courtroom interaction especially given the new constitutional dispensation which gives recognition to sixteen languages used in Zimbabwe.

I am, therefore, seeking your informed consent to answer interview questions for this study. The information you provide will remain strictly confidential and shall be used solely for this particular research endeavour.

### **THE QUESTIONS:**

1. Can you please explain the status of your native language in the country before the new constitution.
2. Do you think there has been any improvement in the usage of your native language with the introduction of the new constitution?
3. Historically, what was the language of courtroom communication especially in civil courts and village courts presided over by community leaders?
4. Were your views as custodians of your people's language and culture taken on board during the crafting of the new constitution?
5. When you handle cases at the village level what language do you use to communicate with villagers and do you allow people to use a language of their own choice?
6. What is the nature of your working relationship with language advocacy groups?
7. Does your community the development and promotion of your language or they view Shona and Ndebele as better languages than their mother tongue?
8. Can you characterize the nature of your working relationship with the government especially on language and development issues.
9. AS a custodian of your people's language and culture, what are you doing to to ensure that your native language improves in status?

Thank you very much sir for your time and acceptance to participate in this research.

## APPENDIX C: INTERVIEW GUIDE FOR COURT INTERPRETERS

Dear Sir/Madam

My name is **Patson Kufakunesu**, a PhD student with the **University of South Africa, (UNISA)**. As a requirement for the fulfilment of the programme, I am conducting a thesis on **The Historical and Contemporary Sociolinguistic Status of Selected Minority Languages in Civil Courts of Zimbabwe**. The languages under study include Shangani, Tonga and Kalanga. This research is premised on the the historical marginalization of the majority of indigenous languages in public life with English, Shona and Ndebele getting unfettered functional space thereby creating communication problems for speakers of other indigenous languages in sensitive areas like the courts. This study, therefore, interrogates the historical and contemporary sociolinguistic status of Shangani, Tonga and Kalanga in civil courtroom interaction especially given the new constitutional dispensation which gives recognition to sixteen languages used in Zimbabwe.

I am, therefore, seeking your informed consent to answer interview questions for this study. The information you provide will remain strictly confidential and shall be used solely for this particular research endeavour.

### THE QUESTIONS:

1. For how long have you been working as a court interpreter?
2. Can you please explain what you know about the history of court interpreting in Zimbabwe and how has in changed with the passage of time?
3. Before the introduction of the diploma in translation and interpreting how were prosecutive court interpreters trained?
4. In how many provinces have you worked as a court interpreter?
5. How many languages do you speak?
6. What diffences have you noted between the interpreters who have acquired a diploma in translation and interpreting and those that have not in terms of the execution of work activities?
7. What problems do you normally encounter as you interpret messages from the minority language you speak to English during civil courtroom sessions?
8. Did you learn the minority language you interpret in school?
9. What comparisons can you make between the training of court interpreters in Zimbabwe and other countries such as South Africa?
10. Is there anything related to court interpreting that you think the researcher needs to know?

Thank your very much for your time and acceptance to participate in this research?

## **APPENDIX D: INTERVIEW GUIDE FOR LANGUAGE ASSOCIATIONS**

Dear Sir/Madam

My name is **Patson Kufakunesu**, a PhD student with the **University of South Africa, (UNISA)**. As a requirement for the fulfilment of the programme, I am conducting a thesis on **The Historical and Contemporary Sociolinguistic Status of Selected Minority Languages in Civil Courts of Zimbabwe**. The languages under study include Shangani, Tonga and Kalanga. This research is premised on the the historical marginalization of the majority of indigenous languages in public life with English, Shona and Ndebele getting unfettered functional space thereby creating communication problems for speakers of other indigenous languages in sensitive areas like the courts. This study, therefore, interrogates the historical and contemporary sociolinguistic status of Shangani, Tonga and Kalanga in civil courtroom interaction especially given the new constitutional dispensation which gives recognition to sixteen languages used in Zimbabwe.

I am, therefore, seeking your informed consent to answer interview questions for this study. The information you provide will remain strictly confidential and shall be used solely for this particular research endeavour.

### **THE QUESTIONS:**

1. When was your language association formed?
2. What was the history behind the formation of your language association and what were the major objectives of the association?
3. Have the objectives of the language association changed with the passage of time?
4. What successes have you registered as a language association?
5. What are some of the challenges you have encountered in the promotion and development of your native language?
6. What has been the composition of your association in terms of membership over the years and how has it influenced your advocacy work activities?
7. Apart from the learning of your native languages in school, what other public domains of life are you targeting as a language advocacy group?
8. Have you ever considered advocating for the effective usage of your native language in civil courtroom interaction for the benefit of your community members?
9. Can you characterise your working relationship with government departments as you carry out your language advocacy work.

Thank you very much for your time and acceptance to participate in this research.

## **APPENDIX E: CHECKLIST FOR THE OBSERVATION OF CIVIL COURT PROCEEDINGS**

The observation of court proceedings was done to find out:

1. The language choices of native speakers of the languages under study in civil court proceedings.
2. Whether or not there was any miscommunication between court interpreters and members of the public during court proceedings.
3. Whether court interpreters allowed defendants and complainants to use languages of their choice as media of communication in courtroom procedure.
4. What problems court interpreters encountered during the execution of their duties in courtroom sessions.
5. The extent to which Kalanga, Shangani and Tonga are used in civil courtroom proceedings in areas where they are dominant as native languages.

## **APPENDIX F: LETTERS OF INTRODUCTION**

### **LETTER OF INTRODUCTION: SECRETARY FOR RURAL DEVELOPMENT, PROMOTION AND PRESERVATION OF NATIONAL CULTURE AND HERITAGE**

8 February 2016

The Permanent Secretary

Ministry of Rural Development and Preservation of National Cultural Heritage

Makombe Building

Cnr L/Takawira and H/. Chitepo Harare

Dear Sir/Madam

**RE: REQUEST FOR PERMISSION TO CONDUCT RESEARCH IN BINGA, PLUMTREE AND CHIREZDI DISTRICTS  
AMONG THE TONGA, KALANGA AND SHANGANI PEOPLE**

I am a member of staff at the University of Zimbabwe, Linguistics Department and a PhD student at the University of South Africa (UNISA). I am busy with my project entitled: *The historical and contemporary sociolinguistic status of selected 'minority languages' in civil courts of Zimbabwe*. On this project, I am working with Prof. D.E. Mutasa as my promoter and Dr. M. Kadenge as the co-promoter. The major aim of this study is to find out the extent to which courtroom discourse in Zimbabwe, particularly within the context of civil courts has managed to embrace the multilingual nature of the country given the current constitutional dispensation which has given official recognition to 16 languages spoken in Zimbabwe. Generally, the study will investigate the communication problems encountered by accused persons and defendants whose native languages are either Kalanga, Tonga and Shangani as they converse through court interpreters in civil court proceedings. The study is hoped to contribute to the further professionalisation of court interpreting in Zimbabwe as well as raising awareness on the need to uphold linguistic rights for speakers of previously marginalised local languages especially in public domains of life like the courts. The study is also of significance in language policy and planning as well as language development of previously marginalised local languages. In addition, it seeks to advocate for the inclusion of native speakers of the languages under study in determinations about the future of their languages which are important aspects of their identities and cultures.

I would, therefore, like to request for permission to collect data for my research from native speakers of Tonga, Kalanga and Shangani in Binga, Plumtree and Chiredzi districts respectively. The data collection entails carrying out interviews with members of the public in the respective rural communities in order to find out their views about language choices at their disposal in courtroom communication within the civil courts. Questions will thus be asked about what languages they would prefer to use when they are taken to court either as accused persons or complainants as well as providing reasons for their choices.

The responses given by the people during the interviews will be treated as confidential information which will only be used for this particular academic endeavor. Please feel free to ask me to clarify anything that is not clear to you. You would be required to provide a written consent that will include your signature, date and initials to verify you understand and agree to my request.

Furthermore, it is important that you are aware that the study has to be approved by the departmental Ethics Research Committee (ERC) and the Unisa Research Ethics Review Committee (URERC) of the university. These two committees consist of independent experts that have the responsibility to ensure that the rights and welfare of participants in research are protected and that studies are conducted in an ethical manner. If you have any questions that you may like to ask before permission is granted, you are free to contact me using the details shown in this letter.

Yours sincerely

Patson Kufakunesu

Email: [kufakunesupatson@gmail.com](mailto:kufakunesupatson@gmail.com)

Contact number : 00263 772251298

## LETTER OF INTRODUCTION: CHIEF MAGISTRATE

12 April 2016

The Permanent Secretary

Ministry of Justice, Legal and Parliamentary Affairs

Harare

Dear Mr. M. Guvamombe

I am a member of staff at the University of Zimbabwe, Linguistics Department and a PhD student at the University of South Africa (UNISA). I am working on my project entitled: *The Historical and Contemporary Sociolinguistic Status of Selected 'Minority Languages' in Civil Courts of Zimbabwe*. On this project, I am working with Prof. D.E. Mutasa as my promoter and Dr. M.Kadenge as the co-promoter. The major aim of the study is to find out the extent to which courtroom discourse in Zimbabwe, particularly within the context of civil courts has managed to embrace the multilingual nature of the country given the current constitutional dispensation which has given official recognition to 16 languages spoken in Zimbabwe. Generally, the study will look at the communication problems encountered by accused persons and defendants whose native minority languages are either Kalanga, Tonga or Shangani as they converse through court interpreters in civil court proceedings. The study is hoped to contribute to the further professionalisation of court interpreting in Zimbabwe and raise awareness on the need to uphold linguistic rights for minorities in sensitive public domains of life like the courts.

I would, therefore, like to seek your permission to observe proceedings in open court sessions in your courts, particularly civil courts in Chiredzi, Binga and Plumtree districts. I have deliberately chosen these areas as contexts of study because these are the places where Shangani, Tonga and Kalanga, the languages under study, are spoken respectively as native languages. I am also kindly requesting your permission to hold interviews with court interpreters in the respective districts in order to have an idea of how they handle people from diverse multilingual backgrounds in courtroom proceedings. I am also asking for past and present policy documents and statutory instruments that refer to language choices and usage in the courts of Zimbabwe since these will help me analyse the status of the languages under study from a historical perspective. Attached is a brief proposal to assist you to have an appreciation of the study. Please feel free to ask me to clarify anything that is not clear to you. You would be required to provide a written consent that will include your signature, date and initials to verify you understand and agree to my request. Please be assured that all information will be treated confidentially and whatever information collected during the study will be treated anonymously.



Furthermore, it is important that you are aware that the study has to be approved by the departmental Ethics Research Committee (ERC) and the Unisa Research Ethics Review Committee (URERC) of the university. These two committees consist of independent experts that have the responsibility to ensure that the rights and welfare of participants in research are protected and that studies are conducted in an ethical manner. If you have any questions that you may like to ask before your permission is granted, you are welcome to contact me using the details shown in this letter.

Yours sincerely

Patson Kufakunesu

Email: [kufakunesupatson@gmail.com](mailto:kufakunesupatson@gmail.com)

Contact number: 00263772251298

**LETTER OF INTRODUCTION: DISTRICT ADMINISTRATOR - BULILIMA (PLUMTREE)**

12 April 2016

The District Administrator

District Administrator's Compound

Plumtree

Dear Sir

**REQUEST FOR PERMISSION TO CONDUCT RESEARCH IN MATABELELAND-SOUTH PROVINCE, PLUMTREE DISTRICT AMONG THE KALANGA PEOPLE**

I am a member of staff at the University of Zimbabwe, Linguistics Department and a PhD student at the University of South Africa (UNISA). I am working on my project entitled: *The Historical and Contemporary Sociolinguistic Status of Selected 'Minority Languages' in Civil Courts of Zimbabwe*. On this project, I am working with Prof. D.E. Mutasa as my promoter and Dr. M.Kadenge as the co-promoter. The major aim of the study is to find out the extent to which courtroom discourse in Zimbabwe, particularly within the context of civil courts has managed to embrace the multilingual nature of the country given the current constitutional dispensation which has given official recognition to 16 languages spoken in Zimbabwe. Generally, the study will look at the communication problems encountered by accused persons and complainants whose native previously marginalised local languages are either Kalanga, Tonga or Shangani as they converse through court interpreters in civil court proceedings. The study is hoped to contribute to the further professionalisation of court interpreting in Zimbabwe and raise awareness on the need to uphold linguistic rights for previously linguistically marginalised local communities in sensitive public domains of life like the courts.

I would, therefore, like to seek your permission to carry out interviews with native speakers of the Kalanga in Plumtree District in order to find out their views on the language choices at their disposal in courtroom procedures within the context of civil courts. The idea is to ask them about what language they would prefer to use during court proceedings if they were to be brought to the courts either as accused persons or complainants as well as giving reasons for their preferred choices. I have deliberately chosen Plumtree District as one of my contexts of research because this is the major area where Kalanga, one of the languages under study is spoken as a native language. Attached is a brief proposal to assist you to have an appreciation of the study. Please feel free to ask me to clarify anything that is not clear to you. You would be required to provide a written consent that will include your signature, date and initials to verify you understand and agree to my request. Please be assured that all information will be treated confidentially and whatever information collected during the study will be treated anonymously.

Furthermore, it is important that you are aware that the study has to be approved by the departmental Ethics Research Committee (ERC) and the Unisa Research Ethics Review Committee (URERC) of the university. These two committees consist of independent experts that have the responsibility to ensure that the rights and welfare of participants in research are protected and that studies are conducted in an ethical manner. If you have any questions that you may like to ask before your permission is granted, you are welcome to contact me using the details shown in this letter.

Yours sincerely

Patson Kufakunesu

Email: [kufakunesupatson@gmail.com](mailto:kufakunesupatson@gmail.com)

Contact number: 00263 772251298

## LETTER OF INTRODUCTION: DISTRICT ADMINISTRATOR – BINGA

12 April 2016

The District Administrator  
District Administrator's Office  
Binga

Dear Sir

### REQUEST FOR PERMISSION TO CONDUCT RESEARCH IN MATABELELAND NORTH, BINGA DISTRICT AMONG THE TONGA PEOPLE

I am a member of staff at the University of Zimbabwe, Linguistics Department and a PhD student at the University of South Africa (UNISA). I am working on my project entitled: *The Historical and Contemporary Sociolinguistic Status of Selected 'Minority Languages' in Civil Courts of Zimbabwe*. On this project, I am working with Prof. D.E. Mutasa as my promoter and Dr. M.Kadenge as the co-promoter. The major aim of the study is to find out the extent to which courtroom discourse in Zimbabwe, particularly within the context of civil courts has managed to embrace the multilingual nature of the country given the current constitutional dispensation which has given official recognition to 16 languages spoken in Zimbabwe. Generally, the study will look at the communication problems encountered by accused persons and complainants whose native languages are the previously marginalised local languages which could either be Kalanga, Tonga or Shangani as they converse through court interpreters in civil court proceedings. The study is hoped to contribute to the further professionalisation of court interpreting in Zimbabwe and raise awareness on the need to uphold linguistic rights for previously linguistically marginalised local communities in sensitive public domains of life like the courts.

I would, therefore, like to seek your permission to carry out interviews with native speakers of the Tonga language in Binga District in order to find out their views on the language choices at their disposal in courtroom procedures within the context of civil courts. The idea is to find out from them what language they would prefer to use during court proceedings if they were to be brought to the courts either as accused persons or complainants as well as giving reasons for their preferred choices. The background to my thesis is the historical dominance of English, Shona and Ndebele in public domains of life in general and courtroom procedures in particular at the expense of other indigenous languages. I have deliberately chosen Binga District as one of my contexts of research because this is the major area where Tonga, one of the languages under study is spoken as a native language. Attached is a brief proposal to assist you to have an appreciation of the study. Please feel free to ask me to clarify anything that is not clear to you. You would be required to provide a written consent that will include your signature, date and initials to verify you understand and agree to my request. Please be assured that all information will be treated confidentially and whatever information collected during the study will be treated anonymously.

Furthermore, it is important that you are aware that the study has to be approved by the departmental Ethics Research Committee (ERC) and the Unisa Research Ethics Review Committee (URERC) of the university. These two committees consist of independent experts that have the responsibility to ensure that the rights and welfare of participants in research are protected and that studies are conducted in an ethical manner. If you have any questions that you may like to ask before your permission is granted, you are welcome to contact me using the details shown in this letter.

Yours sincerely

Patson Kufakunesu

Email: [kufakunesupatson@gmail.com](mailto:kufakunesupatson@gmail.com)

Contact number: 00263 772251298

**LETTER OF INTRODUCTION: CHAIRMAN –KALANGA LANGUAGE AND CULTURAL DEVELOPMENT ASSOCIATION (KLCDA)**

16 April 2016

The Chairman

Kalanga Language and Cultural Development Association (KLCDA)

Global Cargo

Cnr 3rd Avenue and George Silundika

Bulawayo

Dear Mr Malaba

RE: REQUEST FOR AN INTERVIEW ON KALANGA LANGUAGE AND CULTURAL DEVELOPMENT ASSOCIATION'S (KLCD) ROLE ON THE PROMOTION AND DEVELOPMENT OF KALANGA IN ZIMBABWE

I am a member of staff at the University of Zimbabwe, Linguistics Department and a PhD student at the University of South Africa (UNISA). I am busy with my project entitled: *The historical and contemporary sociolinguistic status of selected 'minority languages' in civil courts of Zimbabwe*. On this project, I am working with Prof. D.E. Mutasa as my promoter and Dr. M. Kadenge as the co-promoter. The major aim of this study is to find out the extent to which courtroom discourse in Zimbabwe, particularly within the context of civil courts has managed to embrace the multilingual nature of the country given the current constitutional dispensation which has given official recognition to 16 languages spoken in Zimbabwe. Generally, the study will investigate the communication problems encountered by accused persons and complainants whose native languages are either Kalanga, Tonga and Shangani as they converse through court interpreters in civil court proceedings. The study is hoped to contribute to the further professionalisation of court interpreting in Zimbabwe as well as raising awareness on the need to uphold linguistic rights for speakers of previously marginalised local languages especially in public domains of life like the courts. Additionally, it will raise awareness on the need for speakers of the languages under study to actively participate in determinations about the future of their languages as important elements of identity and culture.

I would, therefore, like to request for an interview with you in order to find out KLCD's activities and achievements in advocating for the promotion of Kalanga in Zimbabwe. Since KLCD is one of the pioneering associations advocating for the preservation and development of previously marginalised indigenous languages in Zimbabwe, I want to believe that your concerns go beyond the teaching and learning of these languages in schools but include other important public or formal domains of life like the courts whose sensitive nature is such that participants should be allowed to speak in a language they feel they can express themselves better in order to defend their rights which could be at stake. It is with

this conviction that I am convinced that your contribution will prove to be of critical importance to this study. The responses you are going to give during the interview will be treated as confidential information which will only be used for this particular academic endeavour. You are free to advise me on whether or not you are comfortable if your name is revealed in the thesis. Please feel free to ask me to clarify anything that is not clear to you. You would be required to provide a written consent that will include your signature, date and initials to verify you understand and agree to my request.

Furthermore, it is important that you are aware that the study has to be approved by the departmental Ethics Research Committee (ERC) and the Unisa Research Ethics Review Committee (URERC) of the university. These two committees consist of independent experts that have the responsibility to ensure that the rights and welfare of participants in research are protected and that studies are conducted in an ethical manner. If you have any questions that you may like to ask before permission is granted, you are free to contact me using the details shown in this letter.

Yours sincerely

Patson Kufakunesu

Email: [kufakunesupatson@gmail.com](mailto:kufakunesupatson@gmail.com)

Contact number : 00263 772251298

**APPENDIX G: LETTERS OF AUTHORITY**  
**LETTER OF AUTHORITY: SECRETARY FOR RURAL DEVELOPMENT,**  
**PROMOTION AND PRESERVATION OF NATIONAL CULTURE AND HERITAGE**

All communication should be addressed to  
"The Secretary"  
Telephone: 783488, 797078-9



Ministry of Rural Development, Promotion and  
Preservation of National Culture and Heritage  
Cnr S. Muzenda and Livingstone Avenue  
15<sup>th</sup> Floor Mukwati Building  
P. O. Box HR480  
Harare

Ref: RD/.....

11 April 2017



Attention: Mr P. Kufakunesu (Ph.D.)

**REQUEST FOR PERMISSION TO CARRY OUT FIELD RESEARCH IN BINGA,  
PLUMTREE AND CHIREZI DISTRICTS: MATABELELAND NORTH,  
MATABELELAND SOUTH AND MASVINGO PROVINCES: MR. P.  
KUFAKUNESU: UNIVERSITY OF SOUTH AFRICA**

The above stated matter refers.

This letter serves as an authority to grant you permission to undertake your research on **"The historical and contemporary sociolinguistic status of selected "minority languages" in civil courts of Zimbabwe"** in Matabeleland North, Matabeleland South and Masvingo provinces.

By copy of this letter the Provincial Administrators of Matabeleland North, Matabeleland South and Masvingo provinces are being advised to facilitate the research programme.

The Ministry would be grateful to receive a copy of the end product.



M. Dube  
Director Human Resources  
For: Secretary for Rural Development, Promotion and Preservation of National  
Culture and Heritage

cc: Provincial Administrator - Matabeleland North Province  
Provincial Administrator- Matabeleland South Province  
Provincial Administrator- Masvingo Province



# LETTER OF AUTHORITY: CHIEF MAGISTRATE

Our Ref.: CM/COURT OBSERVATIONS/16

Your Ref.:

Telephone: 772995/6

Telegrams: "YULELOGS"



JUDICIAL SERVICE COMMISSION  
CHIEF MAGISTRATE'S OFFICE  
Private Bag 7704  
Causeway, Harare  
Zimbabwe

10 June 2016

→ Mr Patson Kufakunesu  
Department of Linguistics  
P O Box MP167  
Mount Pleasant  
**HARARE**

**Re: REQUEST FOR PERMISSION TO OBSERVE PROCEEDINGS, HOLD  
INTERVIEWS WITH THE INTERPRETERS, POLICY DOCUMENTS  
AND STATUTORY INSTRUMENTS:-**

Reference is made to the above matter.

Authority has been granted for you to observe court proceedings on condition that:

- i) Data obtained will be used for academic purposes only.
- ii) The research does not disturb or interfere with work and operations of our courts.

  
G. Mandaza

For: **CHIEF MAGISTRATE**

**LETTER OF AUTHORITY: DISTRICT ADMINISTRATOR - BULILIMA  
(PLUMTREE)**

MINISTRY OF RURAL DEVELOPMENT, PROMOTION AND PRESERVATION OF NATIONAL CULTURE AND  
HERITAGE

TEL: 019 2261-2  
FAX: 019 2264



DISTRICT ADMINISTRATOR  
BULILIMA DISTRICT  
P. BAG 5885  
PLUMTREE

*The District Administrator: Bulilima*

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09 JUNE 2016

**TO WHOM IT MAY CONCERN**

**REF: AUTHORIZATION OF MR P KUFANESU TO CARRYOUT A RESEARCH ON THE HISTORICAL  
AND CONTEMPORARY SOCIOLINGUISTIC STATUS OF SELECTED 'MINORITY LANGUAGES' IN  
CIVIL COURTS OF ZIMBABWE IN BULILIMA DISTRICT.**

This note serves to inform you that Mr P Kufanesu, a member of staff at the University of Zimbabwe and a PHD student at the University of South Africa has been granted permission to carry out his research among the Kalanga people in Bulilima District.

Your cooperation in his research will be greatly appreciated.

Thank You

*P. P. Depo*

E.Moyo (Mrs)

**DISTRICT ADMINISTRATOR-BULILIMA**



**LETTER OF AUTHORITY: DISTRICT ADMINISTRATOR - BINGA**

Correspondence should not be addressed to individuals  
Tel: 0263 44 344



District Administrator's  
Office  
Ministry Of Rural  
Development, Promotion  
And Preservation Of  
National Culture and  
Heritage  
P. O. Box 2  
BINGA

ATT: UNISA  
RSA

RE: RECOMMENDATION FOR KUFAKUNESU PATSON

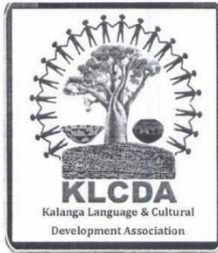
THE STUDENT MENTIONED ABOVE WISHES TO DO A RESEARCH ON LINGUISTICS TOPIC ( RESEARCH ON THE HISTORICAL AND CONTEMPORAL SOCIOLOGY STATUS OF SELECTED : MINORITY LANGUAGES IN CIVIL COURTS OF ZIMBABWE.

*Lydia Banda*

LYDIA BANDA-NDETHI  
DISTRICT ADMINISTRATOR BINGA

DISTRICT ADMINISTRATOR  
09/06/2016  
P.O. BOX 2, BINGA

**LETTER OF AUTHORITY: CHAIRMAN –KALANGA LANGUAGE AND CULTURAL DEVELOPMENT ASSOCIATION (KLCDA)**



**KLCDA**  
*'Yazwagwa inanlilo wamay!'*

Address 1: Std 74 Dombodema Road  
Hebron Plumtree  
Address 2: Cnr 3rd Ave & George Silundika  
Bulawayo, Zimbabwe  
Cell: +263 784 270 420  
+263 775 962 762  
+263 772 255 532  
Email: [info@kalanga.org](mailto:info@kalanga.org)  
Website: [www.kalanga.org](http://www.kalanga.org)

Date: 10 June 2016

To: Kalanga Community and Association Members

**RE: INTERVIEW ON KALANGA LANGUAGE & CULTURAL DEVELOPMENT ASSOCIATION'S (KLCDA) ROLE IN THE PROMOTION KALANGA**

Mr. Patson Kufakunesu ID No: 22-146818 C83 who is a PhD student with University of South Africa UNISA and a Lecturer in the Department of Linguistics University of Zimbabwe is hereby granted authority to interview our members.

This is specifically for his project entitled: *The historical and contemporary sociolinguistic status of selected "minority languages" in civil courts.*

Your assistance will be greatly appreciated.

Yours Faithfully

Tshidzanani Malaba  
Chairman (KLCDA)

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**Board Members:** Dr. J. Makhubalo (Pres), J.B. Ncube, W. M. Moyo, A. Masisa, T.T. Malaba (Exec Chairman)  
**Trustees:** A. S. Moyo, C. Majahana, S. G. Ndlovu,