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Translanguaging as an Effective Communication Tool to Embrace Speakers of Minority Languages in Zambian Courts

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ABSTRACT: The paper evaluates the effectiveness of implementing translanguaging as a communication tool for speakers of minority languages. Due to a multiplicity of languages in Zambia, seven Regional Official Languages (ROLs) were adopted by the government to be used in offices, including courts. These languages are Bemba, Lozi, Tonga, Nyanja, Kaonde, Lunda, and Luvale. However, the Zambian courts hardly take into account the presence of minority languages, which are often ground-level languages for communities where complainants and defendants belong, instead promoting the use of the ROLs during court sessions. The paper adopted qualitative, descriptive, and phenomenological approaches, elicitation, and document analysis methods to collect and analyse the results. It was undergirded by translanguaging, a key theoretical concept that appreciates the role of multiple languages in different situations. The results show that seven (7) major languages and sixty-five (65) minority languages are used in Zambia. Speakers in different social spaces of communication, including courts, due to the multilingual nature of Zambia, often use minority languages as amalgams. Translanguaging can enhance self-expression and effective communication in courts when both complainants and defendants are allowed to use minority languages. Embracing translanguaging as an effective communication tool for speakers of minority languages in Zambian courts can enhance multilingualism, effective communication, self-expression, and preservation of linguistic heritage, preservation of language shift and subsequent death, as well as upholding social justice for speakers of minority languages.

KEYWORDS: Courts, effective communication, minority languages, multilingualism, translanguaging, Zambia.

1. INTRODUCTION

This study focuses on the speakers of minority languages in Zambia who usually feel inferior and are not given a chance to express themselves fully in the languages they are familiar with, especially in the Magistrate, High, and Supreme Courts. This situation can be overcome by upholding principles of translanguaging in Zambian courts, where minority languages are given as much space as major languages. The paper aims to evaluate the effectiveness of implementing translanguaging as an effective communication tool for speakers of minority languages in Zambian courts.

Due to a multiplicity of languages in Zambia, the government to be used in government offices arrived at seven Regional Official Languages (ROLs), including courts. The seven ROLs spoken in Zambia are Bemba, Lozi, Tonga, Nyanja, Kaonde, Lunda, and Luvale (Nkolola, 2013). Bemba is spoken in Northern, Muchinga, Luapula, Copperbelt provinces, and some parts of Central Province. Tonga is spoken in Southern Province, Lozi is spoken in Western Province, and Nyanja is spoken in Lusaka and Eastern Provinces, while Lunda, Luvale, and Kaonde languages are spoken in North-western Province (Nkolola, 2013). The 2014 Zambia Language Policy recognises the seven languages to be used for initial literacy in education and governance, including courts in the communities where minority languages are spoken.

It is envisaged that Zambia has 24 local language clusters (Kashoki, 1990). As pointed out earlier, English is the national official language, while seven out of the 24 language clusters are ROLs. This implies that out of seventy-two (72) local languages, sixty-five (65) languages in Zambia are regarded as minority, while seven (7) are regarded as major or ROLs (cf. Kashoki & Mann, 1978). After independence in 1964, the use of English as the only national official language was partially decolonised by mandating and assigning seven local languages as ROLs. This came into force after the change from a one-party system to multiparty democracy in 1991 (Marten & Kula, 2014). The change emphasised the shift towards seven regional local languages, which have been mentioned above. It suffices to say, seven out of 24 language clusters spoken in Zambia were granted regional official status in government and language education and use, such as courts of law. However, this declaration could be labelled as partial since there is still inadequate institutional support for the seven ROLs and hardly any for minority languages. This situation calls for further decolonisation of language policies that pay a blind eye to the actual ground-level language practices of the people, including courts (cf. Siame, 2022c). This paper advocates that further decolonisation of languages should be considered by embracing translanguaging of minority languages with the seven ROLs (CDC, 2013; Simachenya & Mambwe, 2023).

This paper problematizes the effectiveness of implementing translanguaging as a communication tool for speakers of major and minority languages in Zambian courts, which do not favour minority languages, but the major languages [ROL] to be used by both plaintiffs and

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defendants. Due to this position, key stakeholders such as non-governmental organisations and research consortia do not consider the minority languages when engaging with communities where these languages are used. This trend, which has continued from the time Zambia gained its independence in 1964, can be attributed to the colonial legacy in which minority languages were relegated to informal and social functions and gatherings (Siame, 2022c). Siame (2022c) and Siame & Lubbungu (2023) advocate that there is a need to decolonise the language policies that are premised on colonial ideologies concerning language use in courts (Banda & Mambwe, 2024). Therefore, the paper presents translanguaging as one of the effective communication tools to embrace speakers of minority languages in Zambian courts.

2. THE STATUS OF LANGUAGE POLICIES IN ZAMBIA

The issue of language and education policy in Zambia was fairly straightforward throughout the colonial and much of the Federal period. From 1927, the Colonial Office took over the responsibility for what was then Northern Rhodesia up to 1963, just before the break-up of the Federation of Rhodesia and Nyasaland, the policy was consistent because the mother tongue was used for the first two years of primary education, followed by a dominant vernacular up to Standard 5, and English thereafter. The above literature shows that the minority languages were used in all spheres of governance, including courts. However, it is noteworthy that minority languages were later maintained in Local Courts only, while the Magistrate, High, and Supreme courts maintained the use of the seven ROLs.

In 1963, a group of Australian educationists, sponsored by UNESCO, reviewed the education system in what was to become Zambia and recommended that the medium of instruction should be English, from the beginning of schooling; and as soon as possible, a pilot scheme was set up to commence the introduction of English as the medium of instruction (UNESCO, 1964). This literature shows that during this time, minority languages were not used in government institutions such as courts, and as such, both plaintiffs and defendants were expected to communicate through English as a medium of instruction. The above argument calls for translanguaging as an effective communication tool to embrace speakers of minority languages in Zambian courts.

Literature reveals that in June 1965, in the newly established Republic of Zambia, cabinet deliberated on the issue embracing minority languages and, on the advice of the then Minister of Education. Siame et al. (2024), opines that for reasons of national unity plus a belief that the earlier a language was started the better, English was formally adopted, for the first time, as the medium of instruction from the beginning of Grade 1 to the end of tertiary education. It can be argued that the same national unity should be extended to using minority languages in Zambian courts by embracing the concept of translanguaging as an effective communication tool.

The history of language policy in Zambia reveals that in 1977, a document was published that contained a complete reversal of the policy proposed in 1966. The case for vernacular languages and their role in ensuring quality in education was made. In 1977, although there was broad agreement that learning through the medium of English was detrimental to educational achievement, educational principles were subordinated to the pragmatic considerations of political harmony. The final report, 'Educational Reform: Proposals and Recommendations', acknowledged that it was generally accepted by educationists that learning is best done in the mother tongue, who decided that the situation was found to be impracticable in multilingual societies, such as the Zambian society (MoE, 1977). The new policy did, however, allow teachers to explain concepts that might otherwise not be understood through the medium of English, in one of the seven official local languages, provided the majority of pupils in a class could understand this vernacular language. The above argument shows that the concept of translanguaging was necessary to embrace speakers of minority languages to enhance effective communication in all government institutions, including courts. This situation satisfied both the educational and political points of view and meant that pedagogical innovation was possible but within an ostensibly stable linguistic context (MoE, 1977). This shows that the reversal aimed to promote the use of minority languages in government institutions, where courts in Zambia are not exceptional.

The government in 1996 produced a comprehensive policy statement for education, called *Educating Our Future*, which incorporated the recommendations of the Reading Forum, stating that initial literacy and numeracy would be developed through a language that was familiar to children. This policy position further enhanced the status of Zambian languages and provided the rationale for future initiatives. The separation of the medium of instruction from the medium of initial literacy allowed *Educating Our Future* to set down initial literacy in a familiar language as a child's right while maintaining English as the medium of instruction (MOE, 1996). This enactment aimed to embrace the translanguaging of minority languages in Zambia to promote effective communication not only in schools, but also in courts.

However, since the new Education Act in 1996, the language for initial literacy is one of the seven designated regional official Zambian languages, a situation that disadvantages the minority languages in schools and courts. Worse still, the ROL is offered only for initial literacy during the daily literacy hour. The same is true for courts where the seven ROLs are used during sessions, especially in Magistrate, High, and Supreme Courts in Zambia. The fact that initial reading skills were taught in a language that was unfamiliar to the majority of children was believed to be a major contributory factor to the backwardness in reading shown by many Zambian children (MoE, 1996). This finding needed to necessitates embracing translanguaging, a pedagogic approach to learning that acknowledges the presence of multiple languages as resources in the process of teaching and learning, to avoid hindrances inherent with learning and being taught in a foreign language. Embracing the concept of translanguaging as an effective communication tool to embrace speakers of minority languages in Zambian courts is necessary so that they can express themselves fully and freely.

Considering the language policy in Zambia, Muyeba (1998) points out that the 1996 language policy, which wanted to correct the confusion, brought about by the erroneous 1966 policy made a complete "about turn". The policy stated that the introduction of a language other than English as the official medium of instruction would encounter insoluble implementation problems and would entail enormous costs born in developing and producing materials and in training teachers to use them (MoE, 1996). However, this "about turn" did not consider translanguaging as an effective communication tool to embrace speakers of minority Zambian languages in Zambian courts. Therefore, this paper also advocates for a complete "about turn" to the introduction of translanguaging in Zambian Courts so that speakers of minority languages are able to express themselves fully and effectively during court sessions.

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3. THEORETICAL FRAMEWORK

The paper is underpinned by a translanguaging theoretical framing. Translanguaging is a theory of language practice that offers a principled choice between competing interpretations (Wei, 2018). Williams (1996) coined translanguaging as a pedagogical term to describe the natural ways that bilinguals (multilinguals) use their languages in their everyday lives as they make sense of their bilingual worlds. Translanguaging theory is echoed by Hornberger & Link (2012:262) who describe the theory as a purposeful pedagogical alternation of language in spoken and written, receptive and productive modes.

On the other hand, Garcia (2009:140) shows that translanguaging is the process performed by bilinguals of accessing different linguistic features or various modes of what are described as autonomous languages, to maximise the communicative potential. Ttranslanguaging enables children to realise and maximise their potential in the learning of one language using the skills of the already existing linguistic repertoires. Similarly, translanguaging should be seen as an effective communication tool to embrace speakers of minority languages in the judicial system.

Garcia (2009) further opines that in translanguaging, languages are no longer assigned separate territories or even separate functions, but they co-exist in the same space, and they are not graded concerning their importance in the community. Translanguaging is an important pedagogical concept that should be adopted in judicial practices of today to achieve effective communication. In addition, Vogel & Garcia (2017) argue that translanguaging represents an approach to language pedagogy that affirms and leverages learners' diverse and dynamic language practices in teaching and learning. Both plaintiffs and defendants can also adopt this trend in the court system in Zambia to achieve justice in terms of free expression.

Baker (2001) identifies four educational or institutional advantages of embracing translanguaging. These are: Firstly, it promotes a deeper and fuller understanding of the subject matter. For example, both the plaintiff and the defendant, as well as judges, are expected to have a full and clear understanding of the topic of discussion before pronouncing judgment. Secondly, it helps the development of the weaker language or languages. This argument shows that promoting the use of minority languages in Zambian courts would prevent them from dearth and subsequent death. Thirdly, it facilitates cooperation. This shows that translanguaging promotes cooperation in government institutions such as courts by embracing minority languages. Finally, it helps the integration of fluent speakers with early speakers. For instance, early speakers of a ROL are integrated in the court conversation by allowing them to also use their minority language. The above justifications are sufficient grounds upon which the concept of translanguaging as a pedagogic alternative in communication practices in courts in Zambia, as a multilingual society, could be adopted and promoted.

4. METHODOLOGY

The paper used qualitative research whose findings are holistic, non-numerical, inductive, subjective, and process-oriented methods used to understand, describe, interpret, and develop a theory on a phenomenon (Brink & Wood, 1998; Siame, 2022b-c; Siame et al, 2023). The findings were obtained using the qualitative design and reported using words and sentential expressions (Mutch, 2005; Kapau, 2021; Siame, 2022a).

The elicitation and document analysis methods were used to justify the descriptive objectives using secondary data (Siame, 2019; Siame & Banda, 2021, 2024). Chaleunvong (2009) shows that identifying and retrieving secondary sources of data required for the study is the systematic starting point of efficient data collection. Therefore, for this study, documents such as language policies that include *Educating Our Future* (1996) and *Education Reforms* (1977) were identified and analysed. The documents were accessed from libraries, the internet, and published works.

In addition to document analysis, eight respondents were identified, and a set of questions was asked in one-to-one oral interviews. These respondents were purposefully selected from the study areas. The criteria were that the selected respondents were speakers of minority languages and had attended court sessions to ascertain how speakers of minority languages struggle to express themselves in courts as a basis of justice. Two respondents were selected for each minority language in the study area to participate in the interview based on the benefits of translanguaging the minority languages in the court system. The respondents were instrumental during data collection as well as data verification. Based on the notions of Mugenda & Mugenda (1999), data analysis went hand in hand with data collection. Data were analysed thematically using qualitative and tabular approaches. Four themes were identified from the collected data, namely, promote multilingualism, improve communication, preserve linguistic heritage, preservation of language shift, prevent language dearth, and social justice.

5. RESULTS AND DISCUSSION

The results of the study on translanguaging as an effective communication tool to embrace speakers of minority languages in Zambian courts are discussed under six major themes. The themes provide reasons or justifications for why this paper advocates for embracing minority languages in Zambian courts.

5.1 Promoting Multilingualism

Both major and minority Zambian languages are found in the same geographical proximity and are used for communication. Asked about the co-existence of these languages in the same proximity, Respondent A submitted as follows:

The seven regional official Zambian languages are found in the same geographical location where the sixty-five minority languages are also spoken. The seven regional languages are spoken across the ten provinces of Zambia. Due to their geographical position, people who speak different languages interact with each other in everyday activities such as court sessions. The multiple languages spoken in the same speech community are likely to have relatedness and variations in language usage.

The above statement confirms that both major and minor language speakers are in language contact situations and speakers use language interchangeably. This means that, in such a multilingual community, speakers are likely to have variations in language discourses. While it is true that the Bantu languages are genetically related in some ways, it is also true that there are variations because they are agglutinative languages. Therefore, embracing the use of minority languages in all Zambian courts would promote effective communication. This finding does

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not agree with Kashoki's (1990) argument that languages in the same geographical position are likely to share lexical items, which reduces the perceived differences and enhances communication between or among speakers. Therefore, it is not always easy for speakers to intermingle linguistic features drawn from the various languages at their disposal. This insight requires embracing translanguaging to break language barriers in courts, thereby promoting effective communication. This argument is vital because the assignment of linguistic boundaries among these languages shows that speakers are able to notice some variations as they use the languages (Banda & Mambwe, 2024). It can be argued that when bi/multilingualism is embraced, it cannot only promote national unity and cohesion but also foster the full communication potential in Zambian courts.

The study also reveals that in such multilingual settings, intermingling of linguistic features from different languages is inevitable among languages that co-exist within the same locality. This means that close speakers are unlikely to be monolinguals. This further means that while most speakers are likely to be multilingual and engaged in multilingual practices, some speakers might be monolinguals; hence, embracing speakers of minority languages would foster successful self-expression and effective communication. This finding explains why such practices become a hallmark of a multilingual community, because the practice of multilingualism is easily transferable and can promote effective communication in Zambian courts. This result is in tandem with Garcia (2009) and Banda (2010), who propose the inclusion of multilingual discourses in multilingual and multicultural contexts. This is because in a multilingual community, speakers have more related discourses and can understand one another quite easily. Therefore, it can be argued that translanguaging can be an effective communication tool in promoting multilingualism as a resource by creating an environment in which speakers of varying languages can freely communicate and engage with each other during court sessions. The study shows that translanguaging, if applied appropriately, can be used to promote linguistic diversity among related languages and improve communication across different linguistic groups.

5.2 Improved Communication

Drawing linguistic features from different languages within a communicative event during court sessions, translanguaging can be used to enhance communication among people who speak 'different' languages. Respondent J echoes this in the submission:

Communication in Zambian courts by using the ROL only, such as Bemba, shows that Bemba is superior and hinders enhanced communication for languages that are in the same proximity. On the other hand, the minority languages whose speakers are required to use the major language(s) tend to feel inferior, which is a barrier to communication during court proceedings and, as such, fail to express themselves fully. By so doing, victims of minority languages and language barriers receive undeserved punishment.

The above result reveals that translanguaging in such contexts helps to enhance the quality of communication as speakers in their language (major or minor) have a wide range of linguistic resources to draw upon during their engagements. The analysis also reveals that translanguaging helps to reduce inferiority and superiority complexes often associated with the speaking of minority languages and ROLs, respectively. The findings align with Siame (2022c) describes an inferiority complex in language speaking as a situation where the speaker of a minority language feels less important as compared to those who speak the seven ROLs. Due to colonial influences on matters of language, speakers of the minority languages would often feel inferior speaking their languages, while those who speak or use major languages or officially recognised ones such as Nyanja, Tonga, and Bemba would feel more privileged. This often would create serious communication barriers between those who speak the two separate languages during court proceedings. Subsequently, the lack of self-expression among speakers of minority languages would be evident. Such scenarios are compounded by language policies that impose the use of ROLs in areas where minority languages are part of the linguistic repertoire of the communities, which equally ought to be recognised as part of the communicative repertoire of the speakers. While Zimba (2007) argues that monolingual practices in Zambian multilingual communities contribute to a lack of adequate self-expression in institutions such as schools and courts, it is also true that a multilingual speaker may only speak minority languages, which might have no representation in courts where only ROLs are used. The policies on language use in courts in Zambia do not match the language practices of the local people where minority languages are spoken. Furthermore, due to non-recognition of the minority languages during court sessions in Zambia, speakers of these minority languages feel inferior to speak their languages in contexts where ROL is to be used, thereby hindering effective communication.

It is expedient to note that the language policy in Zambia does not recognise the communication potential inherent in minority languages. Using Nyimbili & Mwanza's (2021) insights, the study shows that minority languages in Zambia work as stepping stones to the provision of a link between the language being spoken in the speakers' ability to think and can express themselves better. Therefore, through translanguaging in courts of Zambia, speakers of minority languages would enhance effective communication, which would in turn promote justice.

5.3 Preserving Linguistic Heritage

Minority languages form a part of the cultural heritage of a particular community, which requires recognition through a responsive language policy that embraces linguistic diversity. Respondent K observed that:

When minority languages are not protected and used in government institutions such as courts, there is a likelihood of losing them. This is so because the Magistrate, High, and Supreme Courts do not allow plaintiffs and defendants to use their minority languages but promote prestigious major languages called ROLs.

The above finding suggests that language policies should be deliberately designed to embrace linguistic diversity, which includes minority languages, to enhance their use as languages of communication during court sessions (Simachenya & Mambwe, 2023). Instead of designing a policy that pits one language against the other, language policies must be inclusive to avoid a situation where the 'dominant' languages displace the 'weaker' or minority languages. The above result is in tandem with Brenzinger (1998), Banda (2010), and Siame & Banda (2021), who argue that small African languages are currently still not endangered by ex-colonial languages but risk being replaced by other major African languages such as Nyanja, Lozi, and Bemba in the Zambian context and the court system. Language shift and subsequent language dearth and death situations are sociolinguistic phenomena that are often compounded by language policies that are aversive to the realities of actual language practices. It can be argued that the language policies tend to promote dominant languages (ROLs) at the expense of minority languages

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in government institutions such as courts. In multilingual contexts such as those in Zambia, translanguaging can assist in the challenges of language shift, dearth, and death. Embracing translanguaging during court sessions would ensure the inclusion of minority languages to promote effective communication. It can also be argued that, if translanguaging is applied appropriately, it would help to preserve and promote minority languages while facilitating increased understanding between the plaintiff and defendant during court sessions in a particular speech community.

5.4 Preservation of Language Shift

Siame (2024) says, 'There is a challenge of language shift from smaller languages (non-ROL) to languages that have established orthography and grammar, such as Bemba in the case of Lungu, Mambwe, and Namwanga languages (non-ROL).' It is envisaged that the languages that are less explored and documented have very little literature that is known about them both inside and outside Zambia (Siame, 2024). Failure to use minority languages in education and courts has the potential for language shift, as observed by Respondent K:

Lack of use of minority languages in Zambian courts, especially Magistrate, High, and Supreme courts, is among the major drivers of language shift to major languages. Speakers of minority languages feel inferior to express themselves in their local languages, but are expected to use the major language, thereby rendering the minority languages valueless.

It can be argued that the preservation of minority Bantu languages, especially Zambian languages, can only be achieved through their use in government offices such as courts. Negligence of research, documentation, and use of Bantu languages in Zambian courts endangers their existence. This result conforms to Brenzinger (1998), who points out that small African languages are currently still not endangered by ex-colonial languages but risk being replaced by other major African languages. For instance, Bemba in the Zambian context, which is the ROL in Northern and Muchinga Provinces, where Lungu, Mambwe, and Namwanga languages are spoken, as well as Lozi in Western Province, where Nkoya and Mbunda are spoken. Therefore, to avoid the language shift from minority to major languages, courts should establish a deliberate policy to embrace the translanguaging of speakers of minority languages during court sessions. The above scenario is likely to lead to the recognition of minority languages.

5.5 Prevention of Language Dearth

Language dearth is a situation where a marginalised or minority language, due to certain restrictions on its usage, ceases to exist (Brenzinger, 1998). Siame (2024) notes that language dearth comes about when non-ROLs lack literature and are fused into bigger languages called ROL and subsequently die. Translanguaging minority languages in courts in Zambia would help to preserve the language dearth of the local languages. Respondent O observed that:

Promotion of only major languages in courts leads to a language dearth. For instance, the Nkoya and Mbunda languages in the Western Province of Zambia have fused into the Lozi language. The two languages cannot be used in the Magistrate, High, and Supreme Courts. The above situation presents great barriers to speakers of minority languages.

In a related situation, Respondent P opined that:

In the Northern Province of Zambia, where Bemba is the ROL, Lungu, Mambwe, and Namwanga languages are not used in the Magistrate, High, and Supreme Courts. This scenario equally possesses great barriers to speakers of minority languages.

The above two situations are likely to lead to language dearth and possible death for the five languages. They are likely to die because either Lozi or Bemba dominates initial literacy, political, and administration programs where the five languages are spoken as their regional official languages. Similarly, courts do not promote the use of minority languages. To preserve language dearth and prevent possible death, courts in Zambia are expected to promote the use of minority languages so that they also curtail an inferiority complex.

5.6 Social Justice

Translanguaging minority languages and major languages would help to uphold social justice for speakers of minority languages. Certain words in the minority languages have different semantics in major languages (ROLs), hence minority speakers are usually implicated for using them in courts. The study shows that people are usually judged for the words they use; hence, the lack of embracing translanguaging in courts leads to unfair judgment. Respondent N submitted that:

Speakers of minority languages are usually oppressed in Zambian courts for using words that have diverse meanings in other languages. For instance, Bemba, as a ROL, uses kumbi 'another place' while Namwanga, as a minority language, uses kumbi 'okra' to refer to a different word form and meaning.

The above finding illustrates that most speakers of minority languages are implicated for using words that are also found in the major language, such as Bemba, but convey diverse meanings. This phenomenon can be overcome by embracing translanguaging as a tool for effective communication and the upholding of social justice by allowing both plaintiffs and defendants to use languages they are familiar with, including minority languages. In an event that courts are unable to understand a particular minority language, translators can come on board to alleviate the situation so that speakers of minority languages are judged fairly.

6. CONCLUSION

The chapter concludes that the Zambian Language policy tends to isolate minority languages by preferring ROLs for use in court sessions. This is despite the languages being part of the linguistic repertoire of the speakers involved. However, drawing on examples of the minority languages, the chapter has demonstrated that these languages possess the communicative potential that can easily be leveraged in court sessions through translanguaging. The paper has argued for a language policy that takes into account the language practices of the communities and regards them as resources for effective communication. The chapter has also demonstrated that translanguaging major and minor languages in courts would not only enhance communication but also preserve the linguistic and cultural heritage of the people (speakers). It can further be argued that by acknowledging the important role that minority languages might play during court sessions, the language policy may inadvertently enhance the status of the languages involved and ultimately level the linguistic hierarchies among the languages. This would, in turn, ward off the inferiority complexes associated with using minority languages in formal contexts such as the judicial. The study has

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demonstrated how the notion of translanguaging plays an important role in promoting national cohesion among people believed to speak certain languages whose statuses vary and, in turn, affect power relations among the speakers as well as social justice.

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