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# The Politics of Language in Post-Apartheid South Africa

**Michelle R. Maziwisa**

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## **LANGUAGE POLICY IN FEDERAL AND DEVOLVED COUNTRIES**

### **Project Overview**

Language is a highly significant marker of individual and collective identities. It often provides an impulse for national or community affirmation and claims to self-government. Provisions to recognize and accommodate linguistic differences can be particularly salient in federations, many of which have highly diverse populations. Indeed, in quite a few cases linguistic diversity was one of the key reasons why federalism was central to a country's founding framework or the result of its constitutional evolution.

Several federal countries have designated more than one language as official (or national) languages in the federal constitution and/or legislation. In turn, the constituent units (states, provinces, etc.) may accord a similar status to one or more languages. The different designations are not merely symbolic: they usually require or lead to policies, programs and other measures to govern language use. In some nonfederal states where more than one language is spoken, a measure of authority over language policy has sometimes been devolved to regional governments (or the equivalent).

Language rules, including for service provision, are frequently an important dimension of policy sectors that are exclusively or largely the responsibility of constituent unit governments. One such sector is education. In various countries, there are calls for teaching to be given not only in officially recognized languages but also in others that are spoken by minorities that are fearful about the future of their language. Indigenous peoples in particular have concerns about the viability of their languages, many of which have a long history of suppression.

In some countries, language policies are well established and are largely uncontested. In others, the policies and/or their application are controversial – even divisive. This may be true not only in newer federations and devolved systems but also in those with a longer history. Because of their links to identity and culture (among other factors), languages can be – indeed, quite often are – a potent basis for political mobilization.

Even when political dynamics are not highly charged, pressures to change or reform language policies and programs are not uncommon. Some demands are fundamental (e.g. additional or stronger constitutional protection), while others are more administrative or technical. In light of their salience to citizens and their relevance in a range of sectors, it is not surprising that language policies are debated, reviewed and (at least in certain cases) modified.

Although there are a number of individual case studies, particularly covering countries where language has been a flash point for political division, there is a lack of comparative research. Moreover, existing comparative studies often focus on western Europe and North America. As more countries have adopted federal or devolved structures in recent decades, there is a need to expand the scope of research on language policies in plurilingual contexts.

The focus of this project is on language policy (broadly interpreted) in a range of countries that are federations or have a significantly devolved structure of government. It aims to take a holistic perspective on language policy and its place within governance arrangements. In addition to providing an overview of the country's demography, constitutional recognitions and protections, and language laws and policies, in order to encourage comparison authors were asked to address a common set of questions:

- A. What potential changes to the regulation of language – constitutional, legislative, administrative – have been proposed or are currently being debated?
- B. What are the pressures and who are the main actors behind the proposed changes?
- C. Which have received the most attention and/or seem the most feasible?

We hope that the authors' responses to these questions will inform public discussion and understanding in their own countries as well as in others where similar issues are on the agenda.

This project was developed following an initial discussion with Felix Knüpling, Vice-President (Programs) of the Forum of Federations. To provide expert advice, we created an editorial team comprised of the following: Elisabeth Alber (Institute for Comparative Federalism, Eurac Research), Linda Cardinal (Université de l'Ontario français) and Asha Sarangi (Jawaharlal Nehru University). The editorial team commented on the initial outline of the program and provided suggestions for potential authors. We were fortunate to attract leading scholars from a range of disciplines. At least one member of the editorial team reviewed and provided comments on the initial version of each paper.

Felix and I are indebted to Elisabeth, Linda and Asha for their excellent cooperation throughout the process. I would also like to express my appreciation to the authors of the country papers for agreeing to join the project and for their responsiveness to comments on their draft papers. We are grateful to Francesca Worrall for copy editing this paper. Finally, a big "thank you" to the Forum of Federations staff who administered the project and prepared the papers for publication: Olakunle Adeniran, John Light, Deanna Senko, George Stairs and Asma Zribi.

F. Leslie Seidle  
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# The Politics of Language in Post-Apartheid South Africa

Michelle R. Maziwisa

SOUTH AFRICA



## Introduction

Language is a contentious issue in South Africa.<sup>1</sup> These contestations manifest themselves through resistance to the use of languages that were used to dominate and disempower. Afrikaans was used as a means of violent oppression of blacks during the apartheid era, and English was used as a means of oppression of Afrikaners under British imperialism and was heavily resisted by them. In recent times, these contestations have evolved and been compounded by emerging issues such as decolonization and Africanizing the curriculum to make the languages of indigenous people of South Africa more visible and relevant. These pressures are most evident regarding the use of indigenous languages in education; in relation to language use in business and government they are more subtle. There is also growing concern in the Afrikaans community about the diminution of Afrikaans, particularly in employment and education. All the while, English has maintained its hegemonic – and largely uncontested – position as the lingua franca. This paper takes a legal perspective on the contestation of language in South Africa.

In this paper I consider to what extent language is a source of conflict in South Africa, and whether that conflict can be managed through federal arrangements. The paper first argues that English is a minority language, does not represent group domination, and as such is not the cause of conflict. However, the use of Afrikaans as a language of instruction in schools and universities has become a bone of contention. Second, there has been insufficient or inadequate protection of indigenous languages (and especially the least used among them), and the modest attempts to protect indigenous languages are not yielding much success. This has prompted a trend to introduce indigenous languages at universities as subjects, and more recently as languages of instruction, although these efforts are marginal. Third, I contend that federal arrangements could be useful for developing a differentiated and nuanced language policy. Such a policy could potentially resolve some of the challenges relating to the use of indigenous languages and help address concerns pertaining to the diminution of Afrikaans.

This paper starts by tracing the intricately connected history of language and politics in South Africa. This is followed by a discussion of the changes introduced in the new constitutional dispensation regarding the recognition of languages and a review of language use. The paper then considers current debates on language use in government and education, the emerging challenges, and potential reforms.

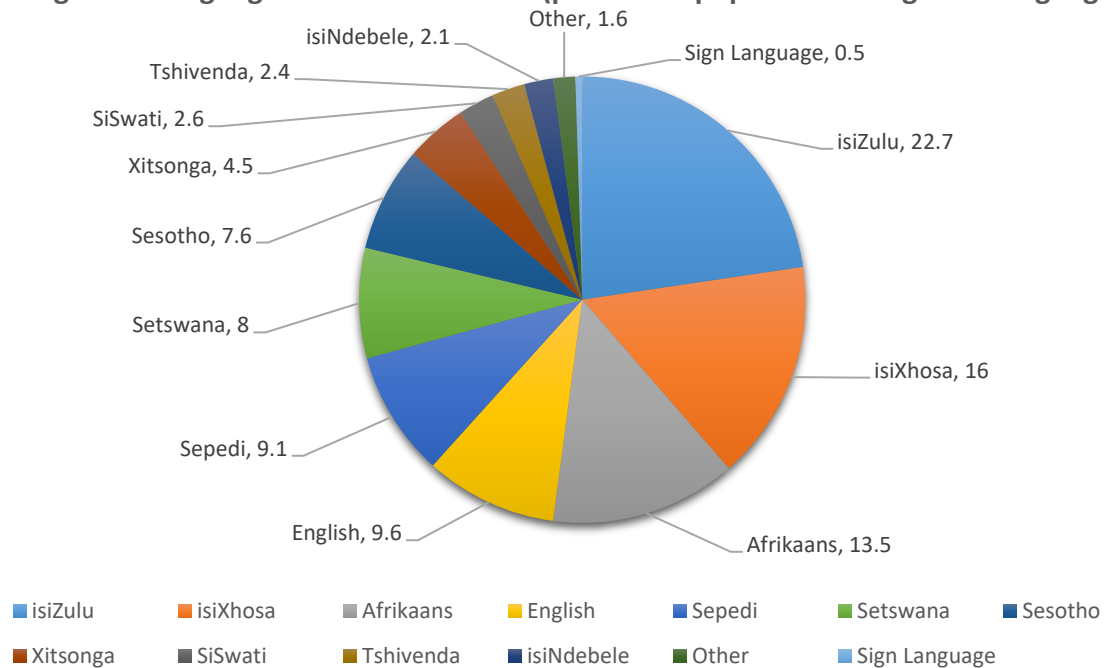
## History of Language Recognition and Protection

The 1996 South African Constitution (section 6(1)) recognizes 11 official languages: Afrikaans, English, isiNdebele, isiXhosa, isiZulu, Sepedi, Sesotho, Setswana, siSwati, Tshivenda and Xitsonga. As shown in figure 1, South Africa does not have a majority language. The most widely spoken language in the country as a whole is isiZulu, at 22.7 percent.

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<sup>1</sup> I wish to extend my gratitude to Nico Steytler and Zemelak Ayele for their valuable support and guidance on this project.



**Figure 1: Language use in South Africa (percent of population using each language).**

Source: Statistics South Africa (2011, 24).

According to Statistics South Africa (2011, 24-25), the national entity responsible for collecting national statistics, although no one language is spoken by the majority of the population as whole, in six provinces at least one language is spoken by the majority of the population in the province:

- Eastern Cape – isiXhosa (78.8 percent)
- Northern Cape – Afrikaans (53.8 percent)
- Free State – Sesotho (64.2 percent)
- KwaZulu Natal – isiZulu (77.8 percent)
- North West – Setswana (63.4 percent)
- Limpopo- Sepedi (52.9 percent).

In the Western Cape, a large proportion of the population, 49.7 percent, are Afrikaans speakers. Table 1 provides detailed data on the percentage of people using selected languages in the provinces.

**Table 1: Use of language as first language\* (percent of each province's population using language)**

Language	Western Cape	Eastern Cape	Northern Cape	Free State	KwaZulu-Natal	North West	Gauteng	Mpumalanga	Limpopo	South Africa
Afrikaans	49.7	10.6	53.8	12.7	1.6	9.0	12.4	7.2	2.6	13.5
English	20.2	5.6	3.4	2.9	13.2	3.5	13.3	3.1	1.5	9.6
isiNdebele	0.3	0.2	0.5	0.4	1.1	1.3	3.2	10.1	2.0	2.1
isiXhosa	24.7	78.8	5.3	7.5	3.4	5.5	6.6	1.2	0.4	16.0
isiZulu	0.4	0.5	0.8	4.4	77.8	2.5	19.8	24.1	1.2	22.7
Sepedi	0.1	0.2	0.2	0.3	0.2	2.4	10.6	9.3	52.9	9.1
Sesotho	1.1	2.5	1.3	64.2	0.8	5.8	11.6	3.5	1.5	7.6
Setswana	0.4	0.2	33.1	5.2	0.5	63.4	9.1	1.8	2.0	8.0
SiSwati	0.1	0.0	0.1	0.1	0.1	0.3	1.1	27.7	0.5	2.5
Tshivenda	0.1	0.1	0.1	0.1	0.0	0.5	2.3	0.3	16.7	2.4
Xitsonga	0.2	0.0	0.1	0.3	0.1	3.7	6.6	10.4	17.0	4.5
Sign language	0.4	0.7	0.3	1.2	0.5	0.4	0.4	0.2	0.2	0.5
Other	2.2	0.6	1.1	0.6	0.8	1.8	3.1	1.0	1.6	1.6

Source: Statistics South Africa (2011, 25)

\* First language refers to the primary language used for educational instruction and daily life.

### *Historical and Political Overview*

South Africa's language policy is intricately connected to its political history. Although it now proudly calls itself "the Rainbow Nation," its harsh political and racial history still fuels language contestations in post-apartheid South Africa. There are two key issues that have influenced language policy in South Africa: the Afrikaner struggle against British imperialism, and the black struggle against apartheid.

The Afrikaner struggle against British imperialism (and the English language) did not arise overnight but from a series of events surrounding the fight for possession of the Cape between the English and the Dutch (see Wilmot (1868, 14-18). The shipwreck of the Dutch ship *Nieuwe Haarlem* in March 1647 led the European survivors to live at the Cape for one year while waiting to be rescued (Hunt 1990). Finding the Cape of Good Hope habitable, the Dutch East India Company later established it as a fuel and rest station on its spice trade route to the Far East. In 1652, Dutch settlers arrived who, for all intents and purposes, spoke 17<sup>th</sup> century Dutch.<sup>2</sup> As they colonized the Cape and brought in slaves, Dutch came to the forefront as a language, forcing the indigenous Khoi, San and Nama groups to assimilate. Over time, Cape Dutch (also known as Afrikaans Hollandse) became an amalgamation of the languages spoken by Dutch, German and French settlers, and by African and Asian slaves (including

<sup>2</sup> However, the Dutch were not the first Europeans to set foot in present day South Africa. In this regard, Wilmot notes that the Cape of Good Hope was named by "John, the Second King of Portugal, for that hope which he conceived of a way to the Indies" (Wilmot 1869, 7).

Malay and Arabic languages) (Bostock 2018). This created a form of creole that has evolved into present-day Afrikaans. The British takeover of the Cape in 1806 led to the relegation of Afrikaans to second place, with English becoming the official language. During this period the British were wary of teaching the black population in English, for fear of enabling mobilization based on a common language (Bostock 2018, 28). At that time, no indigenous languages were recognized as official languages.

Tensions between the Afrikaners and British imperialists led Afrikaners to leave the Cape in resistance to British cultural and linguistic hegemony in the Great Trek of the 1830s (Gilliom 2004, 25-58). The tensions peaked in the Anglo-Boer War (1899-1902) and were pacified by the Peace Treaty of Vereeniging in 1902 and the establishment of the Union of South Africa in 1910.<sup>3</sup> Dutch was given equal official status with English. The *South Africa Act* of 1909 gave the Afrikaans language (and identity) recognition in the country by declaring that all references to Dutch in the Act also included Afrikaans. Afrikaner leaders insisted on the entrenchment of equality between English and Afrikaans and on bilingualism in government under the Union's constitution (Steytler, forthcoming). In 1926, Afrikaans, Dutch and English became the three official languages (Brezinger 2017, 41).

By 1948, Afrikaans was the preferred language in government. The coming into power of the National Party in 1948 was the starting point for "Afrikaner hegemony and the politics of apartheid" (Hendricks 2012, 51). According to Van Heerden, Afrikaans was appropriated by Afrikaners during the period of Afrikaner nationalism and was "used as a weapon for ethnic mobilisation, [and as a] cultural symbol of 'Afrikanerness' and national unity... deployed to secure power in the hands of an exclusive [white] group" and became associated with 'marginalisation' and 'exclusion' of [black South Africans]" (2016, 22-24). The 1961 Constitution still recognized the two official languages as Afrikaans (including Dutch) and English. Two decades later, the Republic of South Africa Constitution of 1983 no longer mentioned Dutch and stated that Afrikaans and English were the official languages of the republic.

The policy of apartheid or racial segregation was implemented through various laws that, among other things, introduced the "homelands." These were geographical areas demarcated along ethnic lines. The façade was separate development and autonomy, but the motive was to avoid mass black uprising (Fessha 2016). For the most part, the territorial boundaries of the homelands followed linguistic boundaries, although there were some overlaps. For example, the Xhosa-speaking population was split between Transkei and Ciskei. Four homelands – Transkei (Xhosa), Bophuthatswana (Tswana), Venda (Venda) and Ciskei (Xhosa) (the TBVC homelands) – were granted nominal independence, although this was not recognized by the international community (Steytler 2019, 230). The remaining six homelands were "self-governing" but not "independent" – Gazankulu (Tsonga/Shangaan speakers), KwaNdebele (Ndebele speakers), KwaZulu (Zulu speakers), KaNgwane (Swati speakers), Lebowa (Sotho speakers) and Qwaqwa (Southern Sotho/Basuto speakers) (Steytler 2019, 230).

In 1948, Afrikaners implemented a language policy whose goal was to "slow down the Westernisation of the African population." It introduced mother-tongue education up to and including the tertiary level (Bostock 2018, 28). Language thus became a barrier to the political and intellectual engagement of blacks in the national sphere (Brezinger 42). The homelands had mostly chosen English and one African language as their official languages, because Afrikaans was seen as the language of the oppressor (even though it was also spoken by many coloureds and Indians), while English was an accepted language of Pan-African communication (Mazrui 1988, 90). The *Bantu Education Act* of 1953 would further separate

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<sup>3</sup> The Union of South Africa brought together four British colonies: Cape of Good Hope, Orange River Colony, Transvaal and Natal (see the preamble and section 4 of the *Union of South Africa Act*, 1909).

blacks and whites, as it required mother-tongue education, which meant access to education for black learners was only in black schools. These schools were under-resourced, and their curriculum was designed only to equip black learners to serve white masters.

In 1951, the government established the Eiselen Commission, which was tasked with reviewing the black education curriculum. The commission recommended that the curriculum be revised and that blacks be taught in their mother tongue for the first eight years of school (Eriksson 2014, 6). This was implemented through the 1953 *Bantu Education Act*. The Act provided that mother-tongue education must be provided in primary school up to standard 6 and that in secondary school students be taught in English and Afrikaans equally. Non-examinable subjects were to be taught in the mother tongue and language subjects in the language being taught. The year 1976 was a crucial turning point, as the apartheid government sought to impose Afrikaans on black communities by requiring all secondary school classes to be taught in Afrikaans only, as opposed to in a combination of Afrikaans and English. This triggered protests in Soweto (a township in Johannesburg), where at least 600 people reportedly died. Approximately 20,000 children from schools in Soweto took to the streets in protest against the new language policy. Other communities across South Africa also did so, but the majority of the protests and worst police brutality was in Soweto.

The *Extension of University Education Act* of 1959 extended language barriers to tertiary education. It can be argued that the current tensions in universities have their origins in this law. Lapping notes in this regard that Afrikaans was the medium of instruction at the universities of Potchefstroom, Pretoria, Orange Free State and Stellenbosch. From inception, these institutions reserved admission only to whites. Among English-medium universities, Rhodes was all-white and Fort Hare was non-white; Natal was open to blacks but had racially segregated classes, and Cape Town and Witwatersrand admitted all racial groups but had strict rules for social events and sports (Lapping 1986, 183; cited in Brezinger 2017, 42).

Arguably, the use of Afrikaans as a language of domination and subjugation during the apartheid era is one of the main reasons why some found Afrikaans unattractive as a medium of instruction. After years of struggle against apartheid, multiparty negotiations under the Convention for a Democratic South Africa (CODESA) began in March 1993. The ensuing settlement led to the adoption of the November 1993 interim constitution and the start of the democratic era. For the first time, indigenous languages were recognized as official languages, something that had only existed in the four nominally independent TBVC homelands.

### *The New Constitutional Framework*

#### Interim Constitution, 1993

The Interim Constitution recognized 11 official languages. Section 31 of the Interim Constitution protected the right of every person to use the language of their choice and participate in their chosen cultural lives. Sections 3(3) and 3(8) enabled people to be addressed in their chosen language in public administration, provided it was practicable and depending on usage, practicality and expense. In “an attempt to recognise and accommodate the regional concentration of various linguistic groups,” the Interim Constitution empowered provincial legislatures to adopt any of the official languages<sup>4</sup> for purposes of government administration in the provinces, subject to a two-thirds majority vote of the provincial legislatures (Brand 1997, 692).

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<sup>4</sup> Section 3(1), *Interim Constitution of South Africa Act 200 of 1993*.

### Final Constitution, 1996

The Final Constitution (the Constitution) of 1996 recognizes 11 official languages in section 6 – Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa and isiZulu – and is written in all of these languages as well as in South African English Braille.<sup>5</sup> Some African languages are not recognized as official – for example, San, and some of San linguistic communities have assimilated into Afrikaans-speaking communities. This has contributed to the diminution of San languages, which are currently bordering on extinction – Xun, Khwe and Khomani (6,500 speakers), Khoe and Nama (10,000 speakers) and Griqua (300,000 speakers) (Ayele and Ntliziywana 2015, 343). Section 6(5) of the Constitution requires the establishment of a language board to promote and to create conditions for the development and use of the Khoe, Nama and San languages, and so the Pan South African Language Board (PanSALB) was established. It plays an important role in promoting and developing languages (including non-official languages); it established the National Khoisan (alternatively spelt Khoe-San) Council to promote the use of Khoe, Nama and San languages in some provinces, including the Northern Cape (Ayele and Ntliziywana 2015, 348).

Fessha argues that state symbols such as the flag, emblems and the national anthem illustrate the recognition of unlisted indigenous languages. The South African coat of arms, for example, depicts two people looking at each other in greeting, as captured in Khoi San rock art, and includes text in the Khoi San language of the /Xam people: !ke e: /xarra //ke, which means “diverse people unite.” The symbolic value of this is that the emblem denotes “unity in diversity,” while the Khoisan rock art and the text reflect “the constitutional ideal that everyone has a place in South Africa” (Fessha 2016, 100). Further, the national anthem includes passages in five languages: isiXhosa, isiZulu, Sesotho, Afrikaans and English.

There is constitutional recognition of the historical imbalance in the use, status and development of indigenous languages that are not explicitly mentioned in the Constitution. Indigenous languages can be interpreted to mean all official languages except English and Afrikaans, as well as the Khoe San languages Khoekhoegowab, !Orakobab, Xirikobab, N|uuki, !Xunthali, and Khwedam, and other African languages such as SiPhuthi, IsiHlubi, SiBhaca, SiLala, SiNhlanguwini (IsiZansi), SiNrebele (SiSumayela), IsiMpondo/IsiMpondro, IsiMpondomise/IsiMpromse/Isimpomse, KheLobedu, SePulana, HiPai, SeKutswe, SeṬokwa, SeHananwa, SiThonga, SiLaNgomane, SheKgalagari, XiRhonga, SeKopa (Sekgaga), among others (Charamba and Nkomo 2008, 283).

### **Language Use**

This section reviews the legislative framework for the recognition and use of the 11 official languages; assesses how this framework has been implemented in practice at the various levels of government, specifically in the context of government and education; and discusses whether the federal arrangements in South Africa are helping to promote a nuanced language policy.

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<sup>5</sup> The languages are written with prefixes and noun stems drawn from conventions of the respective languages. Brezinger (2017) argues that the Constitution incorrectly lists Sepedi as opposed to Sesotho saLebowa, because Sepedi is only one of nine dialects in Sesotho saLebowa, and further that efforts by the Northern Sotho National Lexicography Unit to replace Sepedi with Northern Sotho or Sesotho saLebowa have been unsuccessful. He also argues that the writing of assumed languages is problematic because Nama is listed as a distinct language from Khoe, yet it is a dialect of Khoe.

### *Language use in government*

#### National government

Section 6(3) of the Constitution requires the national government to use any two of the 11 official languages for purposes of government. Government must be guided by the "usage, practicality, expense, regional circumstances and the balance of the needs and preferences of the population as a whole or in the province concerned." The *Use of Official Languages Act* of 2012 directs the national government and its departments to go a step further by requiring them to develop language policies that require the use of at least three, not two, official languages. These policies must stipulate how official languages will be used for "effectively communicating with the public, official notices, government publications and inter-and-intra government communications" (section 4(1)). Departments must establish language units for each department, unit or public entity to, among other things, monitor and assess the use of official languages compliance with the language policy, and they must report annually to the minister responsible for language and PanSALB on implementation of the policy. However, the effectiveness of this legal framework is not clear, as in practice English is dominant.

All 11 official languages are used in legislation, but policy documents tend to be produced in English rather than in other languages, and national government departments tend to respond to the public in English, even if the incoming communication is in another language (Fessha 2016, 105). English is the lingua franca in government administration (all spheres of government), including in internal and external communications within government departments, although there is openness to the use of indigenous languages in informal communications with the public such as phone calls and queries at the front desk.

The National Assembly and the National Council of Provinces predominantly operate in English (Fessha 2016, 105). Although the rules of parliament allow members to express themselves in their preferred official language, in practice this is done by only a few, such as the Economic Freedom Fighters (EFF) in their transformational, pan-African stance.

The national government has also made some efforts to promote indigenous languages through language policies and by establishing the Pan-South African Language Board. However, there is no single, all-inclusive language policy. Rather, the national language policy framework enables the various actors to develop their own language policies. In the courts, for example, which are national, English is the primary working language; in the Department of Justice and Constitutional Development, English is supplemented by Sesotho, Afrikaans and isiZulu. All the regional offices use four languages, including English and Afrikaans (except those in Mpumalanga and Limpopo, which do not have a strong Afrikaans footprint) (DJCD 2019, paras 8 and 9). Accused persons in criminal matters have a right to be tried in a language they understand or to receive interpretation services (section 35(3)(k) of the Constitution). State-funded interpreters, where necessary, are generally available in criminal matters.

#### Provincial governments

Subnational governments have the power to promote the use and development of languages spoken within their territories. This power is constitutionally protected, as provinces are granted the autonomy to choose at least two of the 11 official languages as their official languages. The *PanSALB Act* of 1995 also enables provincial governments to adopt their own language policies, but they have been slow to do this (PanSALB Notice 120, 1997).

Fessha notes that "in South Africa, where the different ethnic groups are relatively geographically concentrated, the regional preference to language usage provides ample opportunity to promote regional languages and to facilitate the promotion of self-management of ethnic communities" (2009, 512). But in practice, English and Afrikaans are still predominantly used in government administration. This illustrates the advantage they have over the other official languages, contrary to the aims of section 6(2) of the Constitution, which enjoins government to take practical positive measures to elevate the status and advance the use of indigenous languages. Although it can be argued that provincial governments are empowered by the Constitution and the *PanSALB Act*, most provinces have largely failed to develop African languages through the instrumentation of provincial constitutions or provincial legislation.

Murray notes that only in KwaZulu-Natal and the Western Cape, the two provinces whose seats in parliament were for a long time held by national minority parties (the Democratic Alliance and the IFP), had constitutions dealing with provincial languages attempted (Murray 2001, 1). Only the Western Cape Province has a provincial language Act (*Western Cape Provincial Languages Act* of 1998), and a provincial Constitution, however, parts of its draft constitution did not pass constitutional muster as many provisions attempted to usurp the powers of national government. The project was initially abandoned, but after revisions the provincial constitution was accepted. KwaZulu Natal had a draft provincial constitution but abandoned it altogether when it failed to pass constitutional muster. Other provinces did not even attempt to create a constitution or provincial language legislation, which reflects a missed opportunity by provinces to promote the use of the recognized official provincial languages (Murray 2001, 1).

The Western Cape's Constitution of 1998 stipulates that the province's official languages are Afrikaans, English and isiXhosa, and they have equal status (section 5). It requires the Western Cape government to regulate and monitor the use of the three languages through legislative and other measures and to take practical and positive measures to "elevate the status and advance the use of those indigenous languages of the people of the Western Cape whose status and use have been historically diminished." This illustrates how regional language preferences can facilitate the usage and development of languages within linguistically concentrated territories. However, in practice, most provinces' documentation and websites are in English, and correspondence with government offices is typically in English. As Strydom notes in this regard, officializing a language is meaningless unless that language is used in all or most of the primary tasks of government – legislative, executive and judicial (Strydom 2002).

Section 14 of the failed KwaZulu Natal Draft Constitution (IFP 2005) recognized isiZulu, English and Afrikaans (listed in this order) as the official languages. This makes sense as isiZulu is the most widely spoken language in KwaZulu Natal Province, while English and Afrikaans could be said to have been an acknowledgement of a new united South Africa under the new constitutional dispensation. It also recognized several indigenous languages that are spoken in the province, and some foreign languages such as "German, Greek, Gujarati, Hindi, Portuguese, Tamil, Telegu, Urdu and other languages used by communities in the province; for instance, Arabic, Hebrew, Latin and Sanskrit." This is different from the Western Cape Constitution, which recognizes English, Afrikaans and isiXhosa as the official languages of the province and requires the provincial government to "take practical and positive measures to elevate the status and advance the use of those indigenous languages of the people of the Western Cape whose status and use have been historically diminished" (section 5(3) Constitution of the Western Cape Province). In practice, the people of the Western Cape largely speak three languages: 49.7 percent speak Afrikaans (across races), 20.2 percent speak English, and 24.7 percent speak isiXhosa

(see table 1). The next most spoken languages, Setswana and sign language, are spoken by only 0.4 percent of the province's population.

Most provinces (for example, Gauteng, Eastern Cape, Limpopo, KwaZulu Natal and the Western Cape) have chosen to use English, Afrikaans, and one or two African languages in government administration (Fessha 2009; Ayele and Ntliziywana 2015, 347). English and Afrikaans, therefore, appear to be base languages across the provinces. In some instances, provinces choose one of the African languages spoken by the majority of the provincial population; for example, in KwaZulu Natal isiZulu has been chosen. This might help to increase the use and development of isiZulu to the benefit of the majority of the population. However, it could also be a disadvantage to non-isiZulu speakers in KwaZulu Natal Province, who may feel pressure to assimilate to isiZulu at the expense of their own languages.

### Local government

Local governments, as the sphere closest to the people, ought to be most reflective of language use in their communities. Moreover, they have carte blanche to adopt any of the official languages listed in the Constitution. However, unlike the national and provincial governments, local governments are not obliged to use at least two official languages, they are only expected "to take into account the language usage and preferences of their residents" (Constitution, section 6(3)(b)). This is less onerous: taking something into account is not easily measurable. In municipalities where there is the political will to strengthen the use of indigenous languages, this provision is enabling.

In practice, all 257 municipalities operate in English as a base language, but some have made attempts to incorporate Afrikaans and indigenous languages in their communication with local communities and in the provision of basic services. However, those that have multiple ethnicities may struggle to select languages to use in council or in public communication and administration. For example, the underlying tensions between the dominant Tshivenda and the Tsonga communities in Thulamela local municipality led to calls for municipal demarcation by the Tsonga-speaking minority ethnic group to give them their own municipality. When this request was rejected by the Demarcation Board, it led to violent protests (Ayele and Ntliziywana 2015, 347-48).

There are also challenges with capacity, as many rural municipalities cannot attract and retain professionals to design, translate, interpret and/or edit documents, and the costs of multilingual administration are prohibitive (DPLG 2008, 21). Ayele and Ntliziywana (2015, 348) also note that the increasing role of municipalities (particularly metropolitan cities) in the global economy is strengthening the preference for and thus the dominance of English, at the expense of indigenous languages.

Municipalities engage daily with local communities, but not all community members are conversant or literate in English and/or Afrikaans. This often requires communications, especially at the front desk or telephone calls, to be conducted in any of the 11 official languages. However, written communication tends to be in English and Afrikaans. This is a missed opportunity for the advancement of indigenous languages in government administration and service delivery. Moreover, as municipal language policies are set by the municipalities autonomously, there may be vast differences in policies, depending on the needs of the particular municipality and the political environment in its council. It may be necessary for some municipalities to have more than one operational language, especially in areas where the local communities belong to diverse language groups. This may not apply in other areas; for example, municipalities in KwaZulu Natal Province, where the majority of the population speak isiZulu.



Some municipalities do have language policies. For example, that of the metropolitan city of Johannesburg, which is a cultural and linguistic melting pot, it requires internal communication to be in English and external communication to be in the language of preference of the external party, where possible. This has been facilitated by hiring multilingual staff (City of Johannesburg n.d.). Municipalities tend to be open to the use of indigenous languages in informal communication, as opposed to formal communication like emails and bills, which tend to be in English, although there is often an Afrikaans translation. In the draft language policy of Letsemeng Local Municipality in the Free State Sesotho, Afrikaans and English are chosen, in line with the provincial language policy. The municipality justifies the choice on the basis that Sesotho is the language used by the majority of the Free State's population (64 percent are mother-tongue speakers; this is followed by Afrikaans at 12 percent). But, in line with the national government's preference for English as the lingua franca, the municipality has chosen English for local usage, even though it is the first language ("first language" is the primary language used for educational instruction and daily life) for only 1.3 percent of the population in the municipality, instead of isiXhosa, which is first language for 9 percent of the municipality's population (Letsemeng Local Municipality n.d.). However, not all municipalities have language policies.

Orania, a town located along the Orange River in the Northern Cape in Thembelihle Local Municipality, is an interesting case. It is a small town, even what some might call a private club, and it uses only Afrikaans and operates in a way as to preserve the Afrikaans language and Afrikaner culture and identity (De Beer 2006, 110; Bostock 2018, 30). This arrangement seems to stem from the town's exercise of its right to self-determination, but its constitutionality in terms of language rights (and the right to equality) is questionable.

### *Language use in education*

Although the Constitution envisages parity of esteem for all the official languages, this has not been possible due to various factors, including practicability and cost. Moreover, English enjoys the status of lingua franca and is the preferred language for many, including a young generation – both those who have an African language and those who have Afrikaans as their mother tongue – which perceives it to be the language of economic opportunity in an increasingly connected global world. For the same reason, parents who do not have English as their mother tongue are increasingly placing their children in English instruction curricula. While this fulfils the right to choose the language of instruction (section 29 of the Constitution), it also undermines the efforts to promote the use of indigenous languages and Afrikaans, further entrenching English as the uncontested lingua franca. Kamwangamulu notes in this respect that "English has become the language of an increasing number of Black Africans" (Kamwangamulu 2007).

Primary and secondary education are a shared competence of the national and provincial governments (the national government typically sets policy, while provincial governments implement it), while tertiary education is a residual function of the national government (Constitution, schedule 4A). Provincial governments have the responsibility to employ and remunerate teachers in schools nationwide and to regulate schools, including the language of instruction and assessment. This means local government is not part of the equation when it comes to language policy for education.

### National government

The *National Education Policy Act* of 1996 stipulates that the national government is responsible for determining the national policy framework for language in education (section 3(4)) and empowers the minister responsible for education to set the framework. The national minister of education issued the

first Language in Education Policy (LiEP) in 1997, shortly after the coming into effect of the final constitution in 1996 and according to section 3(4)(m) of the *National Education Policy Act* of 1996. The LiEP framework recommends equal treatment and use of all the official languages, but implementation has been slow, and there is a growing interest in English acquisition and instruction in English among learners.

The policy framework advances additive multilingualism by requiring all learners to learn one language in first and second grade, and then to add a second official language from grades 3 to 12. It also requires schools, through their school governing bodies (SGBs), to promote multilingualism by using more than one language of learning and teaching or offering additional languages as subjects. This means, in practice, that Afrikaans and English speakers have an advantage from primary school up to tertiary education (when they are enrolled in an Afrikaans or English-medium school), because they can be taught in their mother tongue throughout their education, whereas indigenous language speakers are forced to choose either Afrikaans or English as their language of instruction from grade 3 up to university. Indigenous language speakers also have to surmount the stigma associated with their languages as a result of the Bantu Education policy under apartheid. In May 2022, the national minister responsible for basic education, Angie Motshekga, noted that over 80 percent of learners are taught in a language that is not their mother tongue, and that the ministry will therefore expand the list of second languages on the curriculum to include the Khoi, Nama, San and sign languages (Business Tech 2022). As many learners are failing to comprehend subject content due to lack of competence in the language of instruction, the ministry is running a pilot project teaching mother tongues to students beyond grade 3 in the Eastern Cape.

#### Provincial language use in education

Section 29(2) of the Constitution states that "everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable." The parents exercise this right on behalf of their minor children by enrolling them to be taught in their language of choice. As noted above, in practice, parents are increasingly choosing to have their children educated in English for better career prospects and participation in the global economy: 65 percent of all learners are taught all subjects in English, and the number of schools using English as a language of instruction increased from 2,921 to 4,342 between 1998 and 2007 (36 percent) (Ayele and Ntliziywana 2015, 208-9).

Although education is a shared competence between the national and provincial government, when it comes to school language policy, the role of the province is limited to establishing norms and standards, while school governing bodies (SGBs) are responsible for implementing the language policy. This puts more power in the hands of the parents and the community, who constitute the SGB and decide on the school's approach to language. The power of SGBs has been tested in several court cases.

In the *Mikro* case, the school governing body (SGB) of Mikro Primary School in the Western Cape adopted a language policy choosing Afrikaans as the sole language of instruction, under section 6(2) of the *South African Schools Act*. The Western Cape Education Management and Development Centre of the Department of Education tried to persuade the SGB to change its policy to accommodate English-medium learners, to no avail. In response, the Department of Education brought 40 English medium learners to the school on the first day of school to force the school to accommodate these learners, and the SGB obtained an urgent interdict against the department. On appeal, the Supreme Court of Appeal (SCA) found that section 29 of the Constitution, which gives the right to education in one's preferred official language, could not be interpreted to mean the right to be taught in the language of choice at

this specific school, and neither did it mean at every school in South Africa. It further stated that although primary and secondary education is a (concurrent) provincial competence under the Constitution, provincial powers on language policy are limited to setting norms and standards, and that the determination and adoption of school language policy is the responsibility of SGB (section 6(2) of the *South African Schools Act*, effectively trimming provincial powers. This gives communities and parents more power to determine the language of instruction for their children, and that power can be used to promote, or at least preserve, specific languages, in this case Afrikaans.

The difficulty comes when parents want their children to be taught in languages other than their mother tongue. For indigenous-language-speaking students, the language of instruction becomes English or Afrikaans in grade 3 and their mother tongue becomes a subject (Nowicki 2019), while English and Afrikaans speakers do not have to change their language of instruction. This could have disadvantages for those who do not speak Afrikaans or English, as they are required to continue their studies in a language that is not their mother tongue from the third grade. It may also have an impact on their ability to understand the content and ultimately to complete their studies.

In a similar case, in January 2006, Mpumalanga provincial government's education department tried to force Ermelo High school (Hoërskool Ermelo), an Afrikaans single-medium secondary school, to accommodate English medium learners, and the school refused. On 9 January 2007, the Department sent the school a written instruction to admit new grade 8 English-medium learners, and the following day, 71 learners and their parents showed up to enroll. The high school refused to enroll them for English-medium instruction. On 25 January, the head of department (HOD) summarily withdrew the rights of the SGB to determine the school's language policy, and appointed an interim committee, which implemented a new dual language policy of English and Afrikaans. The SGB challenged the withdrawal of its right to determine language policy before the Constitutional Court. The court held that while section 22 of the *South African Schools Act* does indeed empower the HOD to withdraw SGB functions, the HOD's reliance on section 22 was tainted by the decision to appoint an interim committee to change the language policy under section 25 of the Act and that the HOD had acted illegally. This decision means that, although section 25 of the *South African Schools Act* does enable the province to take away certain powers from the SGB, including the power to determine language policy, this power should not be abused.

We can conclude from this jurisprudence that there is a supportive legislative framework for this agenda allowing provinces to use two preferred official languages and local governments to choose the languages for government within their areas. In practice, however, the uptake has been slow, which undermines the usefulness of decentralization for the use and development of languages in South Africa. For example, the Khoe, San and Nama languages (also often grouped together as Khoisan) are on the verge of extinction, in spite of the decentralized approach to language use being provided for in the legislative framework. This could be because of the difficulty of providing mother tongue instruction in languages that have a very small number of speakers (e.g., due to the lack of teachers and teaching materials). In relation to education, it seems that while provinces have some powers, the real power to determine school language policy lies with school governing bodies, which are primarily composed of parents in the community. Further, there appears to be a tendency to prefer English as a language of instruction, as parents try to prepare their children for work opportunities in an increasingly connected world.

## Current Debates and Pressures for Change

### *Contestations and current issues*

Language in South Africa carries the weight of historic injustice, the complexities of identity politics and the hope of nation-building. This legacy has been the backdrop to the current contestations around language use, particularly first, the promotion of indigenous languages, and second, the protection of Afrikaans from diminution. These issues are intertwined, as the protection of one sometimes means reducing protection of the other (or leads to a perception to that effect).

On the promotion of indigenous languages, indigenous languages were undermined during apartheid and were robbed of the chance to develop their own scholarly and scientific texts. This makes it difficult to teach in these languages at higher or tertiary levels and renders their use in the workplace challenging. As Nelson Mandela noted in 1996, Afrikaans as a language of "scholarship and science" was being developed at the expense of indigenous languages. In recent times, this unequal advancement of Afrikaans has been called to question, riding on the tide of calls for Africanizing and decolonizing the curriculum. Africanizing speaks to locating educational content in an African context, and decolonizing speaks to removing markers and reminders of colonial subjugation in teaching and learning, for example, the removal of monuments honouring colonizers under the #RhodesMustFall Movement (Matebeni 2018).

On the protection of Afrikaans, the emergence of English as the lingua franca has contributed to Afrikaans's diminishing role in education and business. This has caused increasing concern for Afrikaans speakers, as more parents and children are choosing English over Afrikaans as a medium of instruction, and now so are universities. The movement to decolonize and Africanize the curriculum also challenges teaching in Afrikaans, first, because it is seen as a barrier to education for non-Afrikaans-speaking people, the majority of whom are black; and second, because it tends to lead to unequal access to government resources and unequal education for black South Africans. It is thus a race and inequality issue. The most recent calls for decolonization of the curriculum seem to be coming from ordinary community members (and particularly university students), sometimes taken up by political parties through protests and marches. To the extent that national government has competence over tertiary education, the onus is on universities to establish their own language policies. Some universities have made efforts to do so, but this has not gone uncontested. The following three cases illustrate how tertiary institutions have addressed some of these challenges through their policies, and the role of the courts in the advancement of official languages.

In *Afriforum and Another v University of the Free State (UFS)*, UFS changed its language policy from one using English and Afrikaans as equal languages of instruction to one using English as the sole language of instruction, arguing that its previous language policy had created racial division among English, predominantly black, learners, and Afrikaans, predominantly white, learners, who were being taught in separate classes. In a majority decision, the Constitutional Court found that the new policy was "reasonably practicable" in the broader context of transformation. However, Justice Froneman severely criticized the majority decision in his dissenting judgment, noting that leave to appeal ought to have been granted to enable the matter to be fully ventilated. This decision left many questions unanswered, making it difficult to ascertain what precedent this case would set.

Similarly, in the *Gelyke Kanse* case, the court considered whether the 2016 decision of the Senate and Council of the University of Stellenbosch decision to change its 2014 language policy infringed on the

rights of Afrikaans speakers by creating three language specifications: parallel-, dual-, and single-medium education on the basis that it deprived students of the opportunity to be taught in their mother tongue. In a unanimous decision of the Constitutional Court, Cameron J noted that the phrase "reasonably practicable" in section 29(2) of the Constitution involves factual and normative (constitutional) elements, and found that in its new policy the university had satisfied both elements. He stated that classes being taught in Afrikaans with English interpretation made black and non-Afrikaans speaking students feel "marginalized, excluded and stigmatised," and the motive for the change in policy was to facilitate equitable access for black and non-Afrikaans students. Further, he said, the university had followed a "thorough, exhaustive, inclusive and deliberative process" in preparing the new language policy. This is another case where the issues of equality and non-discrimination on the basis of race come through, illustrating that language policy in South Africa cannot easily be separated from past racial injustices.

In the University of South Africa (UNISA) case, the university adopted a new language policy in March 2016. The issue was whether the 2016 language policy passed Constitutional muster. Afriforum challenged the constitutionality of the 2016 policy, and the Supreme Court found in favour of Afriforum, ordering UNISA to re-introduce Afrikaans within six months. UNISA appealed to the Constitutional Court on the basis that it would be too costly to reintroduce all courses in Afrikaans and that the six-month timeframe was too short. The Constitutional Court dismissed the appeal and suspended the SCA decision until 2023, requiring UNISA to either bring its 2016 policy into compliance with section 29(2) of the Constitution or to adopt an entirely different language policy. The effect of this is that the SCA decision would no longer stand, except for the costs order. Nonetheless, this affords the university until the start of the 2023 academic year to reconsider its policy and to implement measures to re-introduce Afrikaans as a medium of instruction. However, one wonders what this decision would have meant for UNISA if the courts had ordered it to implement these provisions for at least one indigenous language?

In 2020 the government implemented the Language Policy Framework for Public Higher Education. This policy requires all public tertiary institutions to revise their language policies to ensure they reflect multilingualism and, in particular, to develop plans to promote the use of indigenous languages and increase their capacity for offering single-language instruction. They must report annually to the Ministry of Education, which will review the language policies and monitor their implementation. The aims of this framework are to "develop and strengthen indigenous languages as languages of scholarship, teaching and learning and communication at higher education institutions," as well as to enhance the status of previously marginalized languages.

The framework has been contested by the Democratic Alliance (DA), the opposition party that is mostly supported by Afrikaans-speaking people, the majority of whom are white or coloured. The DA appealed to the South African Human Rights Commission and UNESCO, on the basis that the new policy framework identifies Afrikaans as a foreign language not an indigenous language. However, this argument misses the point of the policy, which is to redress the injustice of decades of undermining indigenous languages (Schreiber 2021). Moreover, it can be argued that Afrikaans has evolved from Dutch and an amalgamation of other European languages (Portuguese, French, and German), as well as Malay and Arab languages, so it is not an indigenous language.

In another recent development, in response to a South African Human Rights Commission report on the protection and promotion of cultural and indigenous knowledge systems among the Khoisan (SAHRC 2019), PanSALB established the National Khoisan Council to promote Khoisan languages

and culture. In 2019 the South African government enacted the *Traditional and Khoisan Leadership Act of 2019*, which formally recognizes Khoisan traditional leaders under the Ministry of Cooperative Governance and Traditional Affairs.

Finally, in the Muku.com case, in which the employer Muku.com, a money-transfer company that primarily serves Zimbabwe and Malawi but also operates in South Africa, was accused of only employing Shona and ChiChewa-language speakers (languages of Zimbabwe and Malawi respectively), thereby discriminating against South Africans. The company argued that its employees need to be able to communicate with clients in their language and also to relate to them culturally. These arguments were rejected in the Labour Court, which held that the employment policy was discriminatory on the basis of language. This case may make it harder to justify using language quotas for government employees as a means of promoting the use of indigenous languages in public administration or basic service delivery, should this ever become a policy objective.

### *Challenges to language rights*

Having African language majorities in the provinces can encourage provincial efforts to promote and develop those languages. However, while Afrikaans interest groups such as Afriforum may have the resources to challenge the diminution of Afrikaans, there might not be the political will and resources to promote indigenous languages. Moreover, parents and learners increasingly prefer English instruction, for economic reasons. It is necessary to evaluate what gains have been made since 1996 in promoting indigenous languages, and to find an approach that would allow Afrikaans and indigenous languages to co-exist with English, in a globally interconnected world.

Funding is necessary for language reforms in education, government, and language development. However, the current "hourglass model" (Steytler 2017)<sup>6</sup> leaves provinces with little revenue-raising capacity and heavy reliance on national transfers. It is therefore difficult for provinces to implement regional language reforms without additional national transfers.

### **Potential Reforms and Improvements**

It can be argued that Afrikaans has been undergoing a process of slow social and economic decline, which is probably irreversible. In contrast, the promotion of indigenous languages has strong potential for growth as politics becomes more Africanist. Provinces and municipalities could assist in strengthening indigenous languages, but it must be an intentional effort. Examples of possible policies include requiring provinces and municipalities to introduce measures to establish a level of competence and providing language training in majority languages in order to encourage their use in government, funding for general language development and translations of written materials and service delivery in primary and secondary schools. The symbolic recognition of unlisted indigenous languages is also a useful reminder that these languages are important and need to be developed.

### **Conclusion**

The Constitution of South Africa recognizes 11 official languages. It promotes multilingualism by enabling national and provincial governments to adopt at least two official languages for use in government; local governments can consider the language usage and preferences of residents when

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<sup>6</sup> This model refers to the shrinking of provincial powers in favour of national and local government (Steytler 2017, 328-66).

choosing language(s) for government. It also empowers individuals to be educated in their preferred official language subject to practicability and other considerations.

Provincial and local governments in South Africa have a good opportunity to develop differentiated and nuanced language policies. However, despite the presence of legislation and supporting policy framework, in practice, national and provincial governments tend to use English and Afrikaans, and in a few cases one language that is spoken by the majority of the population in the province, such as isiXhosa in the Eastern Cape and isiZulu in KwaZulu Natal. Moreover, in government, most interdepartmental communication is in English, as is formal written communication with the public. Indigenous languages are mostly used only for informal communication and telephone enquiries. However, language use is not as strongly contested in government as it is in education.

Although the national and provincial governments share competence in education, the provinces have not taken a strong role in determining language policy in schools. National government sets national language policy, while school governing bodies adopt the language policies in their schools. Provincial governments are thus left with the menial task of establishing guides and standards but have no real power, because their standards must align with national policy. Further, tertiary education, which is the area where there is most language contestation, is a residual power of the national government. It is therefore responsible for setting the policy framework, but even there, individual tertiary institutions have to adopt their own language policies.

In this paper, I conclude that the use of language in education is indeed an area of conflict. In this regard, provinces do not seem to have the power to influence the uptake of African languages. As seen in the *Mikro* and *Ermelo* cases, school governing bodies seem to carry more power than provinces as they have the legal duty to adopt a language policy, which means they also determine the language or languages of instruction.

Moreover, there is evidence that through their language policies universities have been championing the promotion of indigenous languages, as tertiary education is a national government function. The new language policy framework for public higher education may be a useful tool for the advancement of indigenous languages, while the courts appear to be protecting both indigenous languages and Afrikaans. However, all the cases brought against tertiary institutions have highlighted the centrality of the right to equality and non-discrimination.

English has not been a cause of much tension, although the introduction of English and Afrikaans as the sole languages of instruction from third grade has made it difficult for non-English and non-Afrikaans learners (mostly black students who speak indigenous languages) to adjust. Some have dropped out of school as a result. Those who continue to tertiary education also tend to struggle. Afrikaans and English learners, in contrast, can continue with instruction in their mother tongue throughout primary and secondary education, and in some instances tertiary education, which gives them an advantage. Here the courts have played an important role in interpreting constitutional provisions. Through transformative constitutionalism, the language rights of both Afrikaans- and indigenous-language speakers can be protected. However, the absence of a majority language nationally and the importance of English in the global context are perpetuating the influence of English as the lingua franca in South Africa.

In the event of more ethnic mobilization, and depending on the evolution of Africanist politics, more calls for the protection of indigenous languages can be expected. However, it is likely that there will be

more litigation for the protection of Afrikaans than for indigenous languages. Afrikaner interests are funded by Afrikaners, who historically own more resources than blacks and have a strong desire to protect Afrikanerness as a language and an identity. Further research should examine how ethnic mobilization (and thus linguistic mobilization) is discouraged, and whether a balance can be struck between protecting Afrikaans as a medium of instruction and promoting indigenous languages for use in public life.



## References

### Legislative instruments

*Bantu Education Act*, 1953.

*Bantu-Self-Government Act*, 1959.

*Constitution of the Republic of South Africa*, 1996.

IFP Provisional/Draft Constitution of KwaZulu Natal. [https://www.ifp.org.za/wp-content/uploads/2005/kzn\\_constitution.pdf](https://www.ifp.org.za/wp-content/uploads/2005/kzn_constitution.pdf)

*South African Schools Act 84 of 1996*.

*Union of South Africa Act*, 1909.

*Interim Constitution of South Africa Act 200*, 1993.

Pan-South African Language Board Notice 120, *Government Gazette*, 1997.

### Internet sources

Business Tech. 2022. "4 New Language Options Coming to Schools in South Africa." *Business Tech* 26, May. <https://businesstech.co.za/news/government/590494/4-new-language-options-coming-to-schools-in-south-africa/>

City of Johannesburg. n.d. "Language Policy for the Metropolitan Municipality of Johannesburg." <https://www.joburg.org.za/Documents/2021%20Notices/June/City%20of%20Johannesburg%20Language%20Policy.pdf>

Letsemeng Local Municipality "Language Policy Draft." <https://www.ufs.ac.za/docs/librariesprovider20/unit-for-language-facilitation-and-empowerment-documents/all-documents/letsemeng-language-policy-671-eng.pdf?sfvrsn=0>

Mandela, Nelson. 1996. "Address by President Nelson Mandela on the Occasion of His Acceptance of an Honorary Doctorate of the University of Stellenbosch," 25 October. [http://www.mandela.gov.za/mandela\\_speeches/1996/961025\\_stellenbosch.htm](http://www.mandela.gov.za/mandela_speeches/1996/961025_stellenbosch.htm)

South African Human Rights Commission. 2019. "South African Government Will Engage with National Khoisan Council." <https://www.sahrc.org.za/index.php/sahrc-media/news/item/1721-south-african-government-will-engage-with-national-khoisan-council>

Statistics South Africa. 2011. *Census in Brief*. Report no. 03-01-41. [https://www.statssa.gov.za/census/census\\_2011/census\\_products/Census\\_2011\\_Census\\_in\\_brief.pdf](https://www.statssa.gov.za/census/census_2011/census_products/Census_2011_Census_in_brief.pdf)

Strydom, H.A. 2002 *International Standards for the Protection of Minorities and the South African Constitution*.

Matebeni, Zethu. 2018. "#RhodesMustFall- It was never just about the statue." <https://za.boell.org/en/2018/02/19/rhodesmustfall-it-was-never-just-about-statue>

Case law

*AfriForum and Another v University of the Free State (UFS (CCT101/17) [2017] ZACC 48 (29 December 2017).*

*Chairperson of the Council of University of South Africa v AfriForum NPC [2021] ZACC 32, para 26.*

*Gelyke Kanse v Chairperson, Senate of the University of Stellenbosch 2019 (12) BCLR 1479 (CC) (heard on 8 August 2019, Judgment 10 August 2019).*

*Hoërskool Ermelo and Another v Head of Department of Education: Mpumalanga and Others (219/2008) [2009] ZASCA 22; 2009 (3) SA 422 (SCA) ; [2009] 3 All SA 386 (SCA) (27 March 2009).*

*Mukuru Financial Services (Pty) Ltd and Another v Department of Employment and Labour (17474/20) [2022] ZAWCHC 14; (2022) 43 ILJ 1171 WCC (18 February 2022).*

*Western Cape Minister of Education v The Governing Body of Mikro Primary School 2005 10 BCLR 973 (SCA).*

Books and journal articles

Ayele, Zemelak, and Phindile Ntliziywana. 2015. "Inclusion of Marginalised Groups Through Decentralisation," in *Kenyan-South African Dialogue on Devolution*, edited by Nico Steytler and Yash Pal Ghai. Cape Town: Juta. 342-64.

Brezinger, Mattias. 2017. "Eleven Official Languages and More: Legislation and Language Policies in South Africa." *Journal of Language and Law* 67 (38-54).

Bostock, William W. 2018. "South Africa's Evolving Language Policy: Educational Implications." *Journal of Curriculum and Teaching* 7 (2): 27-30.

Brand Dirk. 1997. "Constitutional language rights in Canada and South Africa." *Tydskrif vir die Suid-Afrikaanse*, 689-99. <https://collections.concourt.org.za/handle/20.500.12144/28464>

Charamba, Erasmus, and Sibhekinkosi Anna Nkomo. 2008. "Rethinking Education: Supporting Students through Multilingual e-learning Pedagogy," in *Handbook of Research and Multicultural Perspectives on Higher Education and Implications for Teaching*, edited by Sviatlana Karpava. Taylor & Francis Ltd. 279-295.

De Beer F.C 'Exercise in futility, or dawn of Afrikaner self-determination: An exploratory ethno-historical investigation of Orania' (2007) Vol 1 *Ethnoculture* pp. 45-58)

Department of Justice and Constitutional Development. 2019. *Policy on the Use of Official Languages in the Department of Justice and Constitutional Development*, Government Gazette No. 42422, 26 April.

Department of Provincial and Local Government (DPLG). 2008. *Guidelines for Implementing Multilingualism in Local Government: 2008-2011*.

Eriksson, Katherine. 2014. "Does the Language of Instruction in Primary School Affect Later Labour Market Outcomes? Evidence from South Africa." (2) *Economic History of Developing Regions* 29: 1-25.

Fessha, Yonatan. 2009. "A Tale of Two Federations: Comparing Language Rights in South Africa and Ethiopia." *African Human Rights Law Journal* 9 (2) 501-23.

\_\_\_\_\_. 2016. *Ethnic Diversity and Federalism: Constitution Building in South Africa and Ethiopia*. Ashgate: Routledge.

- Gilliomee, Herman. 2004. "The Rise and Possible Demise of Afrikaans as Public Language." *Nationalism and Ethnic Politics* 10 (1) 25-58.
- Hendricks, F. 2012. "The Potential Advantage of an Egalitarian View of the Varieties of Afrikaans," in *Mainstreaming Afrikaans Regional Varieties*, edited by Kwesi Kwah Prah. Centre for Advanced Studies of African Society.
- Hunt, John. 1990. "Arrival of the Dutch at the Cape," in *Dutch South Africa: Early Settlers at the Cape 1652-1708*, edited by Heather- Ann Campbell. Wiltshire, UK: Troubadour Publishing Ltd, Leicester and Cromwell Press.
- Mazrui, Ali A. 1988. *De Afrikanen: De drievoudige erfenis*. Rostrum.
- Kamwangamalu, Nkonko M. 2007. "One language, multi-layered identities: English in a Society in Transition, South Africa" *World Englishes* 26 (3) 263-275.
- Murray, Christina. 2001. "Provincial Constitution-Making in South Africa: The (Non)Example of the Western Cape." *Neue Folge Band Jahrbuch des öffentlichen Rechts* 49 (481-512).
- Nowicki, Lucas. 2019. "Sudden Switch to English Leaves African-Language Learners at Sixes and Sevens." <https://www.dailymaverick.co.za/article/2019-10-08-sudden-switch-to-english-leaves-african-language-learners-at-sixes-and-sevens/>
- Schreiber, Leon. 2021. "DA Files HRC Complaint Against Blade Nzimande for Classifying Afrikaans as a 'Foreign' Language." <https://www.da.org.za/2021/09/da-files-hrc-complaint-against-blade-nzimande-for-classifying-afrikaans-as-a-foreign-language>
- Steytler, Nico. Forthcoming. "The Evasive Search for a Constitutional Identity: A Century of South African Constitutions," in *Constitutions and Constitutional Identity in Africa*, edited by C Fombad and N Steytler.
- \_\_\_\_\_. 2017. "The Constitutional Court of South Africa: Reinforcing an Hourglass System of Multi-Level Government," in *Courts in Federal Countries: Federalists or Unitarists?* edited by Nicholas Aroney and John Kincaid. 328-366. Cape Town: Juta.
- \_\_\_\_\_. 2019. "The Withering Away of Politically Salient Territorial Cleavages in South Africa and the Emergence of the Watermark Ethnic Federalism," in *Territory and Power in Constitutional Transitions*, edited by George Anderson and Sujit Choudhry. Oxford: Oxford University Press.
- Strydom, H.A. 1997. "Minority Rights Issues in Post-Apartheid South Africa." *Los Angeles International and Comparative Law Journal* 19 (873-914).
- \_\_\_\_\_. 2002. *International Standards for the Protection of Minorities and the South African Constitution*. Cape Town: FW De Klerk Foundation, 2002.
- Van Heerden, A. 2016. "Afrikaaps: A Celebratory Protest Against the Racialised Hegemony of 'Pure' Afrikaans." Master's thesis, Stellenbosch University.
- Wilmot, A. 1869. *History of the Colony of the Cape of Good Hope*. Cape Town: Juta; London: Longmans; Green, Reader, and Dyer.

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