



THE USE OF OFFICIAL LANGUAGES BY ORGANS OF STATE

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- Gauteng Department of Sports, Arts, Culture and Recreation
- Western Cape Department of Cultural Affairs and Sport
- Free State Department of Sports, Arts, Culture and Recreation
- Limpopo Department of Sports, Arts and Culture
- North West Department of Sports, Arts and Culture
- Eastern Cape Department of Sports, Arts, Culture and Recreation
- Northern Cape Department of Arts and Culture
- Mpumalanga Department of Culture, Sports and Recreation
- Kwazulu Natal Department of Arts and Culture
- Department of Basic Education
- Department of Higher Education and Training
- South African Police Service (SAPS)
- Department of Public Service and Administration
- National Department of Health
- Department of Justice

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1.INTRODUCTION

Following the historic events of 1994 many South Africans had high hopes that the new democratic government would be embracing to everyone in practicing their rights including their cultural and linguistic rights. This is after the Constitution of the Republic of South Africa 1996, recognised eleven official languages on an equal footing. Section 6(1) of the Constitution says that official languages of the Republic are Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa, and isiZulu. To ensure that this equal treatment of official languages is implemented, the government passed into law the Use of Official Language Act, no. 12 of 2012 which provides for the regulation and monitoring of the use of all official languages by organs of state.

However, it has been twenty-nine years since South Africa became a democratic country, but still the eleven official languages are still not treated equally. A great deal of evidence has accumulated over the years pointing to the neglect, ongoing unequal treatment, and marginalisation of some official languages of the communities. As a result of this exclusion and marginalisation, some in our communities continue to question whether equal use, multilingualism and social cohesion can be realised in this country.

This report reflects the presentations made by various organs or state in respect of how and to what extent South Africa has fostered and complied with the right of communities to use their respective languages. The scope of presentations was narrowed to the use of official languages as found in section 6 (1) of the Constitution of the Republic of South Africa, 1996.

2.BACKGROUND OF THE HEARINGS

The South African Constitution, the Constitution of the Republic of South Africa, 1996 Act 108 of 1996 dedicates section 6 to the recognition of official language. Section 2, 3(a) 5 (a) (i) and ii, emphasises the role language has to play in nation-building and social-cohesion. As a result of these constitutional imperatives, two instances have been established to ensure that languages are given the attention they deserve,

namely the PanSALB and the commission for the promotion and the protection of the rights of culture, religious and linguistic communities.

Section 185 (2) of the constitution of the Republic of South Africa, 1996 amplifies the crucial roles and powers of CRL Rights Commission as follows; the commission has the power as regulated by national legislation, necessary to achieve its primary objects, including the power to monitor, investigate, research, educate, lobby, advice and report on issues concerning the rights of cultural, religious, and linguistic communities. In line with fulfilment of its constitutional mandate, the CRL Rights Commission, after receipt of complaints from various linguistic communities about what they perceive as the undermining and non-usage of their language in official correspondence or communication, undertook to invite organs of state to a hearing.

The CRL Rights Commission in an effort to rectify the alleged anomaly, resolved to invite identified government departments at both national and provincial levels to a hearing on this vexing matter of official language usage.

3. MANDATE OF THE CRL RIGHTS COMMISSION

The CRL Rights Commission is a constitutional institution established in terms of Section 181 (1) (c) of the Constitution of the Republic of South Africa, 1996 to strengthen the constitutional democracy. This Commission was established to protect and promote the rights of cultural, religious, and linguistic communities, with a mandate that is achievable through an initiative-taking and reactive approach. In terms of Section 185 (1), the CRL Rights Commission must amongst others:

- Promote respect for the rights of cultural, religious, and linguistic communities.
- Promote and develop peace, friendship, humanity, tolerance, and national unity among cultural, religious, and linguistic communities based on equality, non-discrimination, and free association; and
- Recommend the establishment or recognition, in accordance with national legislation, of a cultural or other council or councils for a community or communities in South Africa.

Given South Africa's multilingualism, it is critical to step up efforts to protect and promote the use of all official languages in daily interactions with the community. South Africa's linguistic diversity and the challenges of constitutional multilingualism have been addressed by state organs. Nonetheless, there appears to be a recurring level of reluctance on the part of certain state organs to recognize some African languages as official provincial languages.

4.LEGISLATIVE MANDATE

Section 6(1) of the Constitution of the Republic of South Africa states that eleven official languages of the Republic as English, Afrikaans, isiXhosa, isiZulu, Sesotho, isiNdebele; isiSwati; Sepedi, Xitsonga, Tshivenda, and Setswana. Section 6 (2) of the Constitution further obliges the state to take practical and positive measures to elevate the status and advance the use of indigenous languages. Again, Section 6 (3) (a) provides that the national government and each of the provincial governments may use any official languages for the purposes of governments, provided that at least two official languages must be used. The section 6(4) obliges the National Government and the Provincial Governments to regulate and monitor their use of official languages by legislative and other measures. Section 6 (5) requires the establishment of a Pan South African Language Board through national legislation to promote and create conditions for the development and use of official languages and promote and ensure respect for defined languages.

4.1. The Use of Official Languages Act No 12 of 2012

Section 2 of this Act stipulates that the act aims to:

- (a) regulate and monitor the use of official languages for government purposes by national government.
- (b) promote parity of esteem and equitable treatment of official languages of the Republic.
- (c) facilitate equitable access to services and information of national government.

(d) promote good language management by national government for efficient public service administration and to meet the needs of the public.

Section 3(1) further states that this act applies to:

- (a) national departments.
- (b) national public entities; and
- (c) national public enterprises.

Again section 3(2) states that this Act takes precedence over any inconsistent provision of any other law on the use of official languages by national government.

4.2. Language Policy

Section 4(1) of the Language Act states that every national department, national public entity, and national public enterprise must adopt a language policy regarding its use of official languages for government purposes within 18 months of the commencement of the use of Official Languages Act (Act No 12 of 2012) or such further period as the Minister may prescribe, provided that such prescribed period may not exceed six months.

Section 4(2) further states that a language policy adopted in terms of subsection (1) must:

- (a) comply with the provisions of section 6(3)(a) of the Constitution.
- (b) identify at least three official languages that the national department, national public entity, or national public enterprise will use for government purposes.
- (c) stipulate how official languages will be used, amongst other things, in effectively communicating with the public, official notices, government publications and inter- and intra-government communications.
- (d) describe how the national department, national public entity or national public enterprise will effectively communicate with members of the public whose language of choice is:
 - (i) not an official language contemplated in paragraph (b); or
 - (ii) South African sign language.

- (e) describe how members of the public can access the language policy. (f) provide a complaints mechanism to enable members of the public to lodge complaints regarding the use of official languages by a national department, national public entity, or national public enterprise.
- (g) provide for any other matter that the Minister may prescribe; and
- (h) be published in the Gazette as soon as reasonably practicable, but within ninety days of its adoption.
- (3) In identifying at least three official languages as contemplated in subsection (2)(b), every national department, national public entity and national public enterprise must consider its obligation to take practical and positive measures to elevate the status and advance the use of indigenous languages of historically diminished use and status in accordance with section 6(2) of the Constitution.
- (4) Every national department, national public entity and national public enterprise must:
- (a) ensure that a copy of its language policy is available on request to members of the public at all its offices; and
- (b) display at all its offices a summary of its language policy in such manner and place that it can be read by the public.

5.THE OBJECTIVES OF THE HEARINGS

. The purpose of the hearings was:

- To investigate the use and status of the indigenous languages by government departments.
- To hear about the positive measures that departments are employing to elevate the status and advance the use of these languages.
- To assess the strategic plan the organ of state has put in place to regulate and monitor the use of the official languages in their respective units.
- To assess the efforts organ of state, make in elevating and promoting official languages to become languages of record, teaching, research, science, technology, and commerce.

6. A SAMPLE OF ORGANS OF STATE CONSULTED

The following organs of state were invited to make their presentations to the CRL Rights Commission about the use and status of official languages in their offices:

- 6.1. National Department of Sports, Arts and Culture
- 6.2. Gauteng Department of Sports, Arts, Culture and Recreation
- 6.3. Western Cape Department of Cultural Affairs and Sport
- 6.4. Free State Department of Sports, Arts, Culture and Recreation
- 6.5. Limpopo Department of Sports, Arts and Culture
- 6.6. Northwest Department of Sports, Arts and Culture
- 6.7. Mpumalanga Department of Sports, Arts and Culture
- 6.8. National Department of Education
- 6.9. National Department of Higher Education and Training
- 6.10. National Department of Justice and Constitutional Development
- 6.11. National Department of Public Service and Administration
- 6.12. National Department of Health
- 6.13. South African Police Services
- 6.14 Northern Cape Department of Arts and Culture
- 6.15 Mpumalanga Department of Culture, Sports and Recreation
- 6.16 Eastern Cape Department of Arts and Culture

7. THE IMPORTANCE OF THE STUDY ON THE CITIZENRY OF SOUTH AFRICA

The hearings aimed to assess as to how far organs of state and other stakeholders have progressed in the use of the officially recognised languages, since 1994, as provided for in Section 6 (1) to (4) of the Constitution. In addition, the hearings aimed to demonstrate the practical response of organs of state of the requirements as outlined in the Constitution for them to develop and implement policies, strategies, and plans for the use of the official languages. The report seeks to address South Africa's unequal language treatment and keep track of policies, strategies, and plans aimed at encouraging the equitable use of all official languages in their day-to-day interactions with the community. Again, the report seeks to address issue of unequal language treatment in South Africa as well as monitoring initiatives, programs, and initiatives implemented by organs of state, that strive to ensure that all official languages are equally used in their day-to-day interactions with the communities.

8. LIMITATIONS

A few constraints were experienced during the hearings, which constituted important limitations to this study and could affect the potential richness of some of the findings. Below is a list of several limitations that were encountered during the period of the hearings.

- The first constraint was that not all the organs of state who were invited attended the hearings.
- Secondly, the hearings were focused on organs of state only, the private sector was not invited.
- Thirdly, the Covid-19 pandemic in South Africa and the national lockdown had a negative impact on the study.
- The CRL Rights Commission mainly relied on the information shared with it by the organs of state. In addition, the section 7 team impression was that there was either limited access to, or a lack of official testing of information on, reports, activities, or processes of the implementations shared with the Commission.

9. PROCEEDINGS

The CRL Rights Commission conducted the hearings as per the rules of procedure promulgated in terms of section 5(1) and 7 of the CRL Act, 2002. The CRL Rights Commission sent out some questions to be addressed on, together with the letter of invite to some organs of state. The hearings were held at the CRL Rights Commission Offices from the 19 to 21 November 2021. The representatives from the organs of state were all invited to attend and bring with them some evidence of the work done. And before each presentation, each presenter took an oath administered by a commissioner. After their presentation, the department was subjected to questioning by a team of the section 7 committee members. A team of commissioners was led by the Chairperson of the CRL Rights Commission.

10. PRESENTATIONS BY ORGANS OF STATE

Many years after democracy, despite the legislative mandate, many South African official languages still find themselves less developed and not equitably used.

10.1. The Policies on the Use and Status of the Official Languages

In as far this question of policies on the use and status of the official languages, most organs of state that appeared before the Commission did indicate that they all do have language policies and they are busy implementing them. The Commission realised that policies of these organs of state are equipped with an implementation plan on how they communicate, use, and elevate the status of the 11 official languages including Sign language. These policies, however, are implemented with varying levels of success. A common example found was that an organ of state might have adopted English, Setswana, and isiXhosa as its official languages but for everyday usage it continues to operate in English as its dominant language.

10.2. Positive measures, the departments are employing to elevate the status and advance the official languages.

Below is what several departments are doing.

10.2.1 The Department of Sports, Arts and Culture :Gauteng

The Gauteng Department of Arts, Culture and Recreation has developed the Gauteng Languages Act in 2016. The departments argues that this is in line with constitutional requirement which recognises the diminished historical use of indigenous languages. The department also stated that they provide language internships programmes to student language practitioners every two years.

Gauteng is proactive in collaborating with other departments such as Department of Education and Correctional Service, where they encourage people to write in their indigenous. In addition, multilingual debates are held on an annual basis aimed at promoting indigenous, thus fostering social cohesion, and enticing people to learn other languages which may not their home language.

National days such Human Rights, Freedom Day, Youth Day as well as Heritage Day are used to promote cultural activities and use of indigenous language to firm social cohesion in a diverse community make-up.

The Department encourages all its staff to attend training on Sign language. In an effort to ensure of usage of official language, the Department has embarked on an ongoing collaboration with libraries, archives, and the national library for the blind and also facilities sign language training as well as braille. The Departments maintain that it encourages the use of all eleven official languages. Besides advertising for job opportunities in isiZulu, Sepedi as well as Xitsonga and Tshivenda, they also use various media platforms to promote indigenous languages. An impact assessment on the use of official languages is done on an annual basis so as to improve the use of official and indigenous languages.

Gauteng's MEC for Sports, Arts, Culture and Recreation has also established an Intergovernmental Language Forum, with representatives from all government departments. It meets quarterly to discuss language matters in the province and to

encourage municipalities and provincial to instil the fact that all citizens have a right to communicate and request service provision in their languages.

10.2.2 Department of Cultural Affairs and Sport: Western Cape

The Western Cape bases its languages usage on the UNESCO guide lines and views language as a heritage which could be used to promote tourism. In addition, the Western Cape applies its provincial Constitution as a basis for language practice, which is supplemented by the Western Cape Language Act. The government acknowledges the three provincial official language, namely, Afrikaans, isiXhosa, and English. There also have language practitioners of all the three provincial official languages and has a strong focus on Sign language to and San and Khoi languages. The language practitioners translate all the documents from English into Afrikaans and isiXhosa. In the first and second terms of 2019/20 financial year, the department translated 166 internal and other departments documents.

The department has developed and printed a Nama booklet which has now been translated into Afrikaans, English, and isiXhosa, and distributed to schools, to libraries and all departmental stakeholders. There is a good cooperation with all the language stakeholders, including Deaf SA.

The official languages used in the Western Cape have boasted by collaboration efforts struck with the University of Cape Town, who assist in developing indigenous languages as well as the official languages. The Western Cape province has made effort of promoting Sesotho since is also more spoken in the province, through one of their initiations programs called "My initiation". In promoting the use sign language, the province has printed sign languages booklets and have also distributed to libraries and schools. They also have expanded the Public Works program (WPWP) where they have trained their EPWP with the assistance of the University in interpretation and sign language.

The departments also pointed out that they have collaborations with PanSALB in some of the language projects being propagated by the Western Cape Department. The western Cape government have a Provincial Language Forum that meets quarterly,

and all the language practitioners in the province are part of the forum. And the purpose of that Forum is to strengthen their language skills.

10.2.3 Departments Arts, Culture and Recreation: Free State

The Free State Province has passed its official languages Act in 2017 as a follow up to the passage of National languages Act of 2012 by the National Parliament. As per the prescripts of the Free State it indicates that the province must at least identify three languages as designated and that the language policy must be enforced by the MEC. As a result, they adopted two official languages which are Sesotho and Afrikaans, for communication and language use purposes in its interaction with the public and other interested parties. The Free state province also have sign language interpreters appointed in various departments and collaborated with The Free state province also the South African Library for the Blind (SALB), to accommodate the visually impaired users and equip libraries to handle sign languages.

During the 2018/2019 financial year, the Free State provincial government translated pamphlets and information documents from English into Sesotho. These clarified terminology on health, oral hygiene, mining, sport science, agriculture, and general climate.

The province holds an annual cultural festival called Mangaung African Cultural Festival (MACUFE) and during the MACUFE they have a programme which is the literature festival. In this festival they have a program called the Free State Readers Forum. The province identifies a promising young language talent to be adopted and nurtured and it is used to promote the Sesotho literature, through short stories, poems, and novels. In trying to promote the use of language in schools as prescribed, the departments of Arts, Culture and works together with the Department of Education and hosts provincial spelling bee competition as efforts for learners to understand and interpret and spell out some terminologies.

10.2.4 Departments of Arts, Culture and Recreation: Limpopo

According to the department, campaigns on usage of indigenous language are facilitated during public participation processes, imbizos and other stakeholders activities and in these engagements, participants are encouraged to use indigenous language to best express themselves. The vexing challenge is that of isiNdebele language, there is a need for it to be standardised. Whether the process of standardisation of language is being undertaken, clarity was not forthcoming from the presentation. Given the enormity of the challenge, PanSALB assistance has been requested to assist. At the time of the presentation, it was made clear that PanSALB had not yet responded to the request.

It would appear that indigenous languages in the province are not being promoted to attain standards which Afrikaans language has attained and continue to enjoy. Except for collaboration with the Department of Correctional Services on the Funda Mzansi Indigenous language competitions

Limpopo has introduced reading clubs in Sepedi, Xitsonga and Tshivenda languages which are popularised during the Marula Kuluma Vukanyi festival. Kuluma Vukanyi is the tasting of the fruit, marula. During the festival, young people are encouraged to debate and read in Sepedi, Xitsonga, and Tshivenda languages.

The department runs literary competition on different genres wherein communities are encouraged to write poetry in their own languages.

10.2.5 Departments of Arts, Culture and Recreation: North West .

The Northwest Province reports that the Bokone Bophirima Publishing House assists the youth and community members with the editing and publishing of the manuscripts. They also promote Setswana, Afrikaans, English, Sesotho, and isiXhosa languages, in line with the National Language Policy.

The department also hold language seminars like on Setso mo Puong ya Setswana.

It is during these seminars' that language experts, lecturers, writers, youth, and the senior citizens are invited to make presentations on burning issues affecting the language such as protection and preservation of language.

The province holds writers' workshops that target the unemployed youth in the believe that this help stimulates the youth's creativity, thinking, abilities and nurtures future writers. The province has also found that the sign language workshops are popular with the youth.

10.2.7 Mpumalanga Department of Culture, Sport and Recreation

The department launched a trilingual economics terminology list. The seriousness in which the provincial government sought to fulfil its language mandate is enshrined in the preface to the pamphlet is states in its preface:

The Mpumalanga Provincial Languages Act 2014 encourages public servants to provide service to clients in their own language, it also encourages people to use their own languages and learn other languages (multilingualism). Terminology development is one of the vehicles through which the implementation of the Act will be facilitated.

The project is also in line with the Department's mandate of promoting multilingualism and developing the previously marginalised languages. This project entails developing field specific terminology lists in the designated indigenous languages of the province (isiNdebele and Siswati).

The list of terminologies is in Siswati and isiNdebele and cover the fields of economics, agriculture, and conservation. The Mpumalanga Province has also given grants to Mpumalanga Writers Association to support all writers' guilds in the province for all the languages in the province. It further gives financial supports to the SiSwati Lexicography Unit, a structure of PanSALB, to assist Mpumalanga with the writing of Siswati and IsiNdebele dictionaries.

10.3. Measures Put in Place to Regulate and Monitor the Use of the Official Languages by Respective Organs of State.

10.3.1. National Department of Sport, Arts and Culture

The National Department has adopted all the official languages in South Africa, and this makes it easy for them to accommodate people who may want to be interviewed in their own mother tongue. However, until now they have not received any complaint about people wanting to be interviewed in their own mother tongue.

10.3.2 Western Cape

Section 5.1 of the Western Cape Languages Act 1 of 1998 recognises three official languages in the province as Afrikaans, English, and isiXhosa and that all three languages must receive equal status. Section 5 further refers to the monitoring and elevation of the status of other indigenous languages of the people of the Western Cape, whose status and use, had been historically diminished.

The department monitor the implementation of the Western Cape Language Policy, by conducting surveys every year under the guidance of the Western Cape Language Committee.

10.3.3 North West

The Northwest Provincial Languages Act of 2015 was enacted to determine the official languages of the province, regulate the use of provincial languages by all organs of state and promote equitable treatment of all official languages in the province. The Northwest Languages Amendment Act of 2017 promotes and creates the condition for the use of all 11 official languages including the South African Sign Language, the Khoi, the Nama, and the San languages.

10.3.4 Department of Basic Education

Section 29 (2) of the Bill of Rights points to the fact that everyone has the right to receive education in the official language or languages of their choice. The department has National Education Policy Act of 1996 which seeks, amongst other things, to give effect to what the Constitution provides for in respect of the official languages. Section 6(1) of the South African Schools Act mandates the Minister to determine the norms

and standards for language policies in consultation with the Council of Education Ministers. Again, Section 6(2) gives the governing bodies of public schools the authority to determine the language policy of the school, subject to the Constitution. Section 6(3) makes it very clear that no form of racial discrimination may be practiced in the implementation of a policy determined under this section.

An added framework for language in education can be found in the Language in Education Policy (LiEP). Four points in its far-ranging preamble encapsulate what is contained in the whole document.

1. In terms of the *Constitution of the Republic of South Africa*, the government, and thus the Department of Education, recognises that our cultural diversity is a valuable national asset and hence is tasked, amongst other things, to promote multilingualism, the development of the official languages, and respect for all languages used in the country, including South African Sign Language and the languages referred to in the South African Constitution.

2. The inherited language-in-education policy in South Africa has been fraught with tensions, contradictions, and sensitivities, and underpinned by racial and linguistic discrimination. A number of these discriminatory policies have affected either the access of the learners to the education system or their success within it.

3. The new language in education policy is conceived of as an integral and necessary aspect of the new government's strategy of building a non-racial nation in South Africa. It is meant to facilitate communication across the barriers of colour, language, and region, while at the same time creating an environment in which respect for languages other than one's own would be encouraged.

4. This approach is in line with the fact that both societal and individual multilingualism are the global norm today, especially on the African continent. As such, it assumes that the learning of more than one language should be general practice and principle in our society. Being multilingual should be a defining characteristic of being South African. It is constructed also to counter any particularistic ethnic chauvinism or separatism through mutual understanding.

The policy endorses multilingualism, taking cognizance of the fact that South Africa is a multilingual country, and proposes that this be taken on board in classrooms. The

building of a non-racial nation society starts with giving individuals the right to choose the Language of Learning and Teaching at the school.

10.3.5 Department of Justice and Constitutional Development

Section 35(3) and subsection (k) of the Constitution of the Republic of South Africa maintains that everyone who is arrested, who allegedly committed an offense has the right, to be tried in a language that the accused person understands or if that is not practicable, to have the proceedings interpreted in that language.

The Use of Official Languages Act of 2012 guides the Department of Justice and Constitutional Development towards the development of language policies and to take practical measures to elevate the status of and advance the use of all official languages especially of the historically suppressed communities.

When dealing with Acts and Bills, the department makes sure that it does so in three or at least two languages, that is English plus one other official language. To ensure parity, the department must try use all three official languages in rotation.

Regarding job adverts and awareness campaigns, the department translates their materials into as many languages as possible.

10.3.6 Departments of Public Service and Administration

The Department of Public Service and Administration (DPSA) has an Official Language Policy of the Department, which was signed off on 18 April 2017. This policy has officially designated English, Setswana and IsiZulu as official languages of the Department. The policy requires the establishment of the Language Unit in the Department. This Unit is not in existence partly because of the Department hasn't had a functional structure until now. The policy is still in English and not in the other two departments official languages of isiZulu and Setswana.

10.3.7 National Department of Health

The National Language Policy of 2015 was translated into three other languages for the National Department of Health (DHA). DHA now states that all oral communication between the Department and members of the public must be available in 11 languages. People coming to their offices, must be served in any language of the 11

official languages of their choice. Public hearings, imbizos and road shows, etc, must be conducted in all the 11 languages. The community to be addressed will be addressed in their preferred language.

Again, each province has its own Provincial Language Policy. Therefore, even though, these policies differ from province to province, all of them recognises the right of patients to receive services in the official languages of the province.

In primary healthcare facilities, such as clinics and community health centres, it is a common practice that customers are mostly served by health care workers drawn from the same communities where people share a common language and cultural backgrounds. In district hospitals that is mostly the same case. However, as soon as people are referred to more advanced hospitals, such as academic hospitals and specialised healthcare services then language becomes an issue.

The current National Health Insurance Bill does not make any reference to the use of language in healthcare services. The Bill is currently with Parliament.

Although some provincial health departments have appointed interpreters, most of them are at matric level and are trained with basic interpretation services. The problem with them is that they are not clinically trained, so it sometimes becomes difficult for them to translate for the doctor the clinical scientific words or terms.

10.3.8 South African Police Services (SAPS)

A few pieces of legislation inform the SAPS language policies. Sections 6(3)(a) and 31(1)(b) of the Constitution, the South African Police Service Act 1995, Act 68 of 1995, the Use of Official Languages Act 2012, Act 12 of 2012, the Policy on the use of Official Languages in the South African Police Service 1 of 2016, and the National Instruction 2 of 2012 which talks to victim empowerment together with the National Instruction 3 of 2012, on case docket management.

The main objective of having this language policy in the SAPS is to provide functional guidelines for language use in the SAPS. This is necessary to improve service delivery and access the police services to the clients who are mainly the multilingual public. The language policy is based on multilingualism approach and has many benefits for improving service delivery.

10.4. The Extent to Which Official Languages Enjoy Parity of Esteem, and Equitable Freedom.

10.4.1 National Department of Sports, Arts and Culture

Each language unit in the Department, has language practitioners in all 11 languages. The Department has also established a translation service for all 11 official languages.

10.4.2 Western Cape

In the Western Cape, for every document that goes out to the public in English, they have a proviso at the bottom of the page which says to people that, you have the right...you may request the document in either of the other three languages which is English or isiXhosa and then we translate it for you.

Regarding the Khoi and San languages, the Western Cape department gives funding while working very closely with the newly introduced UCT programme for the development of language material.

As for sign language, the DACS has printed and developed of a know-more-about sign-language booklet which has been distributed to the libraries and government officials. Again, they have produced a pack of cards with sign language signs which have been distributed to schools and to members of the public.

10.4.3 Free State

Although the Free State Language Policy Act demands that three languages be adopted as official in the province, the MEC of Sports, Arts and Culture has gone on to officially publish six languages as official in the province. This decision was influenced by the results of the 2011 Census which showed that more languages, such as Setswana, isiZulu and IsiXhosa rather than just Sesotho, Afrikaans, and English, are spoken in the Free State.

The department collaborates with the University of Free State in training of students for Sign language. To date over 20 officials from the Department of Sports, Arts, Culture and Recreation have been trained in language communication.

10.4.4 Limpopo

In accordance with the legislative framework around language, such as the Constitution, PanSALB Act, National Language Policy Framework, Limpopo Languages Act 7 of 2000, the province of Limpopo has adopted six official languages, viz., Afrikaans, Xitsonga, Tshivenda, Sesotho Sa Leboa, English and IsiNdebele.

10.4.5 North West

The official languages in North-West are Setswana, Afrikaans, English, isiXhosa, and Sesotho. The province strives to have their events in the official languages of the province.

10.4.6 Mpumalanga

The Mpumalanga act recognises four language, namely English, Afrikaans, siSwati, and isiNdebele as official languages. It also recognises the South African Sign Language as an official language. Unfortunately, not all municipalities have developed their own policies based on the provincial policy.

The University of Mpumalanga has only in 2018 introduced isiSwati into the curriculum and will introduce isiNdebele in 2020.

10.4.7 Department of Basic Education (DBE)

The Incremental Introduction of African Languages strategy aims to promote and strengthen the use of African languages, especially your official ones, to strengthen the use of African languages at home language level, improve proficiency in, as well as utility of the previously marginalised African languages, raise the confidence of parent to choose their own languages, increase access to languages by all learners beyond English and Afrikaans, redress the past linguistic imbalances, ensuring parity of esteem as we have indicated early on, but amongst all, also to promote social cohesion. Here we are talking about learners who are in schools that have never offered any African language, we are talking about your ex-model C schools, your independent schools, where African languages have never been offered before.

Phase 1 of the strategy looked at the Foundation Phase, that is from Grade 1 up to Grade 3 was started from 2018 to 2020, and Phase 2 will be for the Intermediate Phase

which will extent from 2021 to 2023, the Senior Phase is also targeted, and the FET Phase is also target from 2027 to 2029.

As for the Khoi San Languages, the Department has put a process in place to translate the curriculum into Nama as recommended by Pan South African Language Board (PanSALB), and this they found was the easy to do because this is the language that is mainly spoken in the Namakwa district in the Northern Cape, and again it is already developed, and it is used largely in Namibia.

Foundation Phase African Language Reading Framework has also been developed and it will be implemented as of 2020. This Framework looks at mainly how you capacitate teachers to be able to teach reading in African languages. The Framework will also help teachers with lesson plans, to assist teachers to teach and read in African languages, to make sure that they have appropriate pedagogies to address the problem of reading in African languages.

The Department of Basic Education is in the process of printing and distributing Grade R to 3 African languages anthologies in about five provinces.

10.4.8 Department of Higher Education and Training

According to the Revised Language Policy for Higher Education, all universities must develop strategies, policies and implementation plans for promoting multilingualism as defined by this policy, and such plans must indicate at least two official languages other than the language of teaching and learning for development and for scholarly discourse and communication.

Secondly, universities must study and develop official South African languages especially those which were historically marginalised including the Khoi, Nama, and San languages. Universities must also develop competencies and capacities in South African Sign language consistent with the use of Official Languages Act of 2012.

Universities must assist in preparing sufficient language teachers, interpreters, translators, and other language practitioners to serve the needs of our multilingual society.

10.4.9 South African Police Service

A section of Language Management has already translated South African Police Service (SAPS) language policy into 11 official languages. During recruitment and placement of SAPS officers, care is taken to ensure that Officers are placed in those communities where they are largely conversant with the languages of the complainants that would be coming to the Client Service Centre.

SAPS promotional materials, in the form of leaflets and information documents, have also been translated into 11 official languages. Public education and awareness engagements are conducted in the language of the relevant area. The recently introduced My SAPS app is available in English, Sepedi and in isiZulu. SAPS is also in the process of developing emergency reporting technology for people with hearing impairments.

10.5. Efforts being made to elevate and promote official languages to become languages of record, teaching, research, science, technology, and commerce.

Unfortunately, many organs of state have been found wanting when coming to report on this question. Many are still battling with how to implement policies fully and have not yet upgraded to this level of elevating and promoting official languages to become languages of record, teaching, research, science, technology, and commerce.

11. USAGE OF ENGLISH IN COURTS

On the 31st of March 2017, Chief Justice Mogoeng of the Constitutional Court held a meeting with all superior courts heads - the Provincial Judge Presidents, President of the Supreme Court of Appeal (SCA) - to discuss their regular issues. The Justices discussed the issue of language in court and court records. This meeting resolved to issue a directive that English will be the official language of record for all courts in the Republic of South Africa.

Subsequently, the Judge Presidents also instructed their respective provinces, Magistrates, National Prosecuting Authority, Legal Aid, the Bar Association, National

Association of Democratic Lawyers and Black Lawyers Association, Justices of different courts, Correctional Services, Social Services to implement this directive. The directive argued that the usage of English by all courts will result in speedy, cost effective and more efficient adjudication of cases and only in exceptional cases may witness statements be submitted in any language other than English, where the witness is not sufficiently conversant in English. As far possible, however, court proceedings will be conducted in English.

Section 35(k) of the Constitution stipulates a whole list of rights that are required for a fair trial. One of them, is the requirement that the accused must be tried in a language that he/she understands. What is yet to be tested, in the light of the number of foreign nationals in the country, is how their cases could be conducted if they, too, may demand to be tried in their own mother tongues.

12. FINDINGS

Based on what was presented to the CRL Rights Commission by the invited organs of state, the following the findings were are made.

12.1. What have Organs of State done to date?

SAPS brought with them some information pamphlets and brochures, a sample of MY SAPS App, already translated in all official languages, to demonstrated to us how far they have already gone.

The National Department of Education had just done a pilot study in the Eastern Cape, where they used IsiXhosa and Sesotho as the language of teaching and learning beyond the Foundation Phase. They reported that the pilot study was so successful that learners in those schools; are now taught Mathematics, Natural Science, and Information Technology in isiXhosa and Sesotho. This initiative was started with the Grade 4 in 2012, and incrementally in subsequent grades.

The Western Cape Department of Cultural Affairs and Recreation translates all official documents from English into Afrikaans and isiXhosa. They have already developed a Nama booklet which they have also translated into English, Afrikaans, and isiXhosa.

The National Department of Justice and Constitutional Development reported to us that they translate all their documents into the department's official languages.

Gauteng, Free State, North West and Limpopo already have language programme's that targets the youth.

12.2. Dominance of English over other Official Languages

The dominance of English over other official languages is still prevalent. An example would be the government adverts, recruitment and recruitment forms which are all in English. This places limitation on people to access or understand the information. This means that it is only those who understand English who would apply for the government posts, while the others might be excluded based on language. Again, majority of communications between organs of state and with the members of the public is still mainly in English. There are no practical ways to provide for the general population or the uneducated.

Lastly, there is a presumption that all people have equal access to the internet and computers and that they also know how to use them as most organs of state said that they have translated documents on their websites.

12.3 Full Implementation of the Usage of Official Language Act

While the National and Provincial departments and other relevant organs of state have officially adopted the Usage of Official Language Act, the implementation is still lacking. Because members of the public still do not know about this Act and its implication. For instance, many members of the public still do not know that they can demand to use their mother tongues for communicating with government or that they could ask to be interviewed in any other language except English. But again, the people cannot demand their rights because the Language Act has not been fully implemented and popularised by many organs of state.

100 % Language Policy Adoption by the Departments



- National Department of Arts, Culture and Sport
- WC Arts, Culture and Recreation
- Mpumalanga Arts, Culture and Recreation
- Limpopo Arts, Culture and Recreation
- EC Arts, Culture and Recreation

12.4 Lack of Language Practitioners Councils

There is no professional practitioners' body that regulates the language practitioners. Many organs of state still rely on the goodwill of their private service providers. Plans to have a South African Language Practitioners Council have been delayed due to lack of budget and this means some departments do not even have sworn translators. The latest developments are that the new Minister has called for members of the public to serve on the Council.

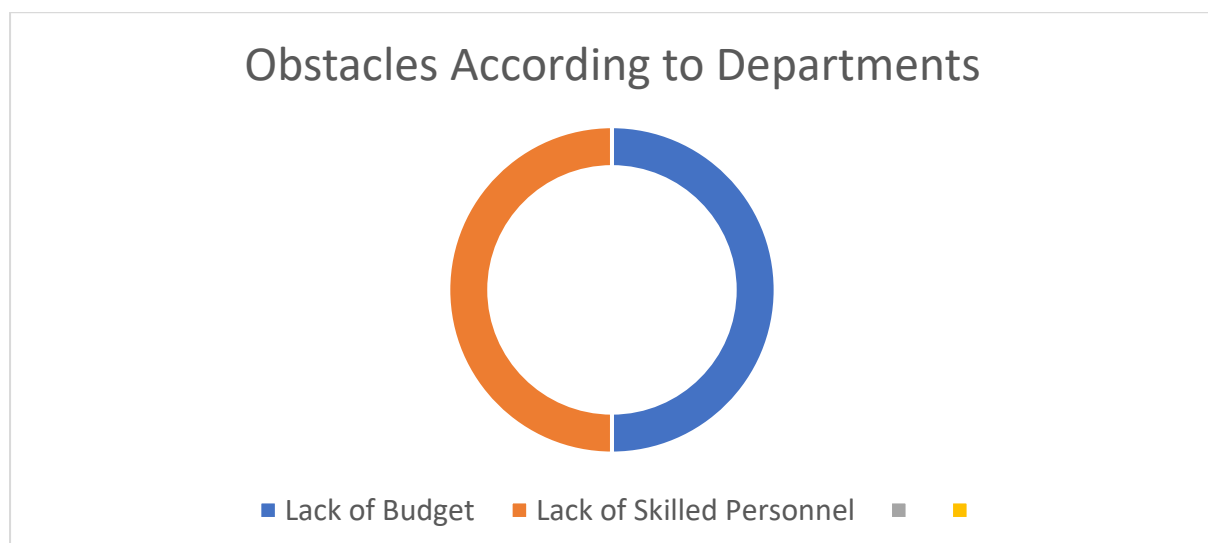
12.5 Publications and Communications of Information

There is need to strengthen the publication and communication of information in Indigenous languages so that the government information could be easily shared and understood by everyone. The big challenge seems to be that most organs of state tend to rely on their websites as a means of disseminating information while being oblivious to the reality of most people in the deep rural areas who do not have access to a computer or internet, let alone knowledge of how to operate the technology.

12.6 Lack of Human and Financial Resources

Most of the organs of state cited the lack of enough human specialist's and financial resources as a key driver holding them back from fully implementing their programmes on language policy. An example is of the Mpumalanga Department of Arts and Culture, where the language section has only three personnel due to a moratorium and budget. Again, these three personnel are at a very junior level of deputy director.

Again, it was reported that the 2002 ministerial panel on Higher Education - which assessed institutional language policies and plans and the extent to which they are been implemented by the universities - found that most institutions professed multilingualism only on paper, without having a clear plan on how multilingualism is to be incorporated in the teaching and learning in the institutions. African languages departments at universities should be capacitated, strengthened, and supported through funding, infrastructure as well as personnel. Even today, the challenges persist.



12.7 Impact Assessments Survey

Most organs of state do not have public satisfaction/survey mechanism to assist them to effectively measure and assess their impact on the usage and status of languages within the communities. Although one or two departments reported that they provide

their own assessment forms or suggestion boxes which they take to the events, most organs of state do not have anything like a toll free National or Provincial hotline for members of the community to access and freely report things as they find them.

12.8. Nama and Xu! Languages

Although there were many Khoi and San community languages spoken in the past, like the San, Nama, Nxu! and Khoi-Khoi languages spoken by different communities, over time, it has been reported to us that the two languages spoken by many is Nama and Nxu! Infact, in their recent public engagement meetings with the members of the Khoi and San community, the CRL Rights Commission has identified some speakers of the Nama and Nxu! languages, who they have gone around the country with to further popularise the two languages. These speakers offered translations in these two languages during these meetings.

However, according to the report to the CRL Rights Commission by the Western Cape Department of Sports, Arts and Culture, as in 2019, the department found that there are only few people still alive in the country, who can still speak the Khoi languages. What is disconcerting is the fact that the country might lose all the remaining people before any concrete plan is implemented.

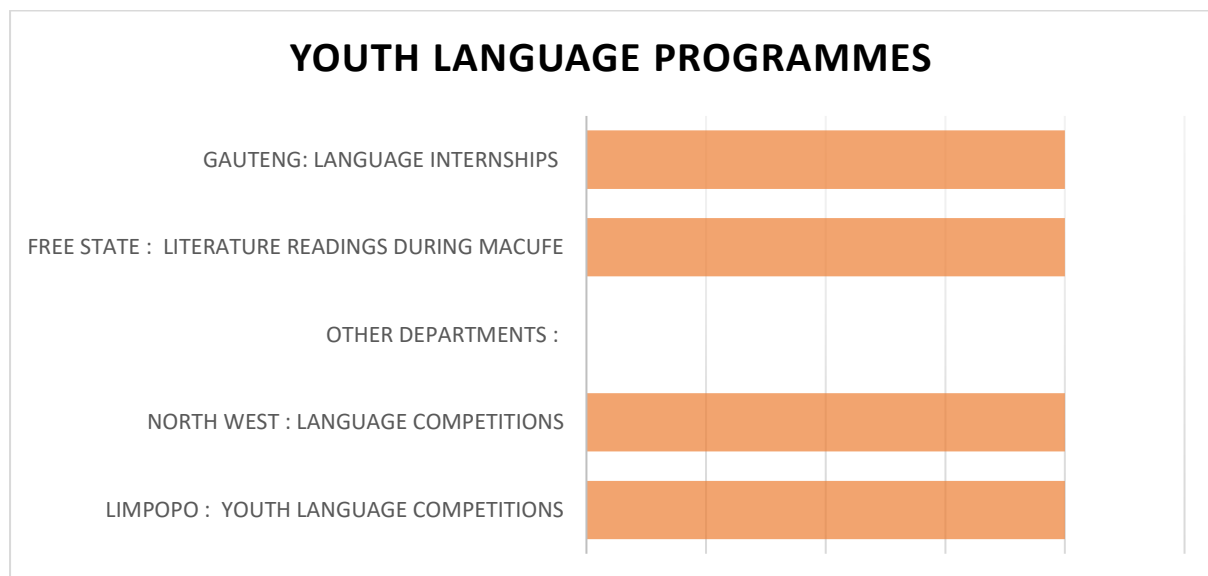
The Department of Basic Education has reported to us that it has decided to prioritise the development and teaching of Nama in schools.

12.9. Collaboration with Institutions of Higher Learning

Although some departments have entered some form of partnerships with institutions of higher learning in their respective provinces, this seems more like a private and fragmented arrangements which depends more on the budget each department is willing to spend.

12.10 Targeting the Youth

Some Provinces, like North-West, Free State and Limpopo, have reported how they have targeted the youth and how the youth have embraced their language programmes and even asked for more of this type of programmes. This strategy could be adopted by other provinces to popularising their language programmes, as the youth are the future.



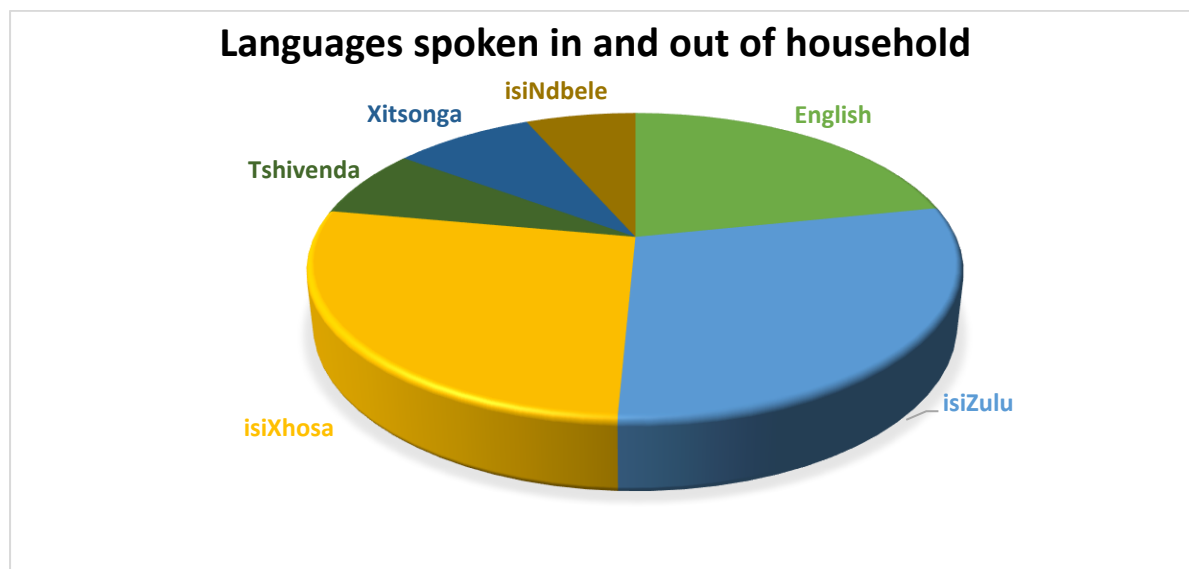
12.11 Equitable Usage of Languages

Despite hearing at how the language committees of some organs of state actively play their oversight roles in ensuring an equitable usage of languages, a lot still must be done in ensuring that equity in languages is attained as some language committees are either not active or some organs of state, due to lack of budget and personnel, find themselves still using only one or two languages.

12.12 Percentage of Languages spoken in and out of households

According to the gathered data from the Department of Basic Education, isiZulu is the most widely spoken language both inside and outside of households in the country.

When it comes to inside the household isiXhosa is the second most spoken, whereas when it comes to outside the household, English is then second most widely spoken language. This situation is similar at the school system where isiZulu and isiXhosa are the most widely spoken languages. On the other hand, isiNdebele and Tshivenda are the least widely spoken languages by learners in South African schools. Despite this situation, English continues to be predominant at the expense of all other languages.



12.13 Department of Education Pilot Studies on Multilingualism

The Department of Basic education has developed a multilingual mathematics, teaching, and learning framework which, with all its tools and instruments, is available in all African languages. Currently in the Eastern Cape, there is a mother-tongue based bilingual education pilot going on. This pilot study has seen schools using IsiXhosa and Sesotho as the language of teaching and learning beyond the Foundation Phase. Now learners in these schools are taught Mathematics, Natural Science and Technology in their own home languages, which is isiXhosa and Sesotho. This initiative was started with the Grade 4 in 2012, and incrementally in subsequent grades. Recently this initiative was officially adopted as the departments policy.

12.14 Lack of African Parents Activism when Choosing Languages of Learning

Although learners have the right to choose a Language of Learning and Teaching of their choice, their rights as minors are exercised by their parents, who many a time do not understand their constitutional rights to do so. Furthermore, the powers to determine the school Language Policy are vested in Schools Governing Bodies, who sometimes do not agree among themselves about the school language policy. Sadly, many parents, particularly of African origin, still prefer their children to be taught in English. In contrast, Afrikaans and English parents seem to know more of their linguistic rights and the benefits of mother tongue education.

12.15 Court Cases against Department of Higher Education and Training

What the department shared with the CRL Commission was its work in progress. It attributed the slow implementation of policy in institutions of higher learning to the many courts cases the department is facing from lobby groups and individuals over some of its language policies at their institutions.

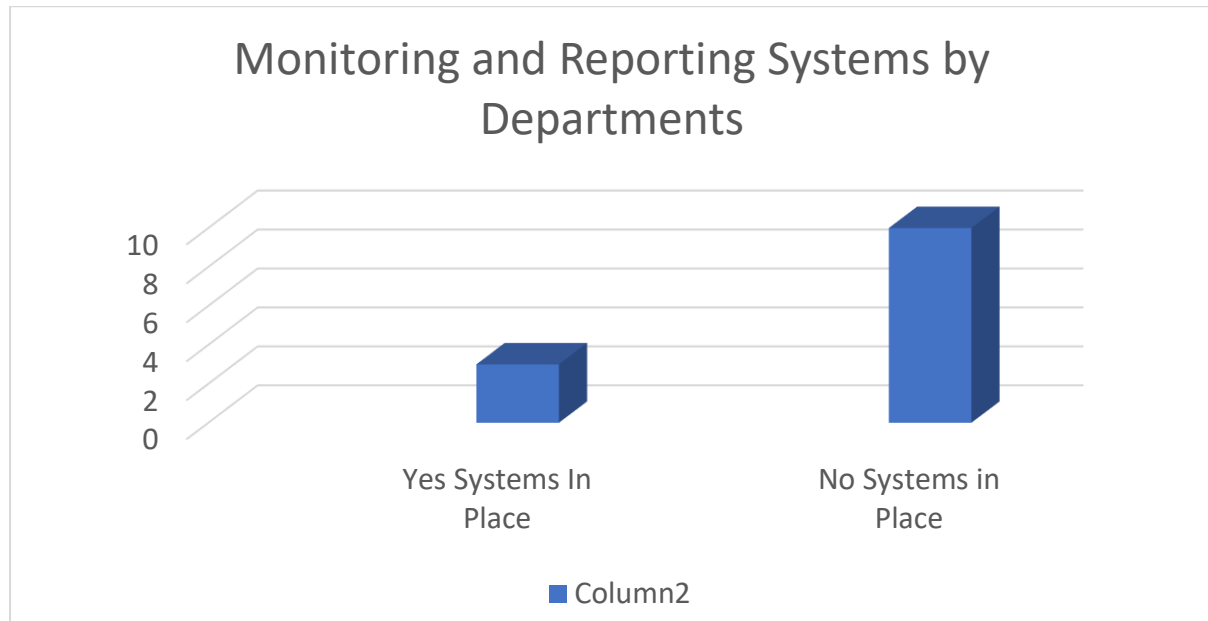
12.16 Standardization and Development of official languages into legalise.

While courts did try using official languages, they soon found out that many African languages still need to develop standardised legal (jargon) because people do not have certain legal phrases in their languages, as the law and legal aspects can be quite technical. There is a need for work to be done in looking into the standardisation of certain definitions and terminologies.

Again, in terms of English, there is a need to look at those technical areas specifically, if the police need to get evidence in court around technical issues that needs to be translated into most languages.

12.17 Tacit Admission of Legislative Violation

While other organs of state tacitly admitted the violation of the constitutional and legislative imperative of the use of all official languages in their daily operations, few were honest to openly admit that their failure to implement the language policy fully is tantamount to breaking the law.



12.18 Official Languages and Regional Languages

While the Constitution of the Republic of South Africa and the Usage of the Official Languages Act foster the promotion of official languages, the CRL Rights Commission has over the years discovered that there are also many spoken regional languages. Languages like Setokoa, isiMpondo, isiBhaca, isiHlubi, Sepulana, Moletlane Ndebele, Nama and Inqu, Sephuti and Hindi are alive and spoken daily by many communities even though these regional languages still lack official recognition status.

13.RECOMENDATIONS

The CRL Rights Commission recommends that:

- 13.1 All government departments and entities should have service centres where the public can go to complain or send their complaints about the non-use of other official languages by organs of state and state entities.
- 13.2 The Department of Communications should go on a massive education campaign drive about the communities' rights to have their official languages promoted and used by organs of state.
- 13.3 Again, the Department of Communications should ensure that all government publications, forms, and information are written in all official languages of each province or regions.
- 13.4 The NPA should criminalise the none fast tracking and implementation of the equitable use of all official languages, as per the Use of Official Language Act, by organs of state and state entities.
- 13.5 The National Department of Sports, Arts and Culture should fast-track plans for the establishment of the South African Language Practitioners Council, which will in turn, regulate language practitioners and carry out an impact assessment.
- 13.6 The National Department of Sports, Arts and Culture should introduce yearly African languages competitions targeting the youth, starting from the local level, then the provincial level and culminating at the national level.
- 13.7 Pansalb should assist with the standardization and development of all official languages into legalise.
- 13.8 Pansalb should develop strategies of fast tracking the development of the diminishing languages such as San, Nama, and Khoikhoi, to preserve these languages before the last of the speakers of these languages dies.
- 13.9 The Department of Higher Education and Training should award 100% funding to lecturers busy with projects intended to promote and development of all official languages. Bursaries should also be awarded to students studying towards African languages promotion.
- 13.10 The Department of Higher Education should give higher subsidies to institutions of higher learning that elevate, prioritise, and promote official languages to

become languages of record, teaching, research, science, technology, and commerce.

13.11 The Department of Education should start identifying a pool of future teachers and going on a drive to prepare these future teachers, for teaching children maths and science in their mother tongues.

13.12 The spoken regional languages such as Setlokoa, Sepulana, Isipondo, Isihlubi, Baqa and etc should be streamlined and be granted official status in the regions in which they are spoken.

14. CONCLUSION

While the law is very clear that all official languages should be treated equally and be given the same status, the people entrusted with the task of ensuring that this happens seem to be dragging their feet, and this is at the detriment of the members of the communities who are victims of this unfair treatment. It is this unfair treatment to the members of the communities that prompted the CRL Rights Commission to hold the hearings that were meant to assess as to how far the organs of state and other stakeholders have progressed in the use of the officially recognised languages, since 1994, as provided for in Section 6 (1) to (4) of the Constitution. Sadly, from what we heard; many organs of state are at the beginning of the implementation of the pieces of legislation. Those that have already started the implementation have also done the bear minimum.

