

Part 3

CONSTITUTIONAL AND LANGUAGE CHALLENGES

Constitutional perspectives on integration in South African schools

Elmene Bray

Introduction

The term ‘integration’ is a difficult concept, and open to many interpretations. The *Collins Concise Dictionary Plus* explains ‘integrate’ as follows: ‘1. To make or be made into a whole; incorporate or be incorporated. 2. To designate (a school, park, etc.) for use by all races or groups.’

To establish an integrated South African society (or schools) one must acknowledge the legacy of a deeply divided and discriminatory past as well as the hopes and aspirations of building a truly democratic South African society. Seen against this background, how does one ‘make’ different and diverse communities (or population groups) ‘into a whole’; what does ‘being incorporated’ mean; what is the potential for diverse (and conflicting) views on ‘for use (for example, of a school) by all races or groups’? It is apparent that moulding the South African population into an integral whole does not mean fusing (melting together) constituent parts that in the process lose their own characteristics or qualities. One should therefore acknowledge differences and diversity in any process of integration.

A cursory examination suggests that reconstruction and reconciliation, acknowledgment and nurturing of diversity in a multicultural society, and nation building (a ‘rainbow nation’), ought to be included as objectives for the sound integration of South African society. Incidentally, most of these objectives have been included as foundational values and principles of the Constitution of the Republic of South Africa (Act 108 of 1996).¹ The purpose of integration would then be to unite the different and diverse constituent parts (groups) of the community into an integral whole – the South African nation. In this sense, integration cannot be addressed in isolation, but requires

a multi-disciplinary investigation that takes into account socio-economic, cultural and political characteristics of constituent groups. It is from this premise that an integral and a united society with common values, aspirations and goals must be built.

The adoption of a new democratic constitutional order contributed to (and accelerated) socio-economic and cultural transformation in South Africa. Transformation is however an ongoing, evolutionary process that requires legitimate and democratic principles, processes and goals: the law should provide the foundational basis, instruments and framework for transformation, but it is only one of the disciplines at work in the process of societal transformation.² The school as a societal relation often illustrates the difficulties encountered in moulding together an integrated (school) community out of different and diverse interests groups (stakeholders), and also highlights the problem surrounding what the role of the law should be in the process of school (and education) transformation.³

Integration in schools should therefore take place within the process of democratic change and transformation in South Africa and constitutes a vast, complex and largely untapped field of research.⁴ This paper highlights only some of the legal perspectives on integration, more specifically, the role and impact of the new constitutional order on integration in schools.⁵

The constitutional setting

The Constitution is the product of a chequered past but has laid the foundation for a constitutional democracy in South Africa.⁶ It must be interpreted and understood against the background of past injustices and the disruptive and alienating effect of apartheid on almost every sphere of life, particularly education. The Constitution consequently abolished the previous apartheid system and constituted a sovereign democratic state founded on fundamental values of human dignity (the value and self-worth of every human being),⁷ equality (the equal enjoyment of all human rights)⁸ and the advancement of human rights and freedoms, non-racialism and non-sexism, to name but a few.⁹ The basic characteristics of the Constitution include: majority government, constitutional supremacy, a Bill of Rights, an independent judiciary, three spheres of government and accommodation of diversity. In the quest for

a reconstructed and reconciled nation, one of the greatest challenges remains the cultivation of a human rights culture in which respect and tolerance towards fellow human beings are paramount (Malherbe 2000).

Constitutional transformation in education has been intensive and expansive: laws and policies have been adopted to redress past injustices and advance the fundamental rights of all persons, including the right to education and other cultural rights, which are classified as socio-economic rights. Broadly speaking, the right to education constitutes the very foundation of good citizenship: it instils civic responsibility, ethical values, communication skills and objective knowledge to enable people to better communicate, make better decisions and reach consensus among themselves.¹⁰ Education is also decisive and indispensable in realising other rights that promote self-fulfilment and development (for example, political rights, the right to a profession and to trade) (Malherbe 1993), while other individual rights also have an impact on education (e.g. freedom of expression, and the right to freedom of language, culture and religion).¹¹

To better understand the constitutional principles underpinning the promotion of integrated schools, one has to examine the content and meaning of the constitutional values, and human rights and freedoms relevant to this issue. For the purpose of this discussion, only a few observations are made on values, the right to education, human dignity, equality and freedom of religion, culture and language.

Constitutional values and school integration

Legal rules are never neutral or value-free but reflect the values and aspirations of lawmakers and people. The Constitution is labelled as a 'value-laden' and 'value-driven' document because it reflects basic values that are identified and sustained by the community as common aspirations and goals for the present and the future (see Botha 1994; Devenish 1999; Venter 2001). These values are found throughout the Constitution but not all of them are expressed in precise terms;¹² their meaning must be deduced from the Constitution as a whole and the courts must always interpret the Bill of Rights within the context of these constitutional values, which is not an easy task.¹³ Values therefore establish the context within which fundamental rights function and determine the nature and extent of their limitation in certain circumstances.¹⁴

The promotion of an integrated society (and schools) on the basis of unity in diversity lies at the heart of the values, norms and principles enshrined in the Constitution and presents an enormous challenge to the democratisation of South African society in all its facets. For example, an examination of the foundational values of human dignity, equality and the advancement of human rights and freedoms reveals that without respect for the self-worth and inborn dignity of fellow human beings (that is, learners, educators and parents), and a denial of equal opportunities in education (for example, through unfair discrimination based on race, and the denial of freedom to exercise a language, religion and culture of choice in a school of own choice), schools will never attain the goals envisaged in the Constitution for a truly integrated and united South African nation.

For the purpose of this discussion one may conclude that the following values enshrined in the Constitution constitute the point of departure for the promotion of integrated schools in South Africa:

- Healing the divisions of the past and establishing a democratic and open society based on social justice and fundamental human rights;
- Building a sovereign democratic state that is based on the values of human dignity, the achievement of equality and advancement of human rights and freedoms, non-racialism and non-sexism;
- Creating a society in which government is based on the will of the people and every citizen is equally protected by law;
- Improving the quality of life of all citizens and freeing the potential of each person;
- Acknowledging and promoting political and cultural pluralism on the basis of unity in diversity.

Rights and freedoms in promoting integration in schools

The protection of human rights is primarily an undertaking by the state to shield individuals against the abuse of state powers.¹⁵ Some of the human rights and freedoms closely connected to the promotion of integrated schools include:

- The right of the learner to education;
- The right not to be unfairly discriminated against in education on personal attributes such as race, sex, gender and age;¹⁶

- The advancement of learners previously unfairly discriminated against in education;¹⁷
- The freedom of choice with regard to educational opportunities (for example, to choose between public or private education, to receive an education in a public school of choice);
- The right to choose an education in the language of choice and in terms of religious and cultural preferences.

Every person (for example, learner) has a right to basic education¹⁸ and to further education, which the state through reasonable measures must make progressively available and accessible.¹⁹ Basic education is therefore compulsory and a corresponding duty rests on the state to provide facilities and resources for the provision of such education.²⁰

A learner must also be afforded an equal opportunity to enjoy and benefit from compulsory basic education: the protection of equal opportunities and the prevention of unfair discrimination are found in the right to equality. In terms of this right, the state guarantees that everyone is equal before the law and has the right to equal protection and benefit of the law.²¹ Equality in this sense also implies that some form of differentiation is possible in law and that not every differentiation will amount to unequal treatment (for example, learners are treated differently to educators, the disabled learner also requires different treatment to other learners).

Equality also includes the full and equal enjoyment of all rights and freedoms, including the promotion and achievement of equality by learners or categories of learners disadvantaged by unfair discrimination – the so-called affirmative action right. Affirmative action is essentially about the redress of injustices of the past. It is not regarded as an exception to equality but rather involves procedures and mechanisms to promote and ultimately achieve equal rights and freedoms for those previously disadvantaged by unfair discrimination. This interpretation is in line with the objects of real or substantive equality (of outcome).²²

The right to equality further prohibits the state and other persons from discriminating unfairly against a learner on grounds which include race, sex, gender, age, birth, marital status, pregnancy, disability, religion, belief, culture, language and birth.²³ These individual grounds are not exhaustive and each of them could have a special impact on the right to education.²⁴

Rights that guarantee cultural (for example, own language and religious) freedom in education are imperative in a diverse, multicultural society:²⁵ on the one hand to protect the individual's own cultural preferences; on the other, to accommodate diverse cultures. The state is therefore actively involved in creating favourable circumstances for the exercise of religious freedom in public schools:²⁶ religious observances are conducted on an equitable basis and attendance is free and voluntary for both learners and educators (see Foster, Malherbe & Smith 1999). The freedom to choose a language of instruction and follow specific cultural preferences may include, for example, access to mother-tongue education but taking into account equity, practicability and the need to redress past racially discriminatory laws and practices.²⁷ The use of a language of choice and participation in a cultural life of choice may, however, not be exercised inconsistently with any provision of the Bill of Rights.²⁸ The right of the individual to belong to (associate with) cultural, religious and linguistic communities (for example, in the school context) is likewise protected but these freedoms may also not be practised in a manner that is inconsistent with any provision of the Bill of Rights.²⁹

Most of the rights referred to above are composite, cross-cutting rights (Malherbe 1997; van den Berg 1990), but they do not apply absolutely because the bearer of a right always incurs responsibilities or obligations towards other bearers: the right to compulsory basic education at a school of choice may be limited when the school is full or when specific facilities (for example, for admission of disabled learners) are not provided for.³⁰ Rights and obligations must always be weighed and balanced to achieve a reasonable and justifiable outcome in an open and democratic society based on the constitutional values of human dignity, equality and freedom.³¹ In the South African context, human rights and freedoms may never condone racism, racial discrimination or prevent redress and perpetuate inequalities in education.

It is apparent that the constitutional values that protect human dignity, equality and fundamental freedoms are essential to the promotion of integrated schools in a nation united in its diversity. Although these values do not trump any of the other human rights, as founding constitutional values they constitute the nucleus of many other rights³² and provide the framework (parameters) for the interpretation (and limitation) of human rights. Needless to say, there will often be tension between equality (for example, equal access and opportunity in education to all learners) and freedom (for example, the

freedom of the individual to choose a school or language-instruction of preference), and because no obvious answers could have been provided in the Constitution for all these situations, difficult choices will have to be made in each individual case.³³

The Constitutional Court has developed an equality jurisprudence that offers valuable guidelines on the interpretation of the equality clause, including:

- The right to equality embraces both formal and substantive (real) equality; to attain real equality, the social and economic conditions of groups/individuals must be taken into account to achieve and ensure equality of outcome (see Albertyn & Kentridge 1994);
- Equality does not prevent the government from making classifications and from treating some people differently to others;³⁴
- Equality includes the full and equal enjoyment of all rights and freedoms: in this sense it is regarded as an important (or core) right for achieving the full and equal enjoyment of all rights and freedoms;³⁵
- Unfair discrimination (including direct and indirect unfair discrimination) by the state and other persons (in the private-law sphere)³⁶ on the listed grounds is prohibited, but may be justified in terms of the application of the general limitation clause;
- Discrimination on other grounds (unlisted) must be proved by the complainant. A dignity-based approach to equality has been followed which determines, *inter alia*, that discrimination based on an unlisted ground that impinges on a person's human dignity, will be presumed unfair until proved otherwise (for example, justified) in terms of the limitation clause (see Carpenter 2002; de Waal, Currie & Erasmus 2000).

Conclusion

Integration in schools must be seen against the background of societal transformation in South Africa: education is the key to understanding and participation in the process of transformation. Central to transformation and integration is the ideal of 'nation building' that underscores recognition and accommodation of diversity in a multicultural society.

Integration seems to be an ongoing, evolutionary process: there is no blueprint for integration and neither can it be forced on society or on schools (generally

or individually) by the government, specific communities or individuals. However, the success (or failure) of school integration – in the context of the school as a societal relation – is often a reflection of the progress made with transformation and integration in society as a whole.

The new constitutional order has provided a platform and the legal framework for societal change. It has enshrined in the supreme Constitution foundational values, human rights and freedoms that are quintessential and indispensable to democratisation in general and the promotion of integration in schools in particular. However, the process of moulding a society (and schools) into an integral whole must be developed and implemented with the corroboration of all disciplines and stakeholders involved. One of the most challenging but obvious missions in this regard is the cultivation of a human rights culture and sensitising people to the inborn quality and equality of fellow human beings.

At the heart of school integration are the values, rights and freedoms that promote self-development and fulfilment of human beings, for example, human dignity, equality, education, freedom of expression and freedom in cultural preferences, to name but a few. The right to education imposes obligations on the state to provide compulsory basic education and adequate facilities for quality education; the learner, on the other hand, is compelled to undergo basic education but has the freedom of choice with regard to a school, the type of education and cultural preferences. Freedom of choice in education is reinforced through the protection of equal opportunities in education and is anchored in the right to equality. Equality is a composite, cross-cutting core right that not only promotes the full and equal enjoyment of all rights and freedoms, but specifically guarantees non-discrimination by the state and other persons on the grounds of personal attributes such as race, sex, gender and age, and on the basis of cultural preferences such as religion, language and culture. Rights must always be weighed and balanced and, when limited, ensure a reasonable and justifiable outcome in an open and democratic society based on the values inherent in human dignity, equality and freedom.

The Constitution proclaims that ‘the people of South Africa believe that South Africa belongs to all who live in it, united in our diversity’.³⁷ In the education and school context, it translates into equal treatment (for example, to promote school integration) and freedom of choice (for example, to accommodate differences and diversity within an integrated school or in specific schools). The

potential for tension between equality and the freedom 'to be oneself' is apparent and the challenge is to find the right balance, which is daunting. However, the process of societal transformation involves more than a mere protection of rights on a clean canvas: it is primarily a matter of correcting and avoiding past mistakes, of building new relationships of trust in a diverse society dispersed by gross injustice and mistrust, and of fostering a human rights culture that values dignity and equality as basic qualities of fellow human beings (Foster, Malherbe & Smith 1999).

Elmene Bray is based at the Faculty of Law, University of South Africa.

Notes

- 1 Discussed below.
- 2 For example, transformation initiatives by the Constitution in the fields of labour, economics, health, welfare and housing, to name but a few.
- 3 Integration of schools in the legal sense provides only a threshold for the achievement of fully inclusive and integrated schools. Similarly, integration in a formal sense will not fully realise the right of the learner to receive equal opportunities and quality education to achieve his/her full potential if this is not backed up by appropriate multi-cultural education, training and supportive services.
- 4 A library search on the legal aspects of integration in schools (the education system) has produced little authoritative literature on the topic. Writings on education law cover related topics such as human rights in education, the right to education, equality and education, and so forth. Comparative works on education law mainly cover aspects of school integration or desegregation. For a concise comparative view on some of these aspects in the USA, Belgium, Germany, Canada and South Africa see Bray & Maile 1999: 249; Malherbe 1993: 687; Foster, Malherbe & Smith 1999: 211; Manley-Casimir 1999: 275.
- 5 This paper highlights only public schools. Independent schools are bound by the Constitution, particularly in terms of the Bill of Rights (for example, ss 8 and 29[3]) which, *inter alia*, provides for horizontal application in the private-law sphere, and a right to establish independent educational institutions provided they do not discriminate on the basis of race, are registered with the state and maintain acceptable standards comparable with public educational institutions. See Bray 2000: 276–277; de Waal, Currie & Erasmus 2000: 55–57.
- 6 The Constitution is a negotiated document adopted by consensus and compromise. See Devenish 1999: 1–8; de Waal, Currie & Erasmus 2000: 1–25; Malherbe 2000: 10–27.

- 7 Human dignity is both a founding value and an individual right protected in s 10. As a constitutional value society must acknowledge the value and worth of all its individual members, and laws that harm and devalue them in society constitute a palpable invasion of their dignity and a breach of s 10: *National Coalition for Gay and Lesbian Equality v Minister of Justice* 1998 12 BCLR 1517(CC) par 28.
- 8 S 9. See equality below.
- 9 See Preamble and Chapters 1 and 2.
- 10 As pronounced in the landmark school segregation case in the USA, *Brown v Board of Education* 347 US 483 493 (1954). See also Hubsch 1989: 100.
- 11 For example, ss 10, 15, 16, 30 and 31. Also below.
- 12 For example, the Preamble of the Constitution and s 1. Other sections (for example, 7(1), 41(1), 152(1), 195(2) and 198) also describe specific values, some of which overlap with each other and with the founding values in s 1. See van Wyk 2001: 19–26.
- 13 On the role of values, see the Constitutional Court decision on the unconstitutionality of the death sentence: *S v Makwanyane* 1995 6 BCLR 665(CC) par 9.
- 14 See the role of constitutional values in the general limitation clause (s 36) and interpretation clause (s 39).
- 15 Human rights are also internationally recognised and regarded as interdependent and interrelated rights: for example, the Convention on the Rights of the Child (the single most important instrument defining and consolidating human rights standards [including education] for children); African Charter on the Rights and Welfare of the Child; African Charter on Human and People's Rights; International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights: Davel 2000: 197–201, 202–213.
- 16 Very few cases of unfair discrimination in schools have reached the courts; procedural deficiencies seem to be the main obstacle in this regard. See *Minister of Education v Harris* 2001 11 BCLR 1157(CC) on age prescriptions for admission to an independent school.
- 17 The advancement of black learners disadvantaged by an inferior Bantu education system is of prime concern. See below.
- 18 S 29(1). While there are obligations on the bearer of the right (for example, the learner must attend school), a corresponding obligation rests on the parent (as legal guardian) to see that the child attends school. Compulsory education may not be suspended or disrupted due to the parent's fault (for example, failing to pay school fees in terms of a legal obligation to pay) and the governing body may not administer any test related to admission, or direct another person to administer such a test, except with special permission from the Education Department.
- 19 S 29(1)(b). Further education is not compulsory.

- 20 See ss 2, 7 and 237 for the constitutional obligations on the state. The South African Schools Act of 1996 provides that the MEC must provide adequate school places for learners in provincial schools (s 3); a public school must admit learners and serve their education requirements without unfairly discriminating in any way (s 5). Facilities for language, religious and cultural preferences must also be provided (see below). The state (and school) has an obligation to provide a safe school environment where quality learning for all learners can take place.
- 21 S 9(1).
- 22 S 9(2). See *City Council of Pretoria v Walker* 1998 BCLR 257(CC); Carpenter 2002: 42–45; Venter 2001: 39–40.
- 23 S 9(3) and (4).
- 24 For example, pregnant learners may not be prohibited from attending school on the ground of their pregnancy; disabled learners may not be discriminated against on the ground of their disability. However, these learners may well require different treatment under the circumstances. See also cultural rights below.
- 25 Sachs J held in *In re: The School Education Bill of 1995 (Gauteng)* 1996 4BCLR 537(CC): ‘Thus, the dominant theme of the Constitution is to achieve equality, while considerable importance is also given to cultural diversity and language rights, so that the basic problem is to secure equality in a balanced way which shows maximum regard for diversity’ (561A).
- 26 Religious freedom is an individual right protected in s 15. Religious observances are addressed in s 15(2). Public schools are prohibited from discriminating against learners on the basis of their religion and a wide range of religions, agnosticism and atheism is included. Admission policies need to be sensitive to the religious freedom of learners (and educators) and religious holidays, attire and expression must be respected.
- 27 S 29(2). Malherbe (2000: 66.)
- 28 S 30.
- 29 S 31. See for example, *Christian Education South Africa v Minister of Education of the Government of the RSA* 2000 4 SA 757(CC) where the administration of corporal punishment (allegedly part of the Christian Schools’ religious beliefs on education discipline for male learners), was held to be inconsistent with, *inter alia*, the right to human dignity (s 10) and the freedom and security of the person (s 12).
- 30 In addition, a learner cannot demand absolute freedom of expression when his vulgar speech offends the human dignity or right to a safe school environment of other learners.
- 31 The limitation clause (s 36) provides that a limitation must be imposed in terms of law of general application to the effect that the limitation is reasonable and justifiable in a society based on the constitutional values of human dignity, equality and freedom. Certain factors have to be considered in the process, including: (a) the nature of the

- right; (b) importance of the purpose of the limitation; (c) nature and extent of the limitation; (d) relation between the limitation and its purpose; and (e) less restrictive means to achieve the purpose. See also *Harksen v Lane* NO 1997 11 BCLR 1489(CC).
- 32 As emphasised by Mohamed DP in *Fraser v Children's Court, Pretoria North* 1997 2 BCLR 153(CC): 'There can be no doubt that the guarantee of equality lies at the very heart of the Constitution. It permeates and defines the very ethos upon which the Constitution is premised' (para. 20).
 - 33 See *Ferreira v Levin* 1996 1 BCLR 1(CC) where Ackermann J proclaimed: 'Rights of freedom and equality are not always reconcilable and in concrete situations difficult choices may have to be made ... [the interim Constitution] ... does not provide an obvious answer to the choice between freedom and equality' (para. 53).
 - 34 Differentiation must be for a rational purpose and not arbitrary; even the law makes legitimate classifications that treat people differently and have different impacts on their lives. Differentiation must be distinguished from discrimination. See *Prinsloo v Van der Linde* 1997 3 SA 1012(CC); *Larbi-Odam v Member of the Executive Council for Education (North-West Province)* 1997 12 BCLR 1655(CC).
 - 35 Affirmative action programmes must promote equal enjoyment of the right to education and must be tackled in an orderly way with supportive policy directives: see for example, *Public Servants' Association of South Africa v Minister of Justice* 1997 3 SA 925(T). Education legislation and policy guidelines promote the advancement of previously disadvantaged learners in various ways (for example, school admission policies, curricula requirements, and so on).
 - 36 The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 was promulgated to give effect to the obligation to prohibit unfair discrimination in the private sphere (s 9(4)). See also De Waal, Currie & Erasmus 2000: 45; Wolhuter 1996: 512.
 - 37 See Preamble.

References

- Albertyn C & Kentridge J (1994) Introducing the right to equality in the interim Constitution, *South African Journal of Human Rights*, 10(2): 149–178.
- Botha H (1994) The values and principles underlying the 1993 Constitution, *South African Public Law/Publikereg* 9(2): 233.
- Bray E & Maile S (1999) Equal treatment and opportunities in special needs education: A South African perspective, *Education & Law* 9(2): 249.
- Bray E (2000) Law, education and the learner, In CJ Davel (ed.) *Introduction to child law in South Africa*, Lansdowne: Juta Law.
- Brown v Board of Education* 347 US 483 493 (1954).

- Carpenter G (2002a) Equality and non-discrimination in the South African constitutional order (3): The saga continues, *Tydskrif vir Hedendaagse Romeins-Hollandse Reg* 65: 42–45.
- Carpenter G (2002b) Equality and non-discrimination in the new South African constitutional order (4): Update, *Tydskrif vir Hedendaagse Romeins-Hollandse Reg* 65: 117, 185.
- City Council of Pretoria v Walker* 1998 BCLR 257(CC).
- Christian Education South Africa v Minister of Education of the Government of the RSA* 2000 4 SA 757(CC).
- Davel CJ (ed.) (2000) *Introduction to child law in South Africa*, Lansdowne: Juta Law.
- Devenish G (1999) *A commentary on the South African Bill of Rights*, Durban: Butterworths.
- De Waal J, Currie I & Erasmus G (2000) *The Bill of Rights handbook*, Cape Town: Juta.
- Ferreira v Levin* 1996 1 BCLR 1(CC).
- Foster W, Malherbe R & Smith W (1999) Religion, language and education: Contrasting frameworks for decision-making and participation, *Education & Law* 9(2): 211.
- Fraser v Children's Court, Pretoria North* 1997 2 BCLR 153(CC).
- Harksen v Lane NO* 1997 11 BCLR 1489(CC).
- Hubsch AE (1989) Education and self-government: The right to education under state constitutional law, *Journal of Law and Education* 18: 93–140.
- In re: The School Education Bill of 1995 (Gauteng)* 1996 4 BCLR 537(CC).
- Larbi-Odam v Member of the Executive Council for Education (North-West Province)* 1997 12 BCLR 1655(CC).
- Malherbe EFJ (1993) 'n Handves van regte en onderwys, *Tydskrif vir die Suid-Afrikaanse Reg (TSAR)* 3: 687.
- Malherbe R (1997) The education clause in the South African Bill of Rights: Background and contents, In J de Groof & R Malherbe (eds.) *Human rights in South African education*, Leuven: Acco.
- Malherbe R (2000) New beginnings: Introducing the South African Constitution and Bill of Rights, In J de Groof, R Malherbe & A Sachs (eds.) *Constitutional implementation in South Africa*, Ghent: Mys & Breesch.
- Manley-Casimir D (1999) Equality in the education of special needs students: A Canadian perspective, *Education & Law* 9(2): 275.
- Minister of Education v Harris* 2001 11 BCLR 1157(CC).
- National Coalition for Gay and Lesbian Equality v Minister of Justice* 1998 12 BCLR 1517(CC).
- President of the Republic of South Africa v Hugo* 1997 BCLR 708(CC).

Prinsloo v van der Linde 1997 3 SA 1012(CC).

Republic of South Africa (1996) Constitution of the Republic of South Africa, Act No. 108, 1996. Cape Town: *Government Gazette* 378 (17678), 18 December 1996.

S v Makwanyane 1995 6 BCLR 665(CC).

Van den Berg A (1990) *Critical choices for South African society* (Aug 1990 16), Institute for the Study of Public Policy 4–5, 9–10.

Van Wyk D (2001) Values, values, values or mere words, words, words, words? Values in the 1996 Constitution, *Constitution and Law IV: Developments in the contemporary constitutional state*, Konrad Adenauer Stiftung 6: 19–26.

Venter F (2001) Utilising constitutional values in constitutional comparison, *Constitution and Law IV: Developments in the contemporary constitutional state*, Konrad Adenauer Stiftung 6: 19–26.

Wolhuter (1996) Horizontally in the interim and final Constitution, *South African Public Law/Publikreg* 11(2): 512.

Education and multilingualism

Thobeka Mda

Introduction

This paper recognises language as key to learning, and language rights as key to fundamental human rights.¹ In South Africa, the issue of language in education has always been an extremely political one. Language has been used as a basis for classifying and dividing people, and as the cornerstone of segregationist education policies. During the colonial and apartheid eras, Afrikaans and English were defined as ‘languages’, while indigenous African languages were viewed as ‘tongues’ or ‘vernaculars’. While the term ‘language’ carried esteem, rights, recognition and privilege, the reverse was true for ‘tongue’ and ‘vernacular’. African languages were marginalised as languages of learning and as such were not usually used beyond the primary school. Through legislation and other means, South African languages did not enjoy equal status.

South Africa’s new Constitution (Republic of South Africa 1996c) has redefined the status of South African languages, entrenched language rights and choice, and created opportunities for promoting language diversity and multilingualism in education and in society. Based on the Constitution, the Language in Education Policy (LiEP) for schools, and the Language Policy for Higher Education (LPHE) seek to redress inequities in education. Despite the introduction of new policies and legislation to redress the imbalances of the past – especially in terms of promoting African languages, and recognising language diversity, variety and choice – the status and use of African languages in education has not improved greatly. Examining this issue forms an important focus in this paper. The paper concludes with the view that broader social reconstruction, teacher training and deployment, shifts in language attitudes, and incentives for the wider recognition and use of African languages, are required for the effective implementation of the language policies in education and the promotion of multilingualism.

Legislation of languages and language in education after 1994

The new multilingual sentiment in South African education has been significantly influenced by the principles and values propagated and upheld in the Constitution of the first democratic government elected in 1994. The Constitution has several key clauses relating to language use and practice in South Africa. It adds the nine local African languages to the previous two official languages to make 11 official languages in South Africa (Chapter 1, Section 6). Chapter 2, Section 29(2) gives everyone:

the right to receive education in the official language or languages of their choice in public educational institutions where the education is reasonably practicable. In order to ensure the effective access to, and implementation of, this right, the state must consider all reasonable educational alternatives, including single-medium institutions, taking into account (a) equity; (b) practicability; and (c) the need to redress the results of past racially discriminatory laws and practices.

Chapter 2, Section 30 provides ‘the right to use the language and participate in the cultural life of one’s choice’ and Chapter 2, Section 31 ensures that:

persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community (a) to enjoy their culture, practise their religion and use their language; and (b) to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.

The Minister of Education formally announced the LiEP on 14 July 1997. It intends to promote multilingualism, development of official languages, and respect for all languages in the country including sign language, in recognition of the culturally diverse nature of the country as an asset; improve access of learners to education and success within education by doing away with the racially and linguistically discriminating language in education policy of the past; facilitate communication across the colour, language and regional barriers, towards building a non-racial nation; maintain home language(s) while providing access to, and effective acquisition of, additional language(s); and

grants the right to choose the language of learning within the framework of the obligation on the education system to promote multilingualism (Republic of South Africa 1997: Preamble).

The policy has implications for curriculum development, provision or redeployment of human as well as material resources, democratic governance, and access to education, which give access to full participation in society and the economy. The facilitation of the LiEP proposals requires initiatives, activities and changes in a number of areas of education including qualification routes, teacher training, syllabus design and classroom practice. It also carries a number of significant rights and obligations as far as learners, schools and education departments are concerned. Learners have the right to choose the language of teaching upon admission to a school and to request the provincial education department to make provision for instruction in the chosen language where no school in the school district offers the chosen language as language of learning and teaching. It is the duty of the provincial education department to provide education in a particular language of learning and teaching if there are at least 40 learners in Grades 1 to 6, or 35 in Grades 7 to 12, requesting the language. The provincial education department is also required to explore ways and means of providing alternative language maintenance programmes in schools and/or school districts where additional languages of teaching in the home language(s) of learners cannot be provided or offered.

School governing bodies are also given a pivotal role. It is the duty of the SGB to stipulate how the school will promote multilingualism through using more than one language of learning and teaching, through offering additional languages as fully fledged subjects, and/or through applying special immersion or language maintenance programmes. The SGB determines the language policy of the school in accordance with regulations in the South African Schools Act, 1996 (Republic of South Africa 1996b). Each learner or SGB has the right to appeal to the Member of Executive Council (MEC) against the decision of the head of the provincial department of education (DoE); and to appeal to the Pan South African Language Board (PANSALB) against the decision of an MEC (Republic of South Africa 1997: 4–6).

To support and to facilitate implementation of the new policies, structures such as the PANSALB (PANSALB Act No 59 of 1995, and PANSALB Amendment Act of 1999), the Working Group on Values in Education (Department

of Education 2000), and the South African Language Practitioners Council (2000) have been established. The Department of Arts, Culture, Science and Technology was also given the task of coming up with a national language policy '[t]o provide for an enabling framework for promoting South Africa's linguistic diversity and encouraging respect for language rights within the framework of building a united, democratic South African nation' (Republic of South Africa 2000).

The LPHE – the policy framework for language in higher education (universities and technikons) – focuses on languages of instruction, the future of South African languages as fields of academic study and research, the study of foreign languages and the promotion of multilingualism in institutional policies and practices of institutions of higher education (Republic of South Africa 2002a: 13).

In higher education, language has continued to be a barrier to access and success for second- and third-language English and Afrikaans speakers as the majority of them are not fully proficient in these two languages, which have remained the languages of learning in higher education. African languages have not yet been developed as academic, scientific and technical languages (Republic of South Africa 2002a: 8–9). These issues are addressed in this paper.

Multilingualism

Multilingualism may refer to:

- (i) An ability or skill located in one person, meaning an ability to understand and speak many languages with equal or almost equal skill, as in, 'She is multilingual', or the multilingual interpreter/translator;
- (ii) Being written or expressed in many languages, as in a multilingual memo, text, poster and so on; or
- (iii) The existence of many spoken languages in a unit or group, or containing/comprising many languages or language groups (for example, multilingual society, classroom, and so on).

Most people find it easy to relate to the third meaning. That way no one has to do anything, as:

- It is a fact/it is the state of affairs;
- It is not prescribed or legislated;
- It is an 'as-is' situation.

Policies and constitutions, therefore, do not refer to the third interpretation. Except for the newly arrived slaves in the Americas long ago, no law ever prohibits any group or individuals from speaking own languages. The Constitution and the language policies, therefore, are referring to the first two meanings. If different groups speak different languages, while remaining monolingual as individuals and groups, then that is not the proposed multilingualism. Multilingualism, as understood from our Constitution, refers to the use of multi-languages in an environment, all of them supported and respected. That necessitates basic understanding of local languages by all, for starters, enough to know which one is being spoken, even if one cannot hold conversation in that language.

Factors and tensions inhibiting the effective implementation of LiEP and LPHE

The language policies in education are admirable, ambitious policies whose philosophy and principles include equity, democracy and access, and subscription to the notion that learning through the home language is best. The policies and the principles behind them are aimed at the development and empowerment of languages that were formerly disadvantaged by past language policies. However, there are many factors that inhibit the realisation of these principles and goals.

Socio-political factors, language status and inequalities

One of the principal factors militating against the success of the policy is a lack of political will in leaders and in South African society. On paper, all languages are equal and are to be treated equally. In real life, the two former official languages, English and Afrikaans, are still held in high esteem by all who aspire to be successful socially and economically. The continuing state of inequality between the languages points to the difficulty of achieving 'respect for all languages', 'counter[ing] ... ethnic chauvinism or separatism through mutual understanding' and in 'building a non-racial nation' (Republic of South Africa 1996c: Preamble).

Haugen explains how lack of political will thwarts the success of bilingual education programmes, which appears relevant to multilingual education in South Africa:

If bilingual education raises problems in the school, these must not be sought primarily in the classroom. If it fails to produce the desired effects, we must look back at the ultimate policies, overt and covert, public or private, of the society in which education is taking place. If the language of the home is also dominant in the life of the nation and is supported by the prestige of an elite, then the introduction into the school of another language can become a valuable supplement to one's native competence ... But if the language of the home is looked down upon and is not supported by the prestige of an elite, then the acquisition of a second language which does have prestige may be disastrous to the pride and cohesion of the pupil's ethnic group. (1985: 14)

In the South African context, apartheid policies contributed to this situation since the 'African languages [were] deliberately underdeveloped and neglected' (Alexander 1998: 4). On the other hand, as Spencer correctly observes:

the apparatus of political apartheid increased the use of African ... languages in African education, thus reducing in effect the African child's access to the two [former official] languages: English and Afrikaans. (1985: 392)

Spencer also explains the danger of 'making ... people linguistically self-sufficient through the sole use of their mother tongue' as it leads them 'towards a linguistic and cultural ghetto, with all the economic and political disadvantage [that this] entails' (1985: 392). Since the two former official languages are still very powerful and continue to enjoy privileges as favoured languages, there are no incentives for non-African language speakers to learn African languages, or for African learners to exercise their rights pertaining to their languages.

The inequality among the languages is also demonstrated by the fact that Africans are generally expected to communicate with white, Indian or coloured people in English or Afrikaans. The African knows s/he has to switch to the other's language. Fanon, discussing the situation of the languages of

black people all over the world, points out that communicating in a language requires not only a knowledge of the structure of the language but a propagation of the culture and values embedded in the language:

To speak means to be in a position to use certain syntax, to grasp the morphology of this or that language, but it means above all to assume a culture, to support the weight of a civilisation. (1967: 17)

While LiEP aims to recognise and develop all South African languages equally, in practice this does not happen, as most Africans still have to speak the language(s) of the dominant (white) culture. The fears of many English- and Afrikaans-speaking parents about the future of their languages and the implications that integration and multilingualism in schools may have for their children play a major role in the marginalisation of African languages and their use as languages of learning. In addition, many African parents fear that their children could lack socio-economic access and mobility if they are taught in their home languages. Many white (and sometimes Indian and coloured) parents fear the loss of privilege (usually articulated as a fear of lowering of academic standards); Afrikaans parents fear the extinction of their language and culture; and African parents fear polarisation and non-access to the perceived economic benefits attached to English and Afrikaans (Mda 1997). These fears pose a real threat to the redress and democratisation process in South Africa.

Negation of African languages and preference for English

Many African language speakers – and other South Africans – perceive English as offering greater socio-economic and educational opportunities and as potentially ‘unifying’ a linguistically diverse nation. English is therefore preferred as a *lingua franca* and language of learning. In the background to the LPHE it is reported that ‘no requests have been received from [universities and technikons who have voluntarily adopted flexible language policies] for additional resources to support their language strategies’. Also, instead of a growth in this area, ‘enrolments in language programmes have declined in recent years resulting in the closure of several language departments’ (Republic of South Africa 2002a: 12).

Lemmer, having studied the establishment of language policies in Namibia and Zimbabwe, cautions:

language in education policies designed to redress former racial inequality may unintentionally create new class stratifications. Moreover, the proposed equal treatment of the indigenous African languages embodied in Constitutional documents often means their decline in practice in the light of their impotency to compete with the popularity of and perceived advantages associated with English. (1996: 20)

The recognition of all languages is seen to bring conflict, to be divisive, and to lead to inequities. Most people also fear the cost implications of recognising 11 languages and argue that recognising only English would be cheaper and more sensible since English is a 'world' or 'international' language. (I do not support this as it leads back to linguistic and cultural imperialism.)

Pattanayak, cited in Skutnabb-Kangas and Garcia, responds to negative attitudes towards language diversity in multilingual countries in these words:

The dominant monolingual orientation is cultivated in the developed world and consequently two languages are considered a nuisance, three languages uneconomic and many languages absurd. In multilingual countries, many languages are facts of life; any restriction in the choice of language is not only uneconomic, it is absurd. (1995: 221)

Choosing one language, English, may also be a way for African-language speakers to ensure that their language is not dominated by another African language. Moorehouse, commenting on this contradiction, notes that:

[t]he remarkable thing is that English has not been rejected as a symbol of colonialism; it has rather been adopted as a politically neutral language beyond the reproaches of tribalism. (Cited in Mazrui 1974: 102)

(Afrikaans speakers, on the other hand, are not likely to subscribe to this sentiment.)

While English is an international language, and a means to economic benefits, it is not without its problems, and is definitely not neutral (Mda 1997). An

investigation into the integration experiences of African-language speakers in English-medium schools in South Africa revealed that studying through English was frustrating, demoralising and even traumatic for many learners (Ntshakala 1997). While the populations of schools and higher learning institutions are linguistically diverse, the institutions remain monocultural, ethnocentric and monolingual (English or Afrikaans). Other cultures are either not acknowledged or suppressed. The minority learners experience 'othering' (Soudien 1997: 18) or 'become invisible' (Vally & Dalamba 1999: 22).

As Squelch reports, the tendency to 'respond to the languages of minority children by rejecting them and attempting to replace them with the language of the dominant culture' (1993: 45) is one of the mechanisms that contribute to the negation of some languages. In many situations the parents of learners whose languages have minority status encourage this tendency. Skutnabb-Kangas concurs with Squelch, and argues for linguistic rights as human rights, in these terms:

Respecting linguistic human rights (LHRs) implies at an individual level that everyone can identify positively with their mother tongue, and have that identification accepted and respected by others, irrespective of whether their mother tongue is a minority language or a majority language. (1995: 7)

The various African languages are either non- or under-developed as academic/scientific languages. This happened because African languages were only taught as subjects and not used as languages of learning across the curriculum – especially beyond the foundation phase – and were not developed to have more functions and roles. English and Afrikaans, on the other hand, were developed for specialised purposes and have, for instance, 'business English' and 'sake Afrikaans' (business Afrikaans) applications. The limitations of African languages mentioned above are seen by many as permanent limitations, and African languages perceived as characteristically (by nature) unable to cope with scientific, technical and technological subjects (PRAESA 1998). Investment in developing these languages for wider roles and functions is seen as a waste of time and money. However, most of the arguments against the use of African languages for such purposes, especially when propagated by African-language speakers, are evidence of self-deprecation and dependence, resulting from years of colonialism and oppression (Mda 2000).

Another sign of the self-deprecation and denigration of African languages is the reference to African languages as 'black' languages. This construction of the apartheid government has been internalised by some African-language speakers. They do not see the situation of Africans as similar to that of other people all over the world; that people in Europe are Europeans, and speak European languages, or that those in Asia are Asians speaking Asian languages (Mda 2000). Even the use of the words 'vernacular' and 'mother tongue', which have become almost synonymous with, and substitutions for, 'African language', is not problematised.

In South Africa, African children in multicultural schools speak English to one another and with their parents. They adopt English and forget, or prefer not to speak, their own languages in favour of English and, in so doing, reject African languages and 'Africanness'. Of course, there is the desire to 'fit' into, and not to be different from, the norm. Surveys of language preference and attitudes in institutions of higher learning show that most students whose home/first language is an African language prefer English as a language of instruction. This is understandable since their education (at least for the first 12 years) has been through the English medium. They either cannot envisage African languages as media of instruction, or they feel they have almost mastered the language needed in the South African economic sphere and to change at that later stage to one will not be useful in that sphere. This unfortunately reproduces power imbalances between language groups and maintains the status quo. In view of this tendency, the principle of choice as contained in the Constitution, the Schools Act, the LiEP, and, to a small extent, LPHE, may contradict and defeat affirmative action measures for African languages, as there is no guarantee that African-language speakers will choose their languages as the language of learning.

The principle of choosing the language of learning is also constrained by pragmatic requirements such as the availability of resources. In racially, culturally and ethnically integrated schools, teachers are not usually multilingual. Hence, the right of the learner or parents to request a particular language of learning from the provincial education department may not be easy to grant and implement, as it calls for effective resource deployment and redeployment.

Teacher training

There are limitations in teacher training institutions as regards multilingual education. The colleges of education, which trained most South African teachers, were mainly ethnically based. Until the publication of the *2002 Revised National Curriculum Statement* (Department of Education 2002) even in institutions where teachers of all races and ethnic groups were trained together, the methodologies for teaching different languages were separate, so that there was, for example, an Afrikaans method, an isiXhosa method and a Xitsonga method. In the above-mentioned policy document differentiation according to language has been done away with, and replaced by encompassing terms as in 'home', 'first' and 'second additional language' didactics.

It is reported in the LPHE that 'few institutions include an African language as a training requirement for undergraduate and postgraduate study, or offer short courses in African languages as in-service learning opportunities for professionals in practice' (Republic of South Africa 2002a: 12). Also, very few multilingualism programmes, such as the University of Cape Town's Postgraduate Diploma and Masters in Education: Multilingual Education, have been developed. Even for schools, most programmes on multilingual and multicultural teaching are developed and facilitated by non-governmental organisations (NGOs) and not by the national or provincial Departments of Education. The educators who attend these formal and non-formal multilingual education courses or programmes may be doing so as individuals, for personal, academic and professional development. However, since there is no incentive of credit or remuneration from the DoE or higher learning institutions, there is no motivation for the majority of educators to take these courses.

Another weakness in language teacher training is that very few language-across-the-curriculum programmes have been established, nor are they widely practised. Where they do exist, they have been treated as just another subject, and regarded as a 'frill'.

I believe that the biggest constraint is in the will of all South Africans to recognise and affirm the African languages. Since there are presently few opportunities for, and benefits in, using African languages in higher education and in the economic world, it can be argued that it is a waste of the resources of the DoE to develop and promote African languages. It would seem to be an unnecessary complication to suggest multilingualism, instead of adhering to

the former government's Afrikaans and English (bilingual) policy, if the two languages are all that South Africa needs. However, given past imbalances and the neglect of African languages, the promotion of multilingualism is essential within the context of redress, equity and democracy in South Africa.

Another big constraint is what Delpit (1988) in the USA identifies as the 'culture of power'. Delpit analyses five complex rules of power that explicitly influence the debate over meeting the educational needs of black and poor students on all levels (1988: 80). Delpit examines this culture of power, specifically in classrooms, in a debate on instruction that contributes towards a more just society. In my view, Delpit's analysis of a situation of minority black and poor learners in the USA, in a predominantly white majority education system, is applicable to the South African situation of black learners who go to previously white schools, which have the traditions of the powerful white, middle-class and privileged society. Delpit (1988: 182–184) identifies and describes five aspects of power that are relevant to this discussion on powerful and powerless linguistic communities:

- (i) Issues of power are enacted in classrooms. These include the power of the teacher over the students and the power of the publishers of textbooks and of the developers of the curriculum to determine the view of the world presented. Also, since 'schooling prepares people for jobs, and the kind of job a person has determines her or his economic status and, therefore, power, then schooling is intimately related to that power' (1988: 283). In the context of this paper, the language of power is English, and to some extent, Afrikaans, and the issues of language power are enacted in South African classrooms.
- (ii) There are codes or rules for participating in power, that is, there is a culture of power. These 'relate to *linguistic forms, communicative strategies*, and presentation of self; that is, ways of talking, ways of writing, ways of dressing, and ways of *interacting*' (1988: 283, my emphasis). In the South African situation, the rules for participating in power include competency in the relevant language(s).
- (iii) The rules of the culture of power are a reflection of rules of the culture of those who have power. 'Success in institutions, schools, workplaces, and so on, is predicated upon acquisition of the culture of those who are in power. Children from middle-class homes tend to do better than those from non-middle-class. Children not from upper and middle classes

operate within perfectly wonderful and viable cultures but not cultures that carry codes or rules of power' (1988: 283). In our case, children whose home language is the language of instruction and language of the school, and also the language of commerce, will do better than those whose home languages do not carry codes of power.

- (iv) If you are not already a participant in the culture of power, being told explicitly the rules of that culture makes acquiring power easier. When implicit codes are attempted across cultures each cultural group is left confused. This could be compared to the situation of according official status to 11 languages, and yet elevating, and showing preference for, only one language, or having a multilingual national school language policy, and yet, practising and rewarding monolingualism or bilingualism.
- (v) Those with power are frequently least aware of, or at least willing to acknowledge, its existence. Those with less power are often most aware of its existence. 'For many who consider themselves liberals or radicals, acknowledging personal power and admitting participation in the culture of power is distinctly uncomfortable ... those less powerful in any situation are most likely to recognise the power variable most acutely' (1988: 283–284). The home/first-language speakers of English, for instance, and all those who have mastered the language, and in power, are least likely to be aware of the exclusion and lack of access felt by those whose (official) languages of communication carry no status.

Addressing constraints

In recognition of these tensions and inhibiting factors, the Langtag (Language Plan Task Group) language in education interest group identified a number of steps that needed to be taken to strengthen the language in education policy (Republic of South Africa 1996a: 129–131). These included, amongst others, language awareness campaigns at the broad public and at institutional levels; standards-setting mechanisms and processes in line with National Qualifications Framework (NQF) principles, especially in regard to the qualification and certification of teachers who have to operate in multilingual classrooms; promoting the status, corpus and acquisition of the African languages through the education system by means of newsletters, journals, magazines, and so on; streamlining information flows between institutions and state organs that

have an influence on the formulation and implementation of language policy in education; facilitating the establishment of community- or commercially-driven service centres at local level for language maintenance programmes in non-official South African and foreign languages; exploring the most appropriate language policy for tertiary education; exploring language issues in Early Childhood Development; and exploring more appropriate and equitable language assessment models, so that due weight is given to the real language competence of learners in a multilingual society.

In the LPHE, the Ministry of Education recommends: development of all South African languages for use in instruction; establishment of a task team to advise on the development of an appropriate framework and implementation plan, including costing and time frames; in close collaboration with the Department of Arts, Culture, Science and Technology, development of dictionaries and other teaching and learning materials; injection of substantial financial resources, over a period of time; encouragement of all higher education institutions to develop strategies for promoting proficiency in designated language(s) of tuition, including provision of language and academic literacy development programmes; curriculum development in South African languages and literature; amending funding grids for teaching inputs and outputs for specially selected languages, by, for example, providing earmarked institutional development funds for research, and facilitating offering of scholarships to students; offering these studies on a more cost-effective regional/national platform; requiring proficiency in an African language as a requisite for a range of academic fields of study and offering short courses in African languages; higher education institutions required to indicate in their three-year rolling plans strategies put in place to promote multilingualism, including progress in this regard; and all higher education institutions to develop own language policies and submit them to the Minister of Education by 31 March 2003.

Despite the difficulties and negatives experienced with the promotion of language diversity, there are organisations (mainly non-governmental), scholars, groups and schools from all over the world that have come up with positive strategies. In South Africa, one of the most important groups to do so is the University of Cape Town-based Project for the Study of Alternative Education in South Africa. Some strategies from classrooms all over the world are: where some learners speak languages not spoken by the class teachers (a common situation in multicultural classrooms in South Africa), using, as language

resources, parents, volunteers from the community, including unemployed or retired teachers, other learners in the same class or other classes, and staff members who speak the language(s) of the learners; involving parents in education tasks by, e.g., letting parents direct the school's educational and language policy to allow for parents to bring their history, culture and values; collecting and creating parallel texts, books, alphabets, numbers, scripts, posters and story tapes in various languages; two-way dictionaries; pictures from magazines showing diversity and variety of people, and so on; and, when assessing the class, varying techniques and items to include written and oral tests, short- and long-answer questions, observation strategies, and being sensitive to the language of tests, and bias in examinations (Ohio Department of Education 1985: 35–37; PRAESA 1998: 4–5; Skutnabb-Kangas 1995: 12–17; Squelch 1993: 29–58).

Some guidelines and principles for multilingualism at school level, such as those proposed by Skutnabb-Kangas (1995), Skutnabb-Kangas and Garcia (1995) and Heugh (1998), would be difficult to implement – even though the latter are specifically suggested for South African schools – as they presuppose multilingual or at least bilingual administration and staff.

Although the so-called 'immersion', 'two-way dual language', 'maintenance', 'plural multilingual' and 'dual-language school' models are all relevant in different ways for multilingual South Africa, political, social and economic factors and language attitudes may make them difficult to implement. The greatest obstacles are monolingual teachers in the integrated suburban and city schools. Bilingual and multilingual programmes and models cannot succeed where teachers belong to one racial, ethnic and, especially, one linguistic group. It will take some form of social reconstruction to address the issue. There might have to be busing of bilingual and multilingual teachers to the monolingual suburban and city schools. Training of bilingual and multilingual teachers would have to be prioritised.

The publication, *The Power of Babel: Support for teachers in multilingual classrooms* (PRAESA 1998) also offers a selection of South African resources, mostly multilingual materials and materials in African languages, and a list of organisations, national and provincial, that give support or provide resources for teachers in multilingual classrooms. The PRAESA publication gives hope that multilingualism is not only desirable but also 'do-able'. It is heartening to find in this publication a long list of organisations devoted to this cause.

There are also indications that the national DoE is aware of, and wants to take action on, the perceived non-implementability of the language in education policy. The action envisaged is outlining for schools and school governing bodies clear strategies of implementation in an 'Implementation Plan' document. Such a process also takes time. It is hoped that in outlining the strategies, the DoE recognises the realities of choices being made and plans to strengthen choices for African languages, as well as paying serious attention to how English is taught in schools. These are far-reaching changes that will not be made quickly. The point of view from this paper is that this is a worthwhile project and investment in this process will pay off handsomely.

Conclusion

There is a need to *concretise and implement the multicultural ethos expressed in the Constitution, the Schools Act, the LiEP and LPHE in our wider society*. Stricter monitoring of implementation of the language policies needs to be done to ensure access and success of learners in education, which was the primary intention of these policies.

The definition and interpretation of the concept multilingualism needs to be interrogated. There is a need for *all groups to commit to the acquisition of the multilingual skill*. At this stage, that seems to be mainly the African-language speakers' domain. The majority of African language speakers speak English and/or Afrikaans, and at least one other African language in addition to their first/home language. While most white, Indian and coloured South Africans may be bilingual, that is limited to English and Afrikaans, the languages of white people, also the two former official languages, which do not include African languages.

We need to see *African languages functioning in many spheres*. Creating a language-friendly environment through signs, pictures and posters (mentioned earlier as one of multilingual classroom strategies) should not be limited to classroom walls or school notice boards. There should be signs in African languages in private companies and suburban complexes, including shopping malls, rather than limiting these languages to railway stations, police stations, hospitals and other public buildings, generally associated with semi-literate African-language speakers. Manufacturers and road sign writers

should be compelled to move away from writing only in English and Afrikaans. Labels on products and directions for usage or dosage in medicines and household products should appear in African languages. It is high time directions on a jelly packet, for example, appear in isiZulu, Sepedi, and so on. Why not mix English with alternate African languages, for example, with isiZulu or Tshivenda, and so on?

For the *white, Indian and coloured teachers*, there is an educational and constitutional requirement to acknowledge being a member of, or participating in, the culture of power, by virtue of their position, their numbers, or access to the particular code (language) of power, and having the authority to establish what is to be considered ‘truth’ in class. They must, therefore, concretely acknowledge the existence of other languages and cultures, and acknowledge their legitimacy, and that these other languages do not carry codes or rules of power.

In her concluding arguments, Delpit states, ‘The dilemma is not really in the debate over instructional methodology, but rather in communicating across cultures and in addressing the more fundamental issue of power, of whose voice gets to be heard in determining what is best for poor children and children of color’ (1988: 296). Also, ‘Teachers are in an ideal position to play this role, to attempt to get all of the issues on the table in order to initiate true dialogue ... by being unafraid to raise questions about discrimination and voicelessness with people of color, and to listen, no, *hear* what they say’ (Delpit 1988: 297, emphasis in original). This argument could also be used in South Africa, for the need to communicate across multicultural and multilingual classrooms, in addition to acknowledging the legitimacy of languages ‘other’ than the school’s dominant language(s).

It should be incumbent upon every teacher to have *operational competence in at least one African language*, and to be able at least to distinguish between the Nguni and Sotho languages even if the teacher does not speak all. In the *Manifesto on Values, Education and Democracy* it is stated: ‘all English and Afrikaans teachers will need to learn an African language’ (Ministry of Education 2001: 48).

Like Haugen (1985), I believe that while the LiEP and LPHE are education policies, their success lies outside the education arena, in politics (through legislation) and in the economy (through practical, visible and empowering policies). Public awareness of language rights is also very important and efforts

like the DoE's 1998 LiEP awareness campaign should be supported by, and involve, all sectors of South African society. The Manifesto referred to above, also acknowledges that multilingualism will become a reality and be viable only if the broader South African society validates multilingualism (2001: 49). Occasionally, one observes some efforts by some groups to incorporate multilingualism in practice, even if just symbolically. An example is the use by *Beeld*, an Afrikaans newspaper, of the headline in isiXhosa, 'Imini Emnandi' (a Happy/Joyful Day) on the occasion of the beloved former South African president, Nelson Mandela's 85th birthday (*Beeld*, 18 July 2003). Another example is the Africanising of some non-African language terms for national symbols, as in 'Amabhokobhoko' (the national rugby team, the Springboks).

It is hoped that accreditation of multilingualism through the NQF will be a reality soon. It is also hoped that parents and teacher unions/associations, the key participants in the process of implementation, will own the process and ensure its success. Finally, as the Values in Education Working Group recommended, '[a] language in education policy must ... be supported by initiatives in the wider society ... [and] multilingual proficiency must be rewarded' (DoE 2000: 8). Effective and meaningful rewarding of multilingual practices and promotion thereof is long overdue.

We need *demonstrated will by our leaders*, especially the African leaders, and *goodwill from people of coloured and Indian descent, the English and Afrikaners* (starting with all these here in this colloquium) to display just a little interest in African languages, not to do African language-speakers a favour, but because it is the right thing to do.

Thobeka Mda is based at the Faculty of Education at the University of South Africa.

Notes

- 1 This paper has been extracted and adapted from the chapter 'Language and Education' that I contributed towards the book L Chisholm (ed.) *Changing class: Education and social change in post-apartheid South Africa*, Cape Town: HSRC Press.

References

- Alexander N (1998) Multilingualism and the new curriculum, *PRAESA News*, School of Education, University of Cape Town, June (4): 6–7.
- Delpit LD (1988) The Silenced dialogue: Power and pedagogy in educating other people's children, *Harvard Educational Review* 58(3): 280–298.
- Department of Education (2000) *Values, education and democracy: Report of the Working Group on Values in Education*, Pretoria.
- Department of Education (2002) *Revised National Curriculum Statement*, Gazette No. 23406 Vol. 443, May 2002.
- Fanon F (1967) *Black skin, white masks*, New York: Grove Press.
- Haugen E (1985) The language of imperialism: Unity or pluralism? In N Wolfson & J Manes (eds.) *Language of inequality*, Berlin: Mouton Publishers.
- Heugh K (1998) The new Language in Education Policy: South African perspectives on implementation. Paper presented at the National Conference on the Implementation of the Language in Education Policy, Pretoria, 13–15 May.
- Lemmer EM (1996) Issues in language in education policy with specific reference to Namibia and Zimbabwe, *South African Journal of Education* 16(1): 15–21.
- Mazrui AA (1974) *World culture and the black experience*, The John Danz Lectures, Seattle: University of Washington Press.
- Mda TV (1997) Learning best in home language, *The Teacher* 2(9): 6.
- Mda TV (2000) Language and education, In TV Mda & MS Mothata (eds.) *Critical issues in South African education after 1994*, Kenwyn, South Africa: Juta and Company.
- Ministry of Education (2001) *Manifesto on Values, Education and Democracy*, Department of Education: Pretoria.
- Ntshakala S (1997) Integrated schools must face issues, *The Teacher* 2(9): 5.
- Ohio Department of Education (1985) *Citizenship, multicultural, and human relations education*, Columbus, Ohio: The Ohio Department of Education Division of Elementary and Secondary Education.
- PRAESA (1998) *The Power of Babel: Support for teachers in multilingual classrooms*, Cape Town: University of Cape Town, School of Education.
- Republic of South Africa (1995) White Paper on Education and Training. *Government Gazette* 357(16312), 15 March 1995. Cape Town: Government Printer.
- Republic of South Africa (1996a) *Towards a National Language Plan for South Africa: Final Report of the Language Plan Task Group (LANGTAG)* 8 August 1996. Pretoria: Department of Art, Culture, Science and Technology, Language Plan Task Group.
- Republic of South Africa (1996b) The South African Schools Act. *Government Gazette* 377 (17579), 15 November 1996. Cape Town: Government Printer.

- Republic of South Africa (1996c) The Constitution of the Republic of South Africa, Act No. 108, 1996. *Government Gazette* 378 (17678), 18 December 1996. Cape Town: Government Printer.
- Republic of South Africa (1997) *Language in Education Policy*. In terms of Section 3 (4)(m) of the National Education Policy Act, 1996 (Act 27 of 1996), 14 July 1997. Pretoria: Department of Education.
- Republic of South Africa (2000) *South African Language Practitioners Council Bill*, 19 July 2000. Pretoria: Department of Arts, Culture, Science and Technology.
- Republic of South Africa (2002a) *Language Policy for Higher Education*. In terms of Higher Education Act, 1997 *Government Gazette*, 1485(24101), 25 November 2002. Cape Town: Government Printers.
- Skutnabb-Kangas T (1995) Introduction, In T Skutnabb-Kangas (ed.) *Multilingualism for all*, Lisse, Netherlands: Swets and Zeitlinger BV.
- Skutnabb-Kangas T & Garcia O (1995) Multilingualism for all – general principles? In T Skutnabb-Kangas (ed.) *Multilingualism for all*, Lisse, Netherlands: Swets and Zeitlinger BV.
- Soudien C (1997) ‘We know why we’re here’: The experience of African children in a coloured school in Cape Town, South Africa. Paper presented at the Annual Congress of the Southern African Comparative and History of Education Society, Livingstone, Zambia, 10–12 January.
- Spencer J (1985) Language and development in Africa: The unequal equation, In N Wolfson & J Manes (eds.) *Language of inequality*, Berlin: Mouton Publishers.
- Squelch J (1993) Equality in education, In E Lemmer & E Dekker (eds.) *Critical issues in modern education*, Durban: Butterworths.
- Vally S & Dalamba Y (1999) *Racism, ‘racial integration’ and desegregation in South African public secondary schools*. Report on a study by the South African Human Rights Commission (SAHRC). SAHRC: Pretoria.

Inclusion versus integration: the tension between school integration and the language policy

Brigid Comrie

Introduction

School integration and inclusion are promoted by the new curriculum and by the policies informing the curriculum. However, inclusion and integration is a process that takes different forms in different communities. To successfully facilitate the process it is important to understand certain factors that impact on successful learning. In this paper I will briefly discuss some of the implications of integration, and factors that affect successful learning. In particular, I will focus on problems of language mismatch where the learner's home language is not the same as the language of learning and teaching (LOLT) in the school, as well as the pace of the curriculum.

Orientation to the Revised National Curriculum Statement

The key principles of the Revised National Curriculum Statement (RNCS) for foundation phase learners include the following: inclusivity; human rights; social justice; a healthy environment; progression and integration. Several policies inform the curriculum including the *Language in Education Policy* (1997) and *White Paper 6* (2001), which contains the national policy on inclusive education.

The White Paper uses the term 'barriers to learning' thus moving away from a strictly medical model, which locates learning difficulties primarily within the child, to a more systemic approach (see the Appendix to this chapter for an

outline of some barriers to learning – Department of Education 2003). A variety of barriers may be considered systemic barriers to learning, including aspects of the curriculum. One of the most significant barriers to learning for learners in special and ordinary schools is the curriculum. In this case barriers to learning arise from different aspects of the curriculum such as:

- The content;
- The language or medium of instruction;
- The methods and processes used in teaching;
- The pace of teaching and time available to complete the curriculum (Department of Education 2001: 19).

In my view, it is not the framework of the new curriculum that creates barriers to learning, but rather the pace of curriculum as well as the teachers'/schools' limited understanding and interpretation of and ability to implement the curriculum. This can be compounded by parents' inability to support learners in relation to the curriculum.

The language policy, which came into being in 1997, is now being spelt out more clearly in the RNCS. The following extract from the Foundation Phase Guide explains the essence of the policy:

The Department of Education's Language in Education Policy promotes additive multilingualism. This means that learners must learn an Additional Language while at the same time maintaining and developing their Home Language. Additive multilingualism makes it possible for learners to acquire complex skills such as reading and writing in their strongest language. Learners can transfer these skills to their Additional Language (Department of Education 2003: 21).

The ideal situation in relation to language/s of learning and teaching would be an additive approach to language learning whereby learners start in their home language, add another language – generally English – and continue developing their home language throughout their schooling. Ideally both languages would receive 50 per cent of the allocated time. Research supporting this approach is referred to below.

Case study highlighting Grade 9 learners' difficulty in accessing the curriculum

In a recent collaborative project aimed at understanding and supporting inclusion in high school, six mainstream high schools in the Cape Town urban area were targeted. The following case study highlights the extent of barriers to learning experienced by Grade 8 and 9 learners. M is 19 years old. His home language is isiZulu. He attended school in Gauteng originally in Afrikaans, and later moved to an English school in Cape Town. He was identified by the Learning Support (LSEN) teacher as needing support in literacy. The LSEN teacher visited the school twice a week as part of our High School Inclusion Project.

The following is a copy of M's original diagnostic assessment by the LSEN teacher to ascertain the learners' strengths and needs.

4	hed	*	23. saw
5	vos		34. lost
6	bos		35. bela
7	vrok		36. foot
8			37. misuo
9	old	✓	38. tovan
10	sip		39. vean
11	Lak		40. Welo
12	raol		41. tod
13	tam		42. lar
14	wenk		43. monk
15	sil		44. taal
16	wepp		45. wedt
17	vah		46
18	open	✓	47. enese
19	sente		48. rovt
20	bas		49. rest
21	stow stow		50. havw
22	bon		
23	papa		
24	nap		
25	brad		
26	sand		

1. Grand-Pa ✓
2. ClubCard ✓
3. Modu ✓
4. Take ✓
5. your ✓
6. valid ✓
7. from ✓
8. CHICKS ✓
9. SAVE ✓
10. Good ✓
11. Blue Downs ✓
12. VALPRE ✓
13. slimslab ✓
14. Granola Bars ✓
15. OUTSPAN ✓
16. spoot ✓
17. Care ✓
18. less ✓

(15)

1. We all need jobs
2. All of us are going to school
3. All of us ✓
3. All prices include VAT and are correct ✓
4. All It is about a o clock
5. It is about time you did some work
6. How did you feel before school
7. How did you feel before school
8. Before you eat you must say a prayer
9. I was Before you in the line ✓
10. take good care of Before your health ✓
11. I had a cold
12. We had sandwiches for lunch
13. We had a nice day at church
14. We had in Disprity hood
15. I tried my best but I failed ✓
16. I had money but I lost I
17. I went to school but I got lost
18. I bought some food but, it was rotten ✓
19. I wrote my exams but I failed ✓

- A. Standardised spelling test where M has scored at a Grade 1 level.
- B. Non-standardised free vocabulary test used to find out what the learner can do. This gives the teacher insight into the learner's knowledge of phonics and, to a certain extent, language ability and learning style. (It is interesting to note that in test B the words do not relate to school but to the learner's world outside school and most are 'sight' words.)
- C. Sentences written by M later in the year, with the support of the LSEN teacher.

M has shown from the progress made in five months that he has learning potential. It would appear that M did not receive any literacy instruction (that is, specific teaching on how to read and write) after foundation phase. According to the LSEN teacher, M has very strong oral language skills and is not cognitively challenged. However, there are clearly 'gaps' in his learning.

Possible reasons why learners struggle with basic reading and writing in Grade 8 and 9

There are a number of factors that impact negatively on literacy development. Two of these crucial factors will be discussed.

Reading levels and the curriculum

Rose (2003) refers to three general phases of reading associated with schooling:

- Phase one early primary: Becoming an independent reader;
- Phase two middle to upper primary: Learning to learn from reading;
- Phase three secondary school: Independent learning from reading.

Phase one can be further subdivided into four levels: emergent, beginner, fluent and independent readers.

Rose (2003) points out that there is also a fourth stage – the pre-reading experience generally mediated to children by middle-class parents through interactive story routines where meaning is *scaffolded*. Thus, these children enter school with an advantage. Rose suggests that teacher training is based on these middle-class experiences of reading levels and that teachers base their teaching on these phases – assuming that all children have access to early literacy

interventions. When they do not make progress it is assumed that natural ability is lacking and that learners require 'remedial' support.

Rose refers to research conducted with indigenous students in Australia who are also missing out on the pre-reading experience: by the end of Grade 9 or 10 most indigenous students end their formal education unless they are able to access adult education later in their adult life. Primary school fails to give these learners what they need to close the literacy gap. This, coupled with the relentless pace of the curriculum, ensures that they will not succeed with the demands of secondary schooling, and that they do not expect to. They experience secondary schooling, not as an entry to adult life, but as a waste of time. I want to suggest that this is the experience of a large percentage of our learners. In fact, many of them may not reach fluent reading level in phase 1.

Language learning issues

In a recent presentation to the Education, Management and Development Centre (EMDC) Central, Cape Town, Kathleen Heugh highlighted the following key findings in relation to learning through home and additional languages from international and South African research.

South African and other international findings

- Threshold report, 1990: early exit from home-language medium of instruction to English in Grade 4. Research on African language speakers shows that this does not give learners enough time to learn sufficient English to manage the curriculum in English.
- Research in North America, Australia, India, Britain: students need at least six years of English as a subject before they can use it successfully as a LOLT.
- Home language must be retained as LOLT for six years after the child enters school.
- It takes 12 years to develop a high level of proficiency in home language (birth – Grade 6/7).
- Academic development of all children is affected by level of development of home language/mother tongue.
- Once learners cannot understand more than two per cent of the vocabulary of a text they are reading, comprehension declines rapidly. (Heugh 2003)

Effectiveness of various language learning models

Heugh (2003) provides a summary of a number of studies conducted in the US over the past 15 years:

- Intensive English ‘pullout’ system from Grade 1: learners improve in Grades 1–3; however, as the learners continue through school, results are poor. This may be considered a waste of resources.
- Early exit from home language/mother tongue and English taught through academic content as well as through English as a subject: under the best conditions the results are poor. This model gives little return on investment.
- Home language/mother tongue LOLT to end of Grade 6 (with English taught as a second/additional language) and then switch to English LOLT: learners’ results improve particularly with well trained teachers and resources. This gives a better return on investment.
- Dual-medium education throughout school system: learners perform best under these circumstances. This is the best investment of resources. (Ramirez et al. 1991, Thomas & Collier 1997 cited in Heugh 2003)

What is really happening in our schools?

Recently Grade 3 learners throughout the country have been evaluated to monitor progress in literacy and numeracy through a systemic evaluation process. The results were clearly higher in the Western Cape than the national norm because 80 per cent of learners wrote in their home language. In contrast to this, in Mpumalanga over 90 per cent wrote in an additional language.

Table 9.1 Literacy and numeracy in grade 3 learners in three provinces

	Overall percentage literacy score	Overall percentage numeracy score
Mpumalanga	33	23
Eastern Cape	48	31
Western Cape	61	38
National	48	30

Source: Heugh 2003

Conclusion

Inclusion and integration pose a number of questions and challenges, particularly in relation to learners' language proficiency and consequent literacy skills. A simplistic approach, which disregards how children learn or do not learn and why, could be detrimental to many learners. For this reason, I would like to suggest the following:

- Research on effective methodologies to scaffold and develop the reading process, and the implementation of reading teaching using scaffolding to Grade 6 and above if necessary. These strategies need to be implemented in conjunction with the RNCS.
- Development of an adapted curriculum for those learners who, for whatever reason, do not have time to close the literacy gap and need training to access the job market, either through mainstream schooling or Adult Basic Education and Training (ABET).
- Language policy understanding and advocacy via schools, the media and aimed at the general public so that parents can make more informed decisions and understand the implications for their children of learning in an additional language.

Brigid Comrie is based at the Education Management & Development Centre, Western Cape.

References

- Department of Education (2001) *Education White Paper 6*, Pretoria: Government Printer.
- Department of Education (2003) *Foundation phase: Teachers guide for the development of learning programmes*, Pretoria: Government Printer.
- Hugh K (2003) The effectiveness of different types of English second-language programmes. Literacy Workshop, EMDC Central.
- Mackay T (1999) Education and the disadvantaged: Is there any justice? *The Psychologist* 12(7): 344–349.
- Rose D (2003) Sequencing and pacing of the hidden curriculum: How indigenous children are left out of the chain. University of Cape Town seminar.

Appendix to Paper 9

Summary of barriers to learning

Pedagogical	Medical disabilities	Societal	Systemic
<ul style="list-style-type: none"> • Insufficient support of educators • Inappropriate and unfair assessment procedures • Inflexible curriculum • Learning styles • Tempo of teaching • What is taught (Content) • Management and organisation of classroom 	<p>Sensory disabilities</p> <ul style="list-style-type: none"> • Hearing loss • Visual impairment <p>Neurological disabilities</p> <ul style="list-style-type: none"> • Cerebral palsy • Learning disabilities • Academic learning difficulties • Communication disorders • Perceptual disorders • Motor disorders • Socio-emotional problems • Memory problems • Attention Problems <p>Physical disabilities</p> <ul style="list-style-type: none"> • Disorders of the skeleton • Muscular weakness and paralysis • Health impairments and chronically sick learners • Heart conditions • Tuberculosis • Rheumatic fever • Asthma • Haemophilia • Lead poisoning • Leukemia • Diabetes <p>Cognitive disabilities</p> <p>Intellectual disabilities are classified as:</p> <ul style="list-style-type: none"> • Mild • Moderate • Severe • Profound 	<ul style="list-style-type: none"> • Severe poverty • Late enrolment • The lack of early intervention programmes • Natural disasters and epidemics • Abuse, crime and teenage pregnancy • Gangs/violence in neighbourhood and at home • Gender issues in cultural groups and society • Attitudes • The lack of basic amenities such as water, electricity and toilets • Lack of basic and appropriate learning support materials 	<ul style="list-style-type: none"> • Lack of assistive devices • Inadequate facilities at schools • Overcrowded classrooms • Lack of mother-tongue educators

