The Plight of Afrikaans: Has the Demise of Afrikaans-Medium Public Schools Been Pronounced Within the Educational Framework of South Africa?*

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SUMMARY

On 13 October 2017, the Department of Basic Education published the Basic Education Laws Amendment Bill (BELA Bill), intending to amend certain sections within the South African Schools Act 84 of 1996. Subsequently, a complex process unfolded, with the receipt of 29 754 written submissions and the conduct of provincial consultations across all nine provinces by the Department. The National Assembly supported the final version of the BELA Bill on 26 October 2023, paving the way for its transmission to the National Council of Provinces. If the BELA Bill is supported at this level, the Bill will progress to the President for his signature and formal endorsement. The effective implementation of the amendments to the South African Schools Act will be subject to the President's proclamation, circulated through an official notice in the *Government Gazette*. The crux of the BELA-Bill controversy revolves around contentious alterations to public schools' language and admission policies. On the topic of language policy, the proposed amendment bestows authority on the provincial head of department to direct a school to adopt more than one language of instruction where it is practical to do so after a list of criteria has been exhausted. This article presents arguments from the perspective of an Afrikaans mother-tongue speaker who views the proposed amendments as a direct threat to the Afrikaans language and Afrikaans-medium schools. In addition, the article aims to uncover the uncommunicated reasons behind the African National Congress (ANC)

* The Basic Education Laws Amendment Bill was enacted following its signing into law by President Cyril Ramaphosa on 13 September 2024. This article was submitted prior to the promulgation of the bill; therefore, it should be read with the understanding that the bill now constitutes formal law.

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government's advocacy for the enactment of these amendments to the South African Schools Act. The article raises the pivotal question of how these amendments may potentially infringe upon the rights of Afrikaans learners, as articulated in section 29(2) of the Constitution of the Republic of South Africa, 1996. This section unambiguously guarantees everyone the right to receive education in an official language or languages of choice in public educational institutions, where it is reasonably practicable to implement.

KEYWORDS: BELA bill, centralised governance, constitution

1 INTRODUCTION

This article examines the implications of the proposed amendment to section 6 of the South African Schools Act 84 of 1996 regarding language policy at public schools, as outlined in the Explanatory Summary of the Basic Education Laws Amendment Bill (BELA).[1] The perspective adopted is that of an Afrikaans mother-tongue speaker. The Afrikaner community perceives these proposed amendments as a threat to Afrikaans-medium schools. To contextualise this argument, the discussion begins with an exploration of how language was used by the apartheid government to perpetuate segregation within the education system, and is followed by an analysis of the transformative efforts undertaken by the new democratic government to afford each learner the right to education in their mother tongue.[2] Subsequently, attention is directed towards section 6 of the BELA Bill, which addresses language policy and is elucidated upon to reveal that its enactment would regress the education system to pre-democratic norms, thus underscoring its violation of the Constitution. The argument culminates with the assertion that the underlying motive behind these amendments is an endeavour to obfuscate the ANC government's failure to ensure adequate access to education, a fundamental constitutional entitlement. Furthermore, it is contended that the prevalence of cadre deployment, fostering corruption and fiscal mismanagement, adversely impacts the education sector's efficacy, prompting the government to adopt a recentralised governance approach as a means of mitigating public scrutiny. By assuming control over schools' language policies, the government gains the authority to mandate adjustments to accommodate additional learners, enabling the ANC to portray a narrative of comprehensive educational access. Lastly, it is hypothesised that the ANC's advocacy for language-policy amendments stems from an inherent animosity towards Afrikaans, with the party equating the language with racism and seeking its eventual eradication from the educational landscape by imposing additional languages of instruction upon Afrikaans-medium schools. The amount of litigation in which schools seek the assistance of courts to assist them against draconian actions from provincial department officials, provincial heads of departments, and

1 GN 705 in *GG* 45601 of 2021-12-06.

2 AfriForum "AfriForum Submits Comments on BELA Bill – Rejects Unconstitutional Amendments Targeting Afrikaans Schools" (2022) https://www.artikels.afriforum.co.za/en/afriforum-submits-comments-on-bela-bill-%E2%80%92-rejects-unconstitutional-amendments-targeting-afrikaans-schools/ (accessed 2025-08-05).

members of executive councils (MECs) is evidence that Afrikaans schools are under assault.

1 1 Language policy during apartheid (1948–1994)

South Africa's history can explain much of its current language situation. The period of apartheid, from 1948 to 1994, segregated the country into White, Black, Coloured and Asian races.[3] The apartheid ideology, however, did not end at social levels and discrimination; it also had negative effects on language development. According to Nkonko Kamwangamalu, "[e]ach racial group had to have its own territorial area within which to develop its unique cultural personality". This "cultural personality" extended to language and not only confined language speakers to a region, but discouraged linguistic mixing.[4] Consequently, the South African education system during apartheid was also characterised by the segregation that took place. Learners were divided based on race and language, and the language of teaching and learning for all learners was primarily through English or Afrikaans.[5] As a result, the language of teaching and learning for the majority of White learners was their mother tongue, while the bulk of Black learners received instruction through English, which in most cases was their second or third language.[6] English and Afrikaans were obligatory subjects for matriculants, and African languages had an inferior position in the apartheid education system.[7] According to official government data, English was estimated to be the home language of just 9 per cent of the populace, while Afrikaans was the home language of approximately 15 per cent of the populace.[8] A sizeable margin of South Africans (around 75 per cent) had, as their home language, one of nine "African" languages. It was projected that around half of the inhabitants of South Africa conversed neither in English nor Afrikaans and that about two-thirds of African-language speakers could not speak English. The implementation of English and Afrikaans as official languages assisted in the underpinning of apartheid inequities, since it relegated the majority of South Africans to official communications in languages in which they were not fully conversant.[9]

The implementation of Afrikaans as the language of teaching and learning in African schools was bolstered during the early 1970s. In 1973, the Department of Bantu Education published a policy document, Circular No. 2 of 1973, entitled "Medium of Instruction in Secondary Schools (and Std 5 Classes) in White Areas". Section A of the circular included the "Policy to be applied and arrangements to be made in the white areas", and it gave English and Afrikaans 50:50 status as official languages of teaching and

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3 Hazeltine "Language Policy and Education in Multi-Lingual South Africa" 2013 *Hohonu Academic Journal* 26.

4 Kamwangamalu "The Language Planning Situation in South Africa" 2001 2(4) *Current Issues in Language Planning* 361.

5 Gilmartin "Language, Education and the New South Africa" 2004 95(4) *Tijdschrift voor Economische en Sociale Geografie* 406.

6 Gilmartin 2004 *Tijdschrift voor Economische en Sociale Geografie* 406.

7 *Ibid.*

8 *Ibid.*

9 *Ibid.*

learning from the final year of primary school until a learner completed their schooling.[10] In the subsequent year, 1974, the Regional Director of Bantu Education in the Southern Transvaal published a regional circular concerning the execution of the language policy. The regional circular No. 2 of 1974, directed to all school principals, unambiguously affirmed that Std 5 and Forms 1 and 2 learners were to employ English as a medium of teaching and learning when studying "General Science, Practical Subjects (Homecraft, Needlework, Woodwork, Metalwork, Art and Craft and Agricultural Science)". Afrikaans was to be used as a medium of instruction for arithmetic and social studies classes. These learners also enrolled for three language classes – namely, vernacular (isiZulu or seSotho), Afrikaans, and English.[11]

In Soweto schools, the mother tongue had been the medium of instruction in the junior primary before 1975. In 1976, the Secretary for Bantu Education instructed some higher primary and junior secondary schools to implement Afrikaans as a medium of instruction. In 1975, Form 1 learners in all junior secondary schools were learning in English. Then in 1976, the Department of Bantu Education enforced Afrikaans in selected schools: the affected African pupils were required to adapt to learning in two "foreign" languages within two years – first English in 1975 and then Afrikaans in 1976.[12] Most learners from Soweto were multilingual and proficient in more than one indigenous African language; thus, a sizeable number were fourth or fifth-language speakers of both English and Afrikaans. The language issue affecting selected schools in Soweto brought important and complex epistemological factors to the fore. In changing from one language to another, the reality created through the first language, the mother tongue, is completely lost. As a result, African pupils who were compelled to use Afrikaans relied on rote learning.[13]

1 1 1 Intercession by teachers, school boards, journalists, and homeland leaders

African parents, journalists, school principals, teachers, and even homeland leaders opposed the imposition of Afrikaans in African schools. On 3 January 1975, the African Teachers' Association of South Africa (ATASA) submitted a memorandum to the Department of Bantu Education protesting the ruling that from 1975, Afrikaans and English should be used on a 50:50 basis. The ruling was implemented in 1976 at selected schools.[14] The memorandum, signed by H Dlamlenze, ATASA general secretary, requested the Minister of Bantu Education to reconsider the proposed regulations. ATASA described the government's ruling as cruel and short-sighted; it did not make sense to base the education of any child on the assumption that the child would be restricted to a particular area for life. It was wrong to choose the language of

[10] Ndlovu *The Soweto Uprising. The Road to Democracy in South Africa, 2, 1970–1980* (2006) 326.
[11] *Ibid.*
[12] *Ibid.*
[13] *Ibid.*
[14] *Ibid.*

instruction based on whether a specific locality or area was predominantly Afrikaans- or English-speaking. ATASA argued that Africans preferred English because it was used internationally for commercial, diplomatic, intellectual, artistic, educational, and communication purposes.[15]

1 1 2 The 1976 Soweto uprising

An education policy was the spark that ignited the Soweto protests, the policy that Afrikaans should be regarded as being as important as English in teaching in schools across the country. Back in 1974. Afrikaans, closely related to Dutch and Flemish, was largely seen as the *lingua* of the "oppressor", and its imposition on students by the then-government would bring out the festering and simmering anger and discontent bottled up over the years by politically conscious students.[16] Between 3,000 and 10,000 students organised by the Action Group of the South African Students Organisation (SASO), with support from the Black Consciousness Movement (BCM), gathered on 16 July 1976 for what was to be a peaceful march, culminating in a rally at the Orlando Stadium. That was not to be. The firing of tear gas and live ammunition by security forces on unarmed students would be the perfect kick-start to a revolt that would mature into an uprising.[17]

1 2 Transforming the apartheid education system – post-1994

The post-apartheid era in South Africa ushered in significant transformation to the country's education system, particularly in the realm of language policy and cultural inclusivity.

1 2 1 The Constitution of the Republic of South Africa, 1996

The Constitution of the Republic of South Africa, 1996 (the Constitution) laid down language-policy principles in section 6 of Chapter 1 – the founding provisions of the Constitution.[18] Section 6(1) affords official status to 11 languages, 9 of which are indigenous African languages. Section 6(2) requires the State to take practical and positive measures to elevate the status and advance the use of these languages. Section 6(3)(*a*), furthermore, requires national government to use at least two official languages, while section 6(4) mandates national government to "regulate and monitor their use of official languages" through "legislation and other

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15 *Ibid.*

16 Abdur Rahman Alfa Shaban "The 1976 Soweto Uprising [1] – The Underlying Trigger" (9 December 2019) https://www.africanews.com/2016/06/14/the-1976-soweto-uprising-1-the-underlying-trigger// (accessed 2023-12-14).

17 Abdur Rahman Alfa Shaban https://www.africanews.com/2016/06/14/the-1976-soweto-uprising-1-the-underlying-trigger//.

18 Bostock "South Africa's Evolving Language Policy: Educational Implications" 2018 *Journal of Curriculum and Teaching* 28.

measures", as "all official languages must enjoy parity of esteem and must be treated equitably". Section 29(1)*(a)* states that "everyone has the right to a basic education, including adult basic education". Section 29(2) reaffirms that "everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable". Section 30 provides that "everyone has the right to use the language and to participate in the cultural life of their choice". Section 31 mentions that "persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community to enjoy their culture, practise their religion and use their language".

1 2 2 The Pan South African Language Board (PANSALB)

In 1995, the newly elected government established a statutory body, the Pan South African Language Board (PANSALB), to promote and create conditions for the development and use of all 11 official languages, as well as the Khoi, Nama and San languages, sign language and all languages commonly used by communities in the country. In 1995, the Minister of Arts, Culture, Science and Technology also appointed a Language Plan Task Group to advise him "on a framework for a coherent language policy and plan". As a result of the constitutional provisions and recommendations of structures and bodies tasked with devising a language framework, the multilingual Language in Education Policy (LiEP) for schools was announced in 1997.[19] The LiEP consists of two policies, namely, the norms and standards regarding language policy published in terms of section 6(1) of the South African Schools Act[20] and the language in education policy published in terms of section 3(4)(*m*) of the National Education Policy Act.[21]

While these two policies have different objectives, they complement each other and should always be read together rather than separately. According to the LiEP (1997), the rights and duties of a school include the following:

(i) The governing body determines in what manner the school will promote multilingualism by applying more than one language of learning and teaching through or by other means as approved by the head of the provincial education department. Learners who have difficulties with their language development and academic development are not included in this regard.
(ii) For the approval of a request to introduce a novel language of instruction not currently provided in a secondary school, a minimum of 35 prospective learners must submit applications. However, the head of the provincial department of education will contemplate the following in granting such an application: "Learner-teacher ratio, the

[19] Mda "Politics of Dominance: The Suppression and Rejection of African Languages in South Africa" 2010 *Human Sciences Research Council in South Africa* 17.
[20] 84 of 1996.
[21] 27 of 1996; Proc R1738 in *GG* 18546 of 1997-12-19.

cost-effective use of education funds, practicability and the advice of the governing body and principal of the public school concerned.[22]

1 2 3 The norms and standards regarding language policy published in terms of section 6 of the South African Schools Act

The South African Schools Act[23] incorporates constitutional mandates concerning language policy. Specifically, section 6(2) of the legislation delineates the purview of the School Governing Body (SGB) in formulating the language policy of a given school.[24] As stewards entrusted with safeguarding the interests of the school community, the SGB assumes the responsibility of identifying and addressing the linguistic needs of the constituents. Should the demographic composition of the community consist predominantly of Afrikaans speakers, the SGB possesses the prerogative to devise a language policy stipulating Afrikaans as the medium of instruction. In section 6(3), the Act furthermore states that no form of racial discrimination may be practised in implementing policy determined under this section.[25] Section 6B further pointed out that the school must ensure that there is no unfair discrimination concerning any official languages that are offered as subject options.[26]

1 2 4 The National Education Policy Act

In addition to the South African Schools Act, the National Department of Basic Education also introduced the National Education Policy Act.[27] Section 3(4)(*m*) of the Act is directed at creating an environment in which respect for all languages is encouraged.[28] Section 4(*a*)(v) commits itself towards the development and protection of every learner's right to be instructed in their language of choice where this is reasonably practicable,[29] while section 4(*a*)(viii) acknowledges the right of everyone to use their language and participate in their own cultural life within educational institutions.[30]

2 LANGUAGE-POLICY CONUNDRUM: REVERTING TO THE PRE-1994 STATUS QUO

Significant progress has been made since 1994 towards decentralising the education system in South Africa, which was previously characterised by

22 Proc R1738 in *GG* 18546 of 1997-12-19.
23 84 of 1996.
24 S 6(2) of the South African Schools Act.
25 S 6(3) of the South African Schools Act.
26 S 6B of the South African Schools Act.
27 27 of 1996.
28 S 3(4)(*m*) of the National Education Policy Act.
29 S 4(*a*)(v) of the National Education Policy Act.
30 S 4(*a*)(viii) of the National Education Policy Act.

highly centralised structures in which the government wielded draconian authority in enforcing the use of Afrikaans and English as primary languages of instruction, and in disregarding the linguistic preferences of school communities. However, the recently proposed amendments to the South African Schools Act suggest a potential regression to language policy reminiscent of past measures, wherein the government exercises total authority over the language of instruction in schools. Such a reversion contradicts the principles outlined in the Constitution of South Africa.

2 1 The Basic Education Laws Amendment Bill

On 13 October 2017, the Department of Basic Education published the Basic Education Laws Amendment Bill (BELA Bill), seeking to amend certain sections of the South African Schools Act.[31] With a total of 29 754 written submissions received, the Department conducted provincial consultations across all nine provinces. The final iteration of the BELA Bill[32] was supported by the National Assembly on 26 October 2023 and then forwarded to the National Council of Provinces. If approved at this level, the Bill will proceed to the President for contemplation and signature. The implementation of amendments to the South African Schools Act will occur on a date stipulated by the President through formal notice in the *Government Gazette*. Central to the BELA Bill are contentious amendments addressing public-school language and admission policies.[33]

Clause 5 of the Bill reads as follows:

> "Section 6 of the South African Schools Act, 1996, is hereby amended–
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> *(a)* by the substitution for subsection (2) of the following subsection:
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> '(2) The governing body of a public school may, subject to subsection (7), determine the language policy of the school subject to the Constitution, this Act and any applicable provincial law: Provided that the language policy of a public school must be limited to one or more of the official languages of the Republic as provided in section 6(1) of the Constitution.'
>
> …
>
> *(c)* by the addition of the following subsections:
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> '…
>
> (7) Notwithstanding the provisions of subsection (2), the Head of Department may, where it is practicable to do so and subject to subsection (5), direct a public school to adopt more than one language of instruction.
>
> (8) The Head of Department, in determining whether it is practicable for a public school to have more than one language of instruction, must take into account factors including, but not limited to–
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> *(a)* the best interests of the child, with emphasis on equality as provided for in section 9 of the Constitution and equity;
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> *(b)* the changing number of learners who speak the language of learning and teaching at the public school;

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31 84 of 1996

32 GN [B 2–2022] in *GG* 45601 of 2021-12-06.

33 Kruger "Non-Educator Stakeholders and Public-School Principals' Views on the Proposed Amendments to the South African Schools Act 84 of 1996" 2024 *Potchefstroom Electronic Law Journal* 27.

(c) the need for effective use of classroom space and resources of the public school; and

(d) the language needs, in general, of the broader community in the education district in which the public school is situated.'"[34]

The proposed changes to section 6 of the South African Schools Act represent a major shift in the governance of language policy in public schools. These amendments empower the head of department to "instruct" the adoption of multiple languages, taking into account the best interests of the child, evolving demographics, efficient use of resources, and the language needs of the community.[35]

2 2 Unconstitutionality of the proposed amendment to the language policy

South Africa's history vividly demonstrates the tight grip that absolute authority had on the shaping of people's identity and language, as expounded by Mohohlwane.[36] Language does not just evolve spontaneously; it has been meticulously crafted through deliberate decisions. This intricate dance between authority and language is succinctly captured in the discipline of language planning. As Robert Cooper aptly puts it: "To plan language is to plan society."[37] This assertion mirrors the apartheid regime's concerted effort to impose Afrikaans on its populace, a calculated move aimed at reshaping societal norms to align with its oppressive ideology. The roots of language planning can be traced back to Huaguen's seminal articles in 1959, when it emerged as a technical term denoting intentional language manipulation driven by administrative and political agendas to achieve specific societal objectives.[38] It is thus hardly surprising that certain segments of society vehemently oppose such manipulations when they encroach upon linguistic rights. The legacy of the draconian language policies enforced by the apartheid government continues to haunt those who suffered under its yoke, underscoring the urgent need to safeguard the principles enshrined in the South African Constitution. Granting authority to the head of education to dictate the language(s) of school instruction flies in the face of our constitutional guarantees. It should never again be tolerated that a government enforces language rights on its citizens. Section 29(2) of the Constitution explicitly affirms that "everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable". Moreover, section 30 reinforces the right of individuals to use the language of their preference and engage in their chosen cultural pursuits. Any deviation from these constitutional provisions represents a grave betrayal of hard-won freedoms for which countless South Africans made sacrifices.

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34 Cl 5 of the BELA Bill.

35 *Basic Education Laws Amendment Act* 32 of 2024 (amending s 6 SASA).

36 Mohohlwane "Mother-Tongue Instruction or Straight-For-English? The Primary Education Policy Dilemma" 2020 *Research on Socio-Economic Policy* (RESEP) 2.

37 Cooper *Language Planning and Social Change* (1989)189.

38 *Ibid.*

3 LIFTING THE VEIL ON THE TRUE REASONS FOR THE STATE'S CONTINUOUS ASSAULTS ON AFRIKAANS MEDIUM SCHOOLS

In the arena of politics, survival hinges on the principle that the fittest prevails. It is a cut-throat game where politicians and parties rise and fall on the tides of power. The ANC currently stands at a critical crossroads in its journey as a governing party. Politicians are adept at spinning promises and rhetoric, often failing to deliver on their grandiose proclamations. In this discourse, the article delves into the underlying causes for the ANC government's pursuit of amendments to section 6 of the Schools Act, which provides for language policy.

3 1 Cadre deployment and corruption

Section 3(3) of the Schools Act delineates that the MEC of a province serves as the primary authority of the provincial education department (PED) to guarantee the availability of sufficient educational infrastructure capable of accommodating all resident children within the province.[39] Section 3(4) imposes a further duty upon the MEC to undertake timely remedial actions in cases where the fulfilment of this statutory obligation is impeded by inherent constraints. Moreover, this provision necessitates the submission of an annual progress report to the Minister, outlining endeavours aimed at augmenting capacity.[40] Regrettably, the MECs overseeing education, most of whom belong to the ANC, have exhibited significant shortcomings in fulfilling their mandated responsibility to guarantee adequate educational infrastructure, thereby impeding universal access to schooling for all children within the nation. To give a few examples, in 2018, a cohort of concerned parents in the Eastern Cape region engaged the Legal Resources Centre (LRC) seeking legal redress. These parents articulated grievances regarding the severe overcrowding prevalent in low-fee and no-fee schools attended by their children. Despite protracted entreaties directed towards local authorities, beseeching the construction of additional classrooms or the reduction of class sizes, the Eastern Cape Department of Basic Education, under the leadership of the MEC, exhibited a conspicuous failure to undertake remedial measures. Instances were reported where school enrolments substantially surpassed recommended thresholds, with class sizes routinely exceeding 80 pupils – an egregious breach of established infrastructure standards, which stipulate a maximum capacity per classroom. At times, these figures escalated to over 100 pupils per classroom.[41] In 2020, Amnesty International issued a damning report titled "South Africa: Broken and Unequal Education Perpetuating Poverty and Inequality", wherein the parlous state of the South African education system was

39 S 3(3) of the Schools Act.

40 *Ibid*.

41 RU "Without Rhyme or Reason: Why We Must Confront Government's Lack of Action on Overcrowded Schools (Legal Resource Centre) (7 November 2023) https://lrc.org.za/without-rhyme-or-reason-why-we-must-confront-governments-lack-of-action-on-overcrowded-schools/ (accessed 2024-02-21).

outlined. The report delineated a landscape characterised by dilapidated infrastructure, pervasive overcrowding within classrooms, and commensurately substandard educational outcomes.[42] Corroborative accounts were provided by Equal Education in their report "No Space for Us", citing instances in Gauteng where up to 70 students were crammed into a single classroom; resultant absenteeism from overcrowded conditions reached levels where more than 30 pupils remained absent on certain days.[43] Furthermore, Section27, a public-interest law centre committed to advancing access to health-care services and fundamental education, initiated legal proceedings before the High Court of South Africa (Gauteng Division, Pretoria). The aim was to compel the Department of Basic Education (DBE) and the MEC for Education to rectify infrastructural deficiencies within neglected schools in Limpopo. This initiative was precipitated by the government's suspension of infrastructure projects that earmarked the repair and renovation of schools in 2020.[44]

The inadequacy of the ANC government to initiate and drive comprehensive school construction programmes across all nine provinces is attributable to internal deficiencies within the party's echelons. In 2016, a big scandal erupted in the ranks of the ANC with the release of the damaging report on state capture by outgoing Public Protector of South Africa, Ms Thuli Madonsela. On her recommendation, the Zondo Commission of Inquiry was appointed by President Zuma in January 2018 to investigate state capture.[45] State capture is a process whereby individuals or groups operating in the public and private sectors influence government policies for personal advantage.[46] In contemporary discourse, the phenomenon of state capture has garnered significant attention within the political and economic spheres of South Africa. Of particular concern is the pronounced nexus between President Jacob Zuma and corrupt individuals, which precipitated apprehensions regarding the potential encroachment of state capture upon the South African governance apparatus. Notably, scholars and commentators assert that state capture has been ingrained within the modus operandi of the ruling ANC for an extended period.[47]

It is thus not unexpected that the phenomenon of state capture has also permeated the education bureaucracy, as evidenced by the findings of the Volmink Ministerial Task Team. The Volmink report indicated that the South

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42 Amnesty International "South Africa: Broken and Unequal Education Perpetuating Poverty and Inequality" (11 February 2020) https://www.amnesty.org/en/latest/news/2020/02/south-africa-broken-and-unequal-education-perpetuating-poverty-and-inequality/ (accessed 2020-04-14).

43 Equal Education "No Space for Us" (2021) https://equaleducation.org.za/wp-content/uploads/2022/03/equal-education-no-space-for-us-overcrowding-report-digital-sgl-page-compressed-20211015.pdf (accessed 2022-02-26).

44 Section27 "Government Must #Fixtheforgottenschools, Says Section27" (3 October 2022) [Press release] https://section27.org.za/2022/10/fix-the-forgotten-schools/ (accessed 2022-11-10).

45 Momoniat "How and Why Did State Capture and Massive Corruption Occur in South Africa?" (10 April 2023) https://blog-pfm.imf.org/en/pfmblog/2023/04/how-and-why-did-state-capture-and-massive-corruption-occur-in-south-africa (accessed 2023-07-06).

46 Martin "Understanding the Phenomenon of "State Capture" in South Africa" 2016 5(1) *Southern African Peace and Security Studies* 21.

47 *Ibid.*

African Democratic Teachers Union (SADTU), despite being a non-state voluntary association, effectively dictates the management, administration, and educational priorities in six, and potentially more, of the nine provinces.[48] It is imperative to be cognisant of the fact that the South African Democratic Teachers Union (SADTU) is one of the unions affiliated with the Congress of South African Trade Unions (COSATU). The latter is one of the parties in the ruling tripartite coalition alongside the ANC and the South African Communist Party (SACP).[49] The result is an overly-politicised education system where the effect of politics and politicking is not contained to the national policy level but affects day-to-day decision-making and operations at district and school levels. As expressed by Carnoy *et al*: "The loyalty granted to the ANC by SADTU under the anti-apartheid struggle generates a complex web of obligations that impacts education policy today."[50] For example, the ANC government had to recompense the SADTU executives with key positions within the government (such as education), as ANC Secretary-General Gwede Mantashe (2011) once admitted in a media conference in 2011.[51] The ANC's "political patronage" awarding party loyalists top public-sector jobs has led to poor performance in government institutions and the nation as a whole. The inherent threat is that the union conflates its educational leadership role with its political one.[52] Jansen predicted that the school system would fail when the education policy was being driven by political imperatives that had little to do with the realities of schools. Jansen further alluded to the fact that too many incompetent stakeholders in key positions have been appointed for political reasons. The influence of politics can be seen in various spheres of education.[53] In this regard, Shava and Chamisa's research on performance management lamented the fact that cadre deployment has "exacerbated problems related to corruption, poor procurement systems, wasteful expenditure and the deteriorating state of local government".[54] On 22 July 2022, Corruption Watch released a report, "Sound the Alarm", which investigates corruption in the education sector. The report named the top three forms of corruption as misappropriation of resources (accounting for 45 per cent of corruption cases), followed by maladministration (17 per cent), and abuse of authority (15 per cent). Prevalent too are incidents of bribery and extortion, including

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48 Department of Basic Education "Report of the Ministerial Task Team Appointed by Minister Angie Motshekga to Investigate Allegations Into the Selling of Posts of Educators by Members of Teachers Unions and Departmental Officials in Provincial Education Departments" (2016) 106.

49 Letseka "Public-Union Sector Politics and the Crisis of Education in South Africa" 2012 3(07) *Creative Education* 1197.

50 Cited in Van der Berg, Spaull, Wills, Gustafsson and Kotzé "Identifying Binding Constraints in Education" (2016) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2906945 (accessed 2020-11-26) 35.

51 Shava and Chamisa "Cadre Deployment Policy and Its Effects on Performance Management in South African Local Government: A Critical Review" 2018 37(1) *Politeia* 452.

52 Lee "High Time for SADTU To Do Some Soul-Searching" (2011-01-2011) *Star* 10.

53 Jansen *Why Outcomes-Based Education Will Fail: An Elaboration. In Education in South Africa* (1999) 145–156.

54 Shava and Chamisa 2018 *Politeia* 452.

allegations of sextortion, and cases relating to employment irregularities.[55] The State's financial predicament was further highlighted on 31 August 2023 when the National Treasury issued a letter to national departments and provincial treasuries (the August letter). The August letter summarises key elements of the fiscal challenges faced by the government in the current financial year. It advises accounting officers and accounting authorities on specific measures required to achieve much-needed savings and prevent the materialisation of potentially crippling resource constraints in the latter part of the 2023/24 financial year.[56] In this regard, the Treasury indicated that the projected overspending of state finances amounts to R10.49 billion of the mid-term budget. One of the cost-cutting measures the National Treasury instructed the National Department of Basic Education to implement was to provide temporary classrooms to schools as an alternative to building new schools.[57]

3 2 Recentralised governance approach

The discourse above underscores the fact that cadre deployment has led to corrupt governance, and the ANC government has found itself in a precarious position as it grapples with the financial challenge of providing adequate school infrastructure for the nation's children. This deficiency presents a significant dilemma, particularly as it unfolds within the context of an impending election year. The inability to address this fundamental need of access to adequate school infrastructure reflects poorly on the ANC administration. In response to this pressing issue, the ANC government typically reacts like a failed state by recentralising governance. Through recentralisation, the government is implementing measures that are curtailing formerly delegated powers of the local community – whether in the form of resources, authority or decision-making autonomy.[58] López-Murcia describes recentralisation in education as "the set of formal and informal policies and reforms that transfer resources, authority, or responsibilities from lower to higher levels of government, after a process of decentralisation".[59] López-Murcia further indicates that recentralisation can also be justified as the central government's reaction to failed spheres of local governance (administrative issues) such as the inability of lower government spheres to turn down propositions by corrupt elites to be captured; inadequate provision of services to the public; ineffective/unproductive institutional operational processes; and the public's loss of trust in the education sector.[60] In this case, the ANC government has

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55 Ncala "Sound the Alarm" (2021) [Sectoral report] Corruption Watch Online https://www.corruptionwatch.org.za/wp-content/uploads/2022/08/Sound-the-Alarm-Sectoral-Report-Education_Aug2022.pdf (accessed 2020-11-26).

56 National Treasury "Guidelines on Cost Containment Measures Announced by the National Treasury for the 2023/24 Financial Year" (2023) https://www.treasury.gov.za/Guidelines%20on%20cost%20containment.pdf (accessed 2023-10-20).

57 *Ibid.*

58 Eaton "The Politics of Re-Centralization in Argentina and Brazil" 2004 39(1) *Latin American Research Review* 90–122.

59 López-Murcia *Recentralisation and Its Causes: Colombia, 1994–2014* (doctoral dissertation, University of Oxford) 2017 14.

60 *Ibid*.

opted to take control of the delegated duties of public schools to determine their own language and admission policies set out in the South African Schools Act. As delineated, the amendments will confer upon provincial departments of basic education the statutory authority to force schools to accommodate additional learners, regardless of whether these schools have attained their maximum capacity. Furthermore, these amendments endow authorities with the prerogative to direct the school governing body of an institution to revise its language policy, thereby facilitating the admission of learners who receive instruction in a language distinct from that used by the school. Ultimately, these amendments enable the ANC government to assert that its management of the education system is successful. By ostensibly expanding access to education, the government can portray itself as upholding constitutional rights to education. In the end, the ANC government sidesteps the root issue of insufficient infrastructure and the endemic corruption that has hindered school-building programmes. It is imperative to recognise that true progress in education necessitates comprehensive and sustainable solutions that address underlying challenges rather than mere superficial measures aimed at political expediency.

3 3 Government's conflation of language with race: The eradication of Afrikaans-medium schools

Garcia points out that ideologies about language, language policies and use are linked to socio-historical and political processes.[61] In this respect, ideologies are social constructions and motivate actions that support or constrain the legitimisation of some languages over others in a hierarchy.[62] Blommaert mentions that language ideologies are produced and reproduced through discourse – that is, by systems of power relations that legitimise or restrict what people "say and do not say, and do and do not do",[63] and "how and by whom it should be said and whether it can be heard"[64] and, we may add, in what language or languages. As a result, ideologies are connected to the politics of language in which power relations, social structures and groups coalesce around issues of identity, ethnicity and gender. Lück and Rudman point out that language is the medium in which we, as individuals and collectively as a society, try to make sense of the world around us and our place therein. It follows then that meaning created in language as it is used will manifest materially in the way in which individuals live and in the social conventions recognised as accurate interpretations of truth and reality – in Foucauldian terms, the "discourse".[65]

Foucault argues that a discourse forms a framework within which a particular society or sector of society is compelled to function and that, as

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61 García *Bilingual Education in the 21st Century: A Global Perspective* (2011) 21.

62 Namyalo "Dilemmas in Implementing Language Rights in Multilingual Uganda" 2015 16(4) *Current Issues in Language Planning* 409–424.

63 Blommaert *Language Ideological Debates* Vol 2 (1999) 382.

64 Makoe and McKinney "Linguistic Ideologies in Multilingual South African Suburban Schools" 2014 35(7) *Journal of Multilingual and Multicultural Development* 658 673.

65 Lück and Rudman "Identity, Ideology and Discourse: Classroom Spaces for Deconstructions and Reconstructions" 2017 12(1) *The Independent Journal of Teaching and Learning* 5 19.

such, it reflects relationships of power within that society.[66] Fairclough[67] concurs with Foucault, describing discourse as a "practice not just of representing the world, but of signifying the world, constituting and constructing the world in meaning". In consequence, a particular discourse or set of discourses reveals much about the particular society or context in which it occurs. In this regard, it is important to take note of Fairclough's discourse model that consists of three inter-related dimensions of discourse: the object of analysis (including verbal, visual or verbal and visual texts); processes by means of which the object is produced and received (writing/speaking/designing and reading/listening/viewing by human subjects); and socio-historical conditions that govern these processes.[68]

Let us put the discourse of language in the context of what is currently taking place in South Africa. Neither the Nazis nor the National Party created the German and Afrikaans languages, respectively; they merely appropriated them as linguistic vessels for their warped ideologies. Afrikaans is not a creation of apartheid, and the language is not responsible for what apartheid committed. Such a discourse of thought works against what our Constitution has set out to achieve concerning language rights in South Africa. The discourse problem is that long after these regimes have fallen, their language of operation, and those who speak it, are seemingly destined to carry the collective guilt of the atrocities committed through their words.[69] In this regard, Bostock writes that Afrikaans must come to terms with the negative connotation of its earlier association with apartheid.[70] Hazeltine points out that some people believe that the government should ignore Afrikaans in retaliation for the oppression it caused during apartheid.[71] In 2021, the Democratic Alliance and the Freedom Front Plus lodged a complaint at the South African Human Rights Commission regarding the discriminatory practices that took place at the University of Stellenbosch against Afrikaans-speaking students. The South African Human Rights Commission Report findings established that Stellenbosch University did unfairly violate the human rights of Afrikaans students to freedom of expression, language and culture, equality, and not to be discriminated against on the basis of language, and human dignity.[72]

Unfortunately, this discourse of thought is visible in our education system, where Afrikaans-medium schools find themselves under constant attack merely for being institutions whose language policy states that their language of learning and teaching is Afrikaans. Anton Alberts's online article "Lesufi Once Again Confuses Language With Race to Target Afrikaans Schools", posted on the Freedom Front Plus website, concurs that the ANC's discourse on Afrikaans has the underlying intention to eradicate the few

66 Foucault *The Order of Discourse. Untying the Text: A Post-Structuralist Reader* (1981) 52.
67 Fairclough *Language and Power* (1989) 83.
68 *Ibid*.
69 Smith "SA Needs to Destigmatise Afrikaans, Not Condemn It in Perpetuity as the Language of Apartheid" (2021-03-30) *The Daily Maverick*.
70 Bostock 2018 *Journal of Curriculum and Teaching*.
71 Hazeltine 2013 *Hohonu Academic Journal* 432.
72 South African Human Rights Commission Report WC/2021/0210 (2021).

Afrikaans schools that still exist in the system.[73] Alberts further elaborates that in the contemporary discourse, the Freedom Front Plus has reiterated allegations against Panyaza Lesufi, the former Gauteng MEC for education, asserting his deliberate conflation of language and race dynamics to construct a deceptive premise aimed at undermining Afrikaans public-schooling institutions. In a recent press briefing convened by the provincial government, Lesufi articulated his department's endorsement of the tenets outlined in the Basic Education Laws Amendment (BELA) Bill, which mandates the subordination of all public-school policies, including those pertaining to enrolment and language, to governmental oversight. Within the framework of this legislative initiative, Lesufi has articulated a vision for the Gauteng province wherein a minimum of three languages would serve as simultaneous mediums of instruction across public schools, ostensibly to mitigate the racial homogeneity prevalent in certain educational settings. The Freedom Front Plus contends that Lesufi's pronouncements echo previous instances of targeting Afrikaans schools, despite their relatively minimal presence within the broader educational landscape of Gauteng.[74] Labuschagne emphasises that if you make a statement that Afrikaans is a racist language, such a remark is a racist stereotype of a language. Going one step further, saying White Afrikaans people, including White Afrikaans children, are all racists by virtue of being Afrikaans is in itself racist. There is nothing illegal or suspect about having an Afrikaans-medium school.[75] The fact that a school's language policy states that the medium of instruction will be through Afrikaans does not prevent Black and coloured learners from enrolling at an Afrikaans school. If these learners are comfortable receiving their education in Afrikaans, the school will only be in the wrong if it uses its language policy to exclude these learners from attending the school.

The amount of litigation in which Afrikaans-medium schools have had to seek the assistance of the courts to prevent provincial departments, through their officials, from forcing and even intimidating school governance structures to amend their language policy to accommodate learners who receive their language of instruction in another language is proof of an attack on Afrikaans-medium schools and an intention eventually to eradicate these schools from the system.

3 3 1 Governing Body of Mikro Primary School v Western Cape Minister of Education

In the case of Mikro Primary School, the Department of Basic Education (DBE) used coercive measures to enforce English as an instructional language at an Afrikaans-medium school, disregarding the school's governing body. The judiciary ruled the DBE's actions to be unlawful, emphasising the need for the State to operate within legal bounds. Judge Thring highlighted that the school principal's management role does not

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73 Alberts "Lesufi Once Again Confuses Language With Race to Target Afrikaans Schools" *Freedom Front Plus* (31 May 2022) https://www.vfplus.org.za/media-releases/lesufi-once-again-confuses-language-with-race-to-target-afrikaans-schools/ (accessed 2023-03-19).

74 *Ibid*.

75 Labuschagne "Wrong to Label Afrikaans, All White Afrikaners Racist" (2022) *Sowetan*.

equate to subservience to the Department's directives. The court affirmed that the School Governing Body (SGB) retains the authority to determine language policy, and rejected the Department's attempt to impose an English-medium programme. The Supreme Court of Appeal denied the Western Cape Department's appeal on 27 June 2005.[76]

3 3 2 HOD: Mpumalanga Department of Education v Hoërskool Ermelo

In 2009, the Head of the Mpumalanga Department of Education (HoD) appealed to the Constitutional Court of South Africa, contesting a decision that upheld Hoërskool Ermelo's (HE) policy mandating Afrikaans as the sole medium of instruction. This policy resulted in a low student-to-teacher ratio, exacerbating educational disparities. The HoD argued that this policy infringed on the rights of English-speaking students and sought validation for the appointment of an interim committee to implement a bilingual policy. The court ruled that the interim committee exceeded the HoD's authority but acknowledged the constitutional right to education in an official language where feasible. It instructed the governing body to reassess its language policy and mandated both the Department of Education and the school to report on their compliance within a month. The school complied, revising its language policy to accommodate English instruction, and reported increased enrolment of English-speaking students.[77]

3 3 3 Laerskool Middelburg v Departementshoof, Mpumalanga Departement van Onderwys

Until the conclusion of 2001, Laerskool Middelburg functioned as an exclusively Afrikaans-medium educational institution. In November 2001, an official from the Mpumalanga Department of Education directed the school to enrol 20 students in January 2002, specifying that instruction was to be conducted in English. Subsequently, in January 2002, following the withdrawal of the school's authority to admit students, eight individuals were admitted for English-medium education. Despite this development, the school resisted the transition to a dual-medium establishment and initiated legal proceedings against the Mpumalanga Department of Education. In rendering his verdict, Judge Bertelsmann dismissed the school's petition to annul the department's determination designating it as a dual-medium institution. Emphasising the constitutional tenet enshrined in section 28(2) of the Constitution, Judge Bertelsmann underscored the paramountcy of a child's best interests in all matters. He contended that the students' welfare would be compromised if they were denied admission, highlighting several pertinent considerations. These included the esteemed academic standing, as well as the prominence in sports and cultural activities, enjoyed by the school in question within the Middelburg community. Judge Bertelsmann

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[76] *Governing Body of Mikro Primary School v Western Cape Minister of Education* [2005] JOL 13716 (C).

[77] *HOD: Mpumalanga Department of Education v Hoërskool Ermelo* [2009] ZACC 32; 2010 (2) SA 415 (CC); 2010 (3) BCLR 177 (CC).

further delineated potential adverse repercussions on the students, positing that rejection could engender feelings of alienation while disrupting established friendships among classmates. Moreover, the geographical proximity of the school to the students' residences was highlighted as a relevant factor in the judgment.[78]

4 RECOMMENDATIONS

In the 1990s, the nascent years of the new democracy, Piet Clase, the then-Minister of Education, introduced a series of policy options known as the "Clase Models" to facilitate school desegregation in South Africa.[79] These models presented schools with a spectrum of choices regarding their governance and integration.

Model A offered schools the most radical transformation, enabling them to transition into fully private institutions. Under this model, school buildings and equipment could be either leased or sold (at market value or a discounted rate) to a newly established private entity. The privatised school would then become eligible for state subsidies on a par with other private schools, which, at the time, amounted to approximately 45 per cent of operational costs.[80]

Model B provided a more measured approach, allowing schools to remain within the public sphere while granting their management councils control over admissions policies. This potentially enabled schools to influence their demographic composition to a certain extent.[81]

Model C offered a middle ground between state control and complete privatisation. Schools opting for this model would transition into a "state-aided" or "semi-private" status. Management councils wield significant authority, assuming responsibility for staff appointments, fee determination, and facility maintenance. The State provides financial support to cover the salaries of personnel appointed within state-mandated parameters. This subsidy typically covers roughly 80 per cent of a school's operational expenses, requiring the management council to raise the remaining funds. Furthermore, ownership of school buildings and grounds is transferred to the management council free of charge, with a clause stipulating the property's reversion to the State should the school cease to operate.[82]

Model D, the least transformative option, focused on dismantling racial quotas within specific schools while permitting them to remain under the administration of the White education department. This model offered a limited form of desegregation without altering the overall governance structure.[83]

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78 *Laerskool Middelburg v Departementshoof, Mpumalanga Departement van Onderwys* 2003 (4) SA 160 (T).

79 Christie "Transition Tricks? Policy Models for School Desegregation in South Africa, 1990-94" 1995 10(1) *Journal of Education Policy* 45–55.

80 *Ibid.*

81 *Ibid.*

82 *Ibid.*

83 Christie 1995 *Journal of Education Policy* 45–55.

The Clase Models represented a significant attempt to address the challenges of school desegregation in the wake of apartheid. By offering a range of options, the policy aimed to accommodate the preferences of different schools and communities while paving the way for a more integrated educational landscape. In this regard, the researcher posits that governmental entities should explore a diversified governance framework for public schools, empowering them to select a model that aligns with their specific needs and objectives.

The following models are accordingly proposed for consideration:

4 1 Model A: Full autonomy

Schools opting for Model A would transition into fully independent institutions. This model grants them complete control over movable and immovable assets. These assets would be acquired through a market-value purchase or a 99-year lease agreement with the State. The lease agreement would culminate in ownership transfer upon expiration, empowering the school to develop the property as needed. Furthermore, Model A schools would assume responsibility for teacher salaries and independently develop all policies, including language and admissions policies. In addition, they would possess the autonomy to appoint their own faculty. This model presents the potential for significant financial relief for the government, freeing up resources for new school construction. It could also mitigate legal disputes concerning language policies.

4 2 Model B: State governance

Under Model B, schools would remain under the control of the State (Provincial Department of Education). This model vests decision-making authority over movable and immovable assets, finances, language policy, admissions, and faculty appointments within the Department. In this scenario, parents would not incur school fees. Dysfunctional schools could benefit from centralised oversight and support provided by the Department.

4 3 Model C: Parental governance with public funding

Model C schools would receive government funding, but would be primarily administered and financed by the parent body. The parent body at these schools will also have the prerogative to develop school policies, including the language and admission policy. This model allows for variable school fees and fundraising initiatives led by parents. Such additional funding enables these schools to operate with more business orientation, often leading to larger budgets. Consequently, Model C schools may exhibit variations in teacher-student ratios, resource allocation, and overall quality of facilities and education, all contingent upon parental financial contributions.

By allowing a school community to determine language policies independently, both Model A and Model C provide the flexibility needed to better address the unique linguistic and cultural needs of their students.

5 CONCLUSIONS

Reflecting on historical missteps, it is crucial to remain vigilant against governance practices that centralise all authority and power within the government. Upholding the constitutional values of equality and non-discrimination is paramount. The government must never use language as a tool to deny its citizens equal access to education. As it stands, the Basic Education Laws Amendment Bill grants provincial education departments undue authority to mandate additional languages of instruction based on specific criteria. This amendment potentially enables governmental overreach, as evidenced by numerous instances where schools have had to resort to legal action to protect their constitutional right to mother-tongue education. To prevent such overreach, we must reject uniform policies and empower parent communities to choose the language of instruction for their children. The proposed models support this objective effectively.