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### No. 04: Silenced by Nation-Building: African Immigrants and Language Policy in the New South Africa

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MAXINE REITZES & NIGEL CRAWHALL

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SERIES EDITORS:  
JONATHAN CRUSH & DAVID MCDONALD

SOUTHERN AFRICAN MIGRATION PROJECT  
1997

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## EXECUTIVE SUMMARY

All people in South Africa have constitutionally-guaranteed language rights. To what extent do these rights apply to non-citizens and are they actually observed by various state departments and officials? This report presents the results of a preliminary investigation into this question by focusing on the rights and treatment of foreigners in South Africa, particularly foreigners from other African countries.

The report was commissioned by the Southern African Migration Project (SAMP) as part of a broader programme to understand the reception and treatment of non-South Africans in the new South Africa. Our aim, as authors, is to encourage government departments and non-governmental organisations (NGO's) to continue to work towards policies which enhance the guarantee of multilingualism enshrined in the Constitution, and which enable marginalised constituencies to be recognised and heard.

The report focuses on the national departments of Home Affairs, Safety and Security, and Justice. These are the main points of immigrant and migrant contact with the state, and therefore the most likely to require policy guidelines. Other departments dealing with immigrants – such as Correctional Services, Defence, Health, Education and Welfare, as well as their provincial counterparts – will also require investigation in order to get a comprehensive picture account of current language policies and practices. To this end, the report includes recommendations for further research.

Two assumptions inform this report. Firstly, we assume that the interests of structures like the Pan South African Labour Board (PanSALB)<sup>1</sup> as well as NGOs are distinct from the interests vying for power within government and state structures. We therefore conclude that various civil society groups and possibly the PanSALB will actively defend the Constitution and advance a progressive and inclusive approach to language policy that benefits everyone. In a country where language has been used to divide and undermine certain political, social, economic and cultural interests, it would seem necessary for language policy to become central in the elaboration of democracy and human rights.

Secondly, we assume that it is in the long term interests of the new political order in South Africa to use sensible language planning to maintain peace (by promoting tolerance of diversity), and prosperity (by using linguistic resources effectively). It should be possible for non-governmental interests to forge a consensus with government on the use of language policy to promote and sustain democracy (through promotion of diverse voices, in an inclusive and participatory political system).

However, the research for this report provided a striking reminder that few state officials have considered the impact of language policy (and its absence) on broader issues of transformation. Although faced daily with language capacity problems, and the visible manifestation of contested uses of language, state officials interviewed tend not to see a link between their immediate concerns and the role of language policy in providing solutions in both the short and long term. Furthermore, senior civil servants are not necessarily aware of the link between language policy at departmental level, and national priorities of reconstruction and development.

Administrative justice and state bureaucratic procedures concerning migrants and immigrants are currently not informed by an explicit, coherent language policy. In some cases there may be violations of constitutionally guaranteed language rights, particularly in situations involving detained persons where their rights, including the written provision of reasons for negative administrative action, are not adequately communicated; and in courts where inadequate language facilitation discriminates against individuals on the basis of language and place of origin.

Reasons for the lack of a coherent policy include:

- Absence of co-ordination between legislative and bureaucratic decision-making on language issues;
- Inadequate understanding in most government departments of the role and function of language policy;
- Poor co-ordination within and between departments on language issues;
- Lack of consultation, negotiation and transparency in decision-making within departments;
- Inadequate human resource management, including the management of linguistic resources which exist within departments;
- Avoidance of multilingual policy due to the current power struggle between newly appointed, English speakers in the civil service, and existing Afrikaans speakers;
- The weak capacity of African migrants and immigrants to advocate on their own behalf; and
- Increasing xenophobia against, and exclusion of, African immigrants, which is partially an expression of the ambiguity of nation-building.

The nature of internal departmental policies and practice, including that of language, directly impacts on public service delivery. The absence of language policy in general contributes to the lack of policy regarding



language facilitation for immigrants. This contributes to an overall governmental silence about the legitimate linguistic and cultural presence of other Africans in South Africa. This silence has the potential to obscure real and potential human rights abuses by government, civil society and South African citizens. It is in the interests of democracy and the integrity of the new Constitution to reach into the silence and make apparent the presence and rights of speakers of officially unacknowledged languages of African provenance.

The actions taken to make this policy area explicit and to ensure the upholding of the Constitution for marginalised constituencies, can contribute to making language policy and practice part of inclusive democratic state building rather than exclusive nation- building.

Redress and correction of the current situation would provide an opportunity to replace the idea of “language as a problem” with “language as a resource”. Hence, immigrants’ linguistic and cultural resources could be recognised as contributing to South African reconstruction and development, and the multilingual abilities of civil servants would be acknowledged, promoted and rewarded.

Owing to the complex power dynamics within the state bureaucracy, it is necessary to assign particular responsibility within government and state departments for redress and corrective action, and for organisations of civil society to be made aware and become vigilant on the issue of language access.

## INTRODUCTION

The new South African government is committed to democratic nation-building. The country's new rights-based Constitution asserts that "South Africa belongs to all who live in it, united in [their] diversity".<sup>2</sup> The rights and entitlements guaranteed by the Constitution are extensively inclusive, and based on the principles of "human dignity, equality and freedom". Everyone has the right to freedom and security of the person; to housing, health care, social security and education; to access to information; to administrative justice; and "to use the language...of their choice." (authors' emphasis).<sup>3</sup>

South Africa has expressly committed itself to an inclusive, rights-based democracy, which recognises the plurality of racial, ethnic, cultural and linguistic groups in South Africa. The current process of nation-building raises the question of just how inclusive the normative, legal, linguistic and cultural boundaries of the new South African nation are to be.

Language rights are arguably the most important rights guaranteed by the Constitution, as the protection of equality, justice, access to information and state resources are largely dependent on communication in languages in which people are competent. In keeping with constitutionally guaranteed rights, all legislation and policy affecting immigrants in South Africa arguably ought to be available in a language and register which they can understand. All administrative processes to which they may be subject, ought to be likewise facilitated.

These conditions are in keeping with the *United Nations Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live*. Article 3 States that "[e]very State shall make public its national legislation or regulations affecting aliens", and Article 5(f) states that "[a]lliens shall enjoy...[t]he right to retain their own language, culture and tradition...."

Under apartheid, the boundaries of culture and language were largely defined in terms of race. This was explicit in South Africa's racially exclusive immigration policy. Until 1986, any prospective immigrant had to be "readily assimilable by the white inhabitants," and not a threat to "the language, culture or religion of any white ethnic group."<sup>4</sup> A more inclusive immigration policy, which may reasonably have been expected after 1994, has not yet materialised.<sup>5</sup> On the contrary, the past two years have seen an alarming increase in anti-immigrant sentiment among the general public and some officials.

One explanation for the rise in xenophobia lies in the ambiguity of South African nationalism. Emerging from a history of division, South Africans face the challenge of forging a united nation. The one thing

they can all now acknowledge and share is citizenship. For some, citizenship not only signifies who “we” are, but also designates “them”.<sup>6</sup> Immigrants appear to have become the new “them”. They are portrayed as a threat to social and economic security, rather than a threat to an as yet unformulated national identity. However, it is quite possible that nation-building will increasingly be driven by calls for the exclusion of those who are not South African nationals.

The challenge for immigration policy-makers is not what to do about “them out there”. The presence of immigrants within South Africa raises the more immediate question of what to do about “them in here”. If South Africa embraces a nationalistic project, resultant policies, including those of language and immigration, are likely to be exclusive. Conversely, a state-building project based on constitutional principles is more likely to produce inclusive policy responses.

To ignore immigrants’ language rights is to erode a culture of human rights and democracy. This silent threat to the legitimacy of the Constitution requires the attention of those committed to preserving peace, prosperity and democracy in South Africa. Although migrant communities from other African countries are not powerless and certainly constitute a substantial segment of the population in several provinces, they have a weak advocacy infrastructure and lack a recognised voice within the political system.

## LANGUAGE AND NATION

**T**wo processes are currently unfolding around language issues in South Africa. The first is the construction of a new national identity in the country. This identity is partially being constructed by growing xenophobia and the “othering” of foreigners, particularly people of colour. Some South African citizens have begun to portray immigrants as fundamentally “non-South African,” “foreign” or “alien”.

The derogatory term for foreigners, *amakwerekwere* supposedly describes “the way they mumble in English”.<sup>7</sup> Black South Africans who were misidentified by local Alexandra residents as immigrants in xenophobic attacks in January 1995 were deemed “too black to be South African”.<sup>8</sup> Economic cleavages are also beginning to designate insider and outsider identities: in Mhala in Mpumalanga, for example, Mozambicans provide cheap labour to South Africans to perform menial tasks. “If one local asks another to perform such tasks, the response is likely to be *U nga ndzi endli Mupoti* (or ‘Don’t treat me like a Mozambican’).”<sup>9</sup>

Civil servants seem increasingly to assume that the rights of

immigrants (particularly Africans and Asians) are not necessarily protected by the Constitution, and that it is not necessary to provide them with language services, available to English- or even German-speaking people.

The second process is the growing displacement of Afrikaans by English as the administrative medium in state departments. This process actually discourages multilingual policy development and practice. All civil servants receive the message “report to your superior in English only”. This weakens commitment to multilingualism, thereby fostering the notion of an exclusive national identity. This identity is partially characterised by a linguistic hierarchy with English at the top, Afrikaans in the middle, African languages at the bottom, and immigrant African languages, including those which are not recognised as official languages, in a sub-class off the scale, and out of the realm of policy.<sup>10</sup>

South Africa’s eleven language policy attempts to link the needs of an emerging elite and a mass popular constituency, in order to legitimise the displacement of the old guard.<sup>11</sup> It would therefore be unrealistic to think that a power struggle to control the language of the state can be avoided. Language is also a primary vehicle for accessing the state and state resources. Insofar as immigration policy necessitates immigrants’ engagement with a number of state departments, issues of language rights and policy are central.

A draft report of the Language Plan Task Group (LANGTAG)<sup>12</sup> on the civil service suggests that a language policy strategy for the public service should have both internal and external objectives:

[T]he issue of language in the Public Service involves both the use of language(s) for internal administration purposes, which is directed at the functioning of the state machinery (and does not directly impact on national life), and for external communication purposes, that is, for public consumption (which has a profound impact on civil society at large). The latter involves communication not only with the citizenry, but also with the international community.<sup>13</sup>

The Government of National Unity’s (GNU’s) language policy for Public Service management agencies should therefore aim to (a) effect good management and efficient administration, and (b) ensure client satisfaction by providing equal access to available public services and programmes through successful internal and external communication.

We would argue that these two policy areas, the internal and the external, are inseparable. Janine Rauch, a representative of the Secretariat for Safety and Security explicitly recognised this point when she cogently pointed out that if people’s rights in general were not

respected and guaranteed within the department, it was unreasonable to expect civil servants to recognise and protect those of the public:

Internal rights issues are crucial for public service delivery. We must fix up internal human resource management. Race discrimination is the most obvious problem, but there are others. We haven't got our head around rights, how to integrate internal rights with transformation and public service change. The language issue doesn't stand on its own. It is part of service issues - the quality of service and effective policing.<sup>14</sup>

According to Rauch, provincial commissioners are responsible for building internal capacity in languages appropriate for particular provinces. She claims that, to date, "transformation of the service has been internally focused. There is no focus on how to deal with externals". Although she recognises the inextricable link between internal policies and service delivery, she claims that "there is no link between internal language policy and the question of language and public access to the service". She laments the state of the Training Division, which she claims is "useless and immobile; badly managed and under-prioritised".

In the next section the often confused and contradictory opinions of civil servants indicate the complex terrain that must be covered to develop useful policy in this area.

## THE RISE OF ENGLISH IN STATE DEPARTMENTS

Eliminating the vestiges of apartheid has required new internal structures and a long-term plan to develop an equitable balance among staff. The mission was struck by the complacency of many long-term civil servants and their lack of consciousness about the distortions which apartheid caused and which persist. They appear to act under the mistaken assumption that technical competence is the only qualification for their tasks. For such staff, it will be necessary to engage in active retraining for sensitivity and awareness in race, gender and other human rights issues. The resistance which some branches have shown to affirmative action hiring, as well, misconstrues the importance of diversity. Affirmative action is necessary not only to change the face of the departments and make them more representative to the public, but to develop a culture of inclusion within the departments themselves which is necessary to the accomplishment of their tasks.<sup>15</sup>

**F**or decades, Afrikaans was the life-blood of the state bureaucracy. It was both a symbol of political power, and an instrument of bureaucratic efficiency. Many have accused the Afrikaners of a linguistic arrogance which resulted in the exclusion of other linguistic and cultural groups. However, it seems that English exclusivity is in the process of replacing Afrikaans exclusivity. No one is arguing for greater inclusion and access for speakers of the other nine official languages.

A marked feature of post-1994 transformation in many departments is the internal displacement of Afrikaans by English as the bureaucratic language of choice. The Department of Home Affairs, for example, recently decided to make English the official language of internal communication.<sup>16</sup> A similar decision seems imminent in the Department of Safety and Security.

Brian van Niekerk, Senior Superintendent in the Department of Safety and Security claims that Afrikaans-speaking bureaucrats “don’t have a problem with the apparent demise of Afrikaans. It’s a practical issue. Language policy and register must be based on what is easiest. We must have a flat, basic form of English”.<sup>17</sup> The dominance of English was endorsed by a number of other interviewees as both a practical and political project. Several see the rise of English as the dominant bureaucratic language to be a progressive event that was the neutral option in the face of diversity.

Many of the civil servants we interviewed were Afrikaans speakers. Most actually thought that Afrikaans should be marginalised within the public service in favour of English because English is a politically neutral language and black people do not speak Afrikaans. Some felt that speaking English shows goodwill to new (black) colleagues and that English communication is more efficient.

English is increasingly seen by Afrikaners as the language of access to employment opportunities, including those offered by the state. In response,

white Afrikaner males are becoming more competent in English, which they see as a currency for equal competition for jobs. This allows them to compete with the black guys. Whites are aware that they must improve their [English] language skills, as employment opportunities become more competitive.<sup>18</sup>

Other interviewees disagreed that English is necessarily the language which most effectively meets the needs of state employees and the public which they serve, stating that “more black people understand Afrikaans”. However, this was disputed by another state official, who explained that

“many newly appointed black people in the bureaucracy can’t speak Afrikaans – they speak English”. Another questioned whether the issue is that black bureaucrats cannot – or will not – speak Afrikaans. One pointed out that “many people in the Department from the previous homelands speak English, not Afrikaans”. One concluded that:

English language policy may, for now, be the safe and “politically correct” option, but it is not sustainable in the long-term because of its elitism and failure to address real needs.

Van Niekerk claims that as an Afrikaans speaker himself, the increasing prioritisation of English within the department left him feeling linguistically disadvantaged and less able to perform his job : “When English began creeping in, I felt disadvantaged. I was not as competent in English as I was in Afrikaans.”<sup>19</sup> Other bureaucrats endorsed this sentiment, claiming that English is not necessarily the language which most adequately meets the practical linguistic needs of members of the bureaucracy.<sup>20</sup>

The efficiency of departments could be undermined by feelings of political marginalisation and alienation among Afrikaners: “There is panic inside the department: the political issue is around Afrikaans. People are upset about [the demise of] Afrikaans.”<sup>21</sup> Van Niekerk claims that Afrikaners’ initial response to the ascendance of English was denial, but that they were now “in a muddle stage”. In his view, there should not be a language *policy* per se: “This language thing must sort itself out. Enforcement causes hassles.”<sup>22</sup> Whether or not Afrikaners are comfortable with English, they could continue to resist its imposition for political and ideological reasons. Such resistance is likely to impact negatively on productivity and public service provision.

Dr Anthony Minnaar of the Department of Safety and Security argues that “language policy is a political decision, and there are high-ranking black people in the police who only speak English”.<sup>23</sup> Minnaar refers to the dominance of English as “politically correct” in the sense that it conforms to current perceptions about who should control the state. This, of course, implies that language policy is informed not solely by issues of linguistic competence and practicality, but of political inclusion and exclusion. He claims that no-one wants to be seen as overtly defending the use of Afrikaans because of its associations with the past political system and with unresolved racism.

Those who would contest the marginalisation of Afrikaans are therefore unlikely to do so “up front”. Rather, he suggests, “the survival of Afrikaans is seen as being linked to the survival and promotion of other African languages”. The strategy of the disaffected Afrikaner, therefore, is to promote other languages as well as Afrikaans. Other

respondents confirmed this, claiming that some Afrikaners respond to the marginalisation of Afrikaans not by resisting the use of English, but by promoting use of all of the other ten official languages:

The issue is presented as one of the dominance of English, rather than as the marginalisation of Afrikaans. This is a political strategy, in response to the political nature of the issue of Afrikaans and Afrikaners in the bureaucracy...those who promote or impose English language policy seem to be blind to the practical and political implications. The privileging of English doesn't meet the needs of people on the ground.<sup>24</sup>

However, the Department of Safety and Security apparently offers no incentives or rewards for competency in African languages, although many police, including white officers who are recruited from the rural areas, have such skills: "The guys in these jobs [dealing with immigrants] are good linguists, but they don't get rewarded for their language skills."<sup>25</sup>

Our research suggests that even as departments become more racially inclusive, they remain linguistically exclusive. This is evidenced by the growing replacement of Afrikaans by English as the dominant language of state. The result is internal contestation over the position of Afrikaans and Afrikaners within the bureaucracy. As the United Nations Centre for Human Rights notes:

Departments are dominated overwhelmingly by appointees from the apartheid period which, in practice, means predominantly white Afrikaners. The Ministries, in contrast, are headed by members of the ANC with the exception of three IFP ministries. The contrast between the two – ministries and departments – is dramatic and the frequent tension that exists is not surprising. Although there have been new appointments to all departments, the ministers tend to be new to government and dependent on the functioning bureaucracy. As a result, they have generally refrained from radical changes. As one high level official told the mission, if the bureaucracy becomes too uncomfortable, the system becomes dysfunctional. "Until now," he said, "we have perhaps erred on the side of too much comfort."<sup>26</sup>

The issue is both practical and political, involving a struggle for control between representatives of a new, black English-speaking elite and *ancien regime* Afrikaans-speaking senior and middle level bureaucrats. Internal issues of rights, and the unresolved status of Afrikaans and the Afrikaner within the bureaucracy, constitute major blockages which undermine the



ability of departments to protect and guarantee the rights of the public which they serve.

If one of the functions of the bureaucracy is to provide administrative continuity in the face of political change, then departmental language policies need to be well thought out, and their formulation needs to be rational, inclusive, consultative, representative, accountable and transparent.

Where, then, does the impetus for English come from? No-one is quite sure. A number of respondents could not locate the source of decisions, other than that they emanated from “very high up”. The South African Communication Service (SACS) audit of the Department of Home Affairs suggests serious internal communication problems on these and like matters.<sup>27</sup> Some 48.4% of personnel (of all ranks) indicating that they received only limited information and 13.6% indicated that they received no information from top management about the organisation. Some 65% of head office personnel experienced top management as autocratic.

Within the Department of Safety and Security, Minnaar says, “decisions are not made through consultation and negotiation, they are imposed by decree and command. This is a major problem”.<sup>28</sup> In some cases committees are responsible for decision-making, although respondents were not sure that they do anything more than rubber stamp the preferences of senior officials. None of the consultative committees appeared to involve State Language Services or LANGTAG. None appeared to deal with substantive issues of inclusion and exclusion or long term issues of peace, prosperity and democracy. In the case of Home Affairs, it appears that a single bureaucrat had changed internal policy in favour of English as he was unable or unwilling to read documents in Afrikaans.

## IMMIGRANTS AND LANGUAGE POLICY

**T**his section provides an overview of language policy initiatives, needs and shortfalls in the departments that deal most directly with migrants and immigrants. The analysis is far from exhaustive and may require correction for accuracy of detail. It aims to provide a general impression of the current situation in these departments.

### DEPARTMENT OF HOME AFFAIRS

The Department of Home Affairs has taken an *ad hoc* approach to language policy based on short term needs and untested assumptions, without guiding principles or an understanding of multilingual

administration. The result has been a shift to English only for internal communication and no coherent plan for external communication.

No one is responsible for language policy within Home Affairs, other than the Chief Directorate Administration in a general sense. The departmental document on external language policy has barely been changed since the new Constitution with section 1.5.1 referring to the use of any of the official languages (ie eleven), and the subsequent sections unchanged from the old Constitution and referring to *both* official languages (English and Afrikaans).

The unco-ordinated character of policy is illustrated in two departmental circulars issued by the Director-General's office. The first memo, in 1994, dealt with the rather innocuous subject of rubber stamps, noting that in order to create effective communication between departmental officials, other departments and members of the public, "it was decided to use English as the common denominator". The memo advises that henceforth all rubber stamps should be produced in English.

A second circular refers to the success of the rubber stamp policy to justify the request that officials henceforth:

make use of English as the common denominator. Manuals, computer programmes, etc. will be adjusted to assist officials in this regard. It follows that records of meetings and internal discussions should also be kept in English.<sup>29</sup>

Hennie Meyer, the Chief of Communications, notes that English has emerged as the common language within Home Affairs and is generally considered to be a practical option. He emphasised that the adoption of English was a consensual process amongst the staff. When pressed on why multilingualism was seen as ineffective and unproductive, it emerged that the problem was with reports and minutes being produced in Afrikaans which senior officials were either unable or unwilling to read.<sup>30</sup>

Despite the drift towards English, Home Affairs requires extensive multilingual capacity on the ground. In some cases this has resulted in a planned approach to language facilitation (with good results); in others it has led to frustrating and unresolved situations.

The use of interpreters in the Refugee Sub-Directorate, with training and evaluation support from the United Nations High Commission on Refugees (UNHCR), stands out as one of the best examples of language access for non-South Africans. Although there are still problems with the use of untrained and unqualified interpreters, generally all refugees can be understood and sophisticated investigations and interviews can be conducted with relative confidence.

Another good example of practical access occurred during the second round of advertising of the 1996 SADC "amnesty". The exemption

offered certain categories of other SADC citizens the opportunity to apply for permanent residence in South Africa. By the time of the initial deadline, the department had received an embarrassingly small number of applications. The deadline was then extended to 30 November 1996 and the department embarked on a more systematic advertising and dissemination campaign. The department conducted radio and TV advertising in all the official South African languages, and translated a flier on eligibility criteria into five African languages – Xitsonga, Setswana, Sepedi, isiZulu and Sesotho. According to Meyer, the department was constrained by time and resources. Xhosa, Venda, Afrikaans, and Swazi were left out, on the assumption that these languages were not used by SADC exemption applicants. The Director of Migration later observed that:

the only non trans-boundary African language in South Africa is Xhosa, so if South Africa implements its own official language policy, it should cover most of the other languages in the region.<sup>31</sup>

Our own analysis suggests that Tsonga, Zulu/Ndebele, Portuguese, English, Southern Sotho and Tswana were the most common first languages among the applicants. The translation and circulation of the flyers appears to have been highly successful. Even in the rural areas, knowledge of the amnesty was widespread.<sup>32</sup> Given the potentially large number of Mozambican applicants, the obvious language overlooked was Portuguese. However, a local Portuguese newspaper took the initiative to reprint the conditions of the exemption.

At Home Affairs offices where applicants congregated, translation services were more *ad hoc*. The department hired a single Portuguese-speaking Angolan at the Market Street office in Johannesburg to provide translation services. Other interpreters were brought in on an occasional basis as required or, interestingly, supplied by the applicants themselves. Under special circumstances such as the amnesty, observed the Director of Migration, “the department does not take responsibility for interpreting and the clients must provide their own”.<sup>33</sup>

The department’s relative success in providing language facilities for asylum-seekers and disseminating information about the SADC exemption process contrasts sharply with normal departmental practice. The LANGTAG research indicated that there was a substantial communication problem at the Market Street offices in Johannesburg where no language translation facilities were available for visitors unable to speak an official language.<sup>34</sup> At the time, staff indicated their frustration with having to deal with Portuguese and French speakers, and increasingly with South East and East Asian visitors.

The senior official at Market Street complained that his staff had been “plagued” by language policy investigations.<sup>35</sup> He remembered the LANGTAG consultation taking up three days despite the fact that it was all conducted in one day and took less than three hours including an hour of observation. He was also dissatisfied with the lack of adequate feedback from LANGTAG and the fact that the report on his department had gone to his superior and not back to Market Street directly. Management attitudes at Market Street provide further evidence that language (and language policy) is viewed more as an annoyance rather than a resource to be understood and managed effectively.

The experience of Home Affairs highlights some of the features that distinguish efficient and inefficient language facilitation by a department:

- Efficiency is improved when there is external input and monitoring (eg the UNHCR and the Refugee Subdirectorate);
- Language facilitation is more likely when someone is placed specifically in charge of this function. In the case of the SADC exemption, decisions were taken and evaluated primarily because the Director of Communications took specific responsibility;
- Expert knowledge of language policy, language facilitation and the needs/profile of the users is required; and
- Discrimination must be avoided. There are allegations that white visitors to South Africa are processed effectively at Harrison Street, whereas black migrants and visitors are sent to Market Street and do not receive adequate access or client-orientated service.

The policy silence around issues of language as they pertain to the interface between the state and migrants contrasts with the obvious ability of migrants and police or Home Affairs officials to find some linguistic middle ground. Although head office may not be able to find a Swahili interpreter quickly, in practice, migrants and police officers enter into a communicative relationships which allow for information to flow where power relations permit. Thus, contrary to our expectations, language resources do exist. Furthermore, language is not always the barrier it is made out to be. When government officials do not want to hear or understand migrants, miscommunication is conveniently facilitated by the lack of policy.

#### DEPARTMENT OF SAFETY AND SECURITY

Within the Department of Safety and Security, language policy, in so far as it exists within the department, is orientated to internal needs.<sup>36</sup> Policy has been developed by a language task team, convened by Salomie Reineke in the National Corporate Development sub-division. General

policy (as distinct from operational policy within SAPS) is initiated by the civilian secretariat and referred to a policy forum, consisting of the secretariat, the Minister and the Police Commissioner.<sup>37</sup>

The issue of foreign languages or languages required to work with non-citizens is not currently a policy consideration, although its implications have already led to a number of informal initiatives. During the LANGTAG research, the head of one of the Aliens Internal Tracing Units indicated that his staff were constrained by their inability to communicate in French. He himself had taken the initiative to start French lessons.<sup>38</sup>

The LANGTAG investigation identified three different and uncoordinated initiatives to teach French to police officers. Some police officers expressed a preference for building Zulu second language capacity rather than learning French, but a coherent plan or policy framework was absent. Senior officers indicated that with the substantial increase in foreign visitors and immigrants there is an increasing need for language services. Informally, police officers who are competent in Tsonga and/or Portuguese may get preference in immigration work.

One officer noted the increased demand on his staff to communicate with speakers of languages from South, Southeast and East Asia. Generally, interpreters are procured from the Department of Justice, embassies, other foreigners, and family or friends of the detained person. SAPS and Home Affairs sometimes share an interpreter to assist with different aspects of an investigation or deportation. There was consensus that increased training of interpreters is required, although whether this should be a government or private responsibility was debatable.

Rauch raised a number of pertinent issues about language use inside the department, including the need to recognise linguistic diversity and encourage multilingual proficiency.<sup>39</sup> A possible aim would be to have all officers and staff proficient in two languages, and encourage them to develop a third, whether foreign or local. She considered it to be in the department's interest to invest in language capacity building. This could take the form of additional remuneration for multilingual personnel in the police force, and the provision of incentives for learning additional languages. There is definitely room for private sector assistance in training programmes, which could include language acquisition.

## DEPARTMENT OF JUSTICE

Three senior SAPS staff and a Home Affairs deputy director all agreed that the Department of Justice has prime responsibility for providing interpreters. Prior to 1994, the Department of Justice was the only ministry training and employing African language interpreters. These

interpreters were required to have a matric exemption. The department provides five week courses, focussing on legal issues and concepts, with some attention to ethical issues.

Historically, black interpreters in the apartheid legal system were in a difficult position. Under-trained and under-resourced, interpreters were required to perform a variety of tasks including cultural interpreting, mediating different legal systems (customary and Roman Dutch), and sometimes actively assisting the court in cross-examining and influencing judgements. Although the ethics and quality of interpreting varied considerably, the entire interpreter profession acquired the reputation of upholding racially discriminatory practices by the courts and the legal system.

Currently, the Chief Interpreter's register includes 78 languages (including all 11 official languages). The register is apparently out of date although the Chief Interpreter believes that his department can facilitate more than 100 languages.<sup>40</sup> His major concern is to improve the standard of interpreting in the courts. In 1994, with the launch of the Joint Interpreter Training Initiative (JITI) at the University of the Orange Free State, the department's Chief Interpreter and trainers, the white administration and the interpreters union all recognised that the job definition, training and working conditions of interpreters were inadequate.<sup>41</sup>

Many foreign language interpreters have no formal training. Others have the basic five week training but this is inadequate. Training usually occurs after one year or more working in the courts (ie there is no pre-training or screening). It is also difficult or impossible to test the abilities or standard of foreign language interpreting in the courts. There are, in addition, too few interpreters for the increasing work load, particularly for courts outside Johannesburg and Pretoria. There is also the ethical problem of having an interpreter involved in the investigation process and then serving at the trial.

The inadequacy of foreign language interpreting and capacity is illustrated by the following examples:

- In 1995, court proceedings in a case had to be delayed by six months while a Swahili interpreter was located.<sup>42</sup>
- The courts have only six Shona interpreters. Five are resident in Johannesburg and one in Pretoria. They work full time, although they are hired as casual labour. They cannot serve all the required cases at once, leading to regular postponements particularly in outlying areas.<sup>43</sup>
- The Chief Interpreter is currently trying to locate a Chinyungwe speaker. He may have a lead at the SABC of someone who is a friend of a part-time Chewa interpreter who works there. The

interpreter may not be a first language speaker, and is unlikely to have legal or interpreting training.<sup>44</sup>

- In 1995 an Amharic-speaking Ethiopian in detention was sent an Arabic-speaking interpreter. Neither could understand the other. After considerable delay, an Amharic speaker was located.
- There are no interpreters available for Thai, Indonesian or Malay. Only one interpreter is available for some SADC languages, such as Herero. Interpreters working in ChiSena, CiTonga, Lingala, Kwanyama, and numerous other SADC languages are untrained.
- There is a recurring problem in using South African Tsonga-speaking interpreters for trials involving Mozambicans. The languages are not really the same. The Mozambican variant has a lot of Portuguese in it.

The new Constitution has had no impact on the quality of interpreting. Rather more emphasis is placed on getting detainees before a magistrate within the 48 hours stipulated in the Constitution. If the detainee speaks one of South Africa's official languages the hearing can proceed normally. If the detainee speaks an official language minimally but not adequately the magistrate is able to postpone the hearing pending the availability of an interpreter. If the detainee is entirely able to understand any official language, and no interpreter has been found in 48 hours, he or she is allowed to go free and charges are dropped. The responsibility for finding an interpreter rests on the Chief Court Interpreter.

#### DEPARTMENT OF ARTS, CULTURE, SCIENCE AND TECHNOLOGY

The position of the Department of Arts, Culture, Science and Technology (DACST) is an ambiguous one. Although the State Language Services (SLS) is housed in the department, and SLS has promoted multilingualism and greater policy coherence, its success with other state departments is uneven. SAPS, for example, has made little or no use of SLS. Home Affairs noted that it had ignored the DACST Director-General's memorandum on multilingualism. Home Affairs also used the South African Communication Services (SACS) translation services for the SADC amnesty publicity rather than National Terminological Services (NTS) at DACST. The Chief Court Interpreter in the Justice Department was not even aware of SLS

He suggested that SLS do more public relations work with government departments.<sup>45</sup>

The most important initiative to date on language policy and planning was the Language Plan Task Group (LANGTAG) investigation

and report. LANGTAG was the first policy vehicle to acknowledge the presence of African immigrants and migrants and their languages in South Africa. However, with a change of minister and priorities, LANGTAG's recommendations appear to be on the back burner.

No-one seems to know whether SLS/NTS should be driving the process of training and accrediting interpreters or whether this ought to be the responsibility of another division or department. According to the outgoing SLS Director, interpreting is beyond the jurisdiction of DACST. He confirmed that his department was not promoting the recognition of interpreters as a formal employment category with the Public Service Commission. The commission confirmed that it only recognises interpreters in the Justice Department.

SLS has also investigated the feasibility of a telephone interpreting service, a concept which met with wide approval at the LANGTAG consultative conference. SAPS staffs' response to the idea was generally positive, although they were unsure of who ought to provide training and set qualifications for specialised work such as criminal investigations.

#### DEPARTMENT OF DEFENCE

Our research did not include the South African National Defence Department (SANDF), although its staff play a significant role in border patrols. However, the Language Service Directorate (LSD) of SANDF's Personnel Division was conducting a consultative forum on language use in the Defence Force at the time our research was taking place.

The SANDF has produced the most comprehensive draft document on language policy of any of the departments. The draft calls for a needs-driven approach that affirms constitutional principles while striving for efficiency. The advent of a consultative forum with experts also indicates an advanced level of organisation around language policy.

This preparedness stems from the LSD's explicit responsibility to assess needs and recommend policies. Although the Defence Force has traditionally had different policies in different branches (the Navy adopted English as its command language several decades ago) there is some attempt to rationalise resources and formulate a coherent strategy. The LSD's mandate extends to foreign language capacity. The increased likelihood of South African troops serving in Francophone Africa has provided new impetus to the effort to identify human resources and develop strategy.

The SANDF, like the SAPS and most other departments, is grappling with the dilemma of Afrikaans. The language is an important resource within the service, but is associated with the old regime. The need for national reconciliation and inclusiveness is sidelining Afrikaans with the



basic issues unresolved. Although the need for dialogue on these issues would seem paramount, the initial policy document hesitates at addressing directly the questions of language, power and sustainable language policy.

#### INTER-DEPARTMENTAL CO-ORDINATION

Throughout our interviews, civil servants expressed concern that an eleven language policy was expensive and inefficient. Most officials associated it with producing all written correspondence in 11 languages. Departments were also clearly more concerned about internal communication than external communication and human resource management.

There was little or no concern for testing language needs, or developing policy to link internal human resources with external or internal (eg training) requirements. No serious attempts are underway to build linguistic capacity in the civil service.

Co-ordination of line functions between state departments on language issues is all but absent. There is no co-ordinated language policy to facilitate internal communication among departments. Furthermore, all state departmental employees we interviewed stressed the need for interpreters to facilitate their communication with the public, but few knew where to find them. The situation has absurd results. The Chief Court Interpreter, for example, notes that he spends an inordinate amount of time writing reports on the work of foreign interpreters for Home Affairs so that he can keep them from being deported! This process of repetitious and time-consuming report writing is necessary in order to keep interpreters that Home Affairs itself wants to make use of, in the country.

The almost total lack of co-ordination of language policy objectives mitigates against any resolution of current problems in the system. The transition process has brought with it a good deal of chaos, inexperience, and exacerbated already weak inter-departmental communication. The Chief of the Refugee Subdirector in the DHA informed us that in 1996 alone, Home Affairs lost over 600 years of experience from retrenchments and voluntary retirement.<sup>46</sup>

The SANDF has suggested that there should be an inter-departmental forum to co-ordinate language training and resource allocation. This could also facilitate the sharing of ideas of policy formulation and implementation. In particular, it would encourage the Department of Education to consider the long term needs of the government service. One interviewee suggested setting language capacity targets for 10 to 20 years in the future and realising these through the education system.<sup>47</sup>

## LANGUAGE RIGHTS AND NGO RESPONSES

**E**xperience in other African countries suggests that organisations of civil society often either supplement or complement the functions of an under-resourced and over-extended state. A number of NGOs in South Africa are addressing the issue of human rights, including the rights of undocumented migrants, and are facilitating people's access to information, the protection and guarantee of their rights, and their access to the state.

However, few, if any, are specifically addressing the language issue. Sheena Duncan of the Black Sash concedes that "in assisting clients with amnesty applications, and more generally, with interpreting the Aliens Control Act, the Black Sash didn't think about language issues".<sup>48</sup> She believes that "in South Africa there's always someone who can speak English. People who speak English as well as the required African language, feed the information back into the community". If typical, such an assumption, to the extent that it informs more general NGO practice and makes services available only in English, is likely to inadvertently but implicitly enforce the marginalisation of African language communities. The message it conveys to immigrants is that they can choose exclusion from, or assimilation into, anglophone South African society.

Other NGOs have provided human rights education to the Department of Safety and Security at the station level, but language issues were again apparently not an issue.<sup>49</sup>

The United Nations Centre for Human Rights was requested by the South African Minister of Foreign Affairs, Alfred Nzo, to "undertake a needs assessment survey with a view to providing technical co-operation to the new government in the field of human rights".<sup>50</sup> The centre assessed Safety and Security, Defence, Correctional Services, Land affairs; Housing; Water; Education and Justice without addressing language issues.

NGOs are involved in providing interpretation and translation services to refugees and asylum-seekers although the resources for this are limited. The South African Red Cross has become the primary service provider at the instigation of the UNHCR. The social and legal programme of the Red Cross offers refugees and asylum seekers legal counselling, trauma counselling, a tracer service for family members, assistance with employment and translation services. The various independent refugee forums in various centres aim to provide various services to refugees including provision of food and shelter, health care, legal advocacy and language education and skills training. Assessing the role of such refugee relief providers in the Durban area, one report notes that organisations:

find themselves overburdening their reserves to unacceptable levels and having to channel funds that were originally intended for other purposes in order to furnish the needs of their refugee programmes.<sup>51</sup>

Adequate language services are a likely victim of this financial squeeze.

## (MIS)PERCEPTIONS OF IMMIGRANTS

One of the primary obstacles to new thinking and policy on language rights and access for immigrants and non-citizens is the prevalence of misleading assumptions concerning the languages of immigrants. These inaccuracies may eventually create national mythologies and prejudices, which in turn could contribute to the stigmatisation of immigrants.

A selection of remarks and comments by officials during the research illustrates the depth of misperception:

- 75% of Africa speaks French
- There is a Chinese alphabet that is used generally by East Asians (explicitly Chinese, Taiwanese and Koreans)
- Nigerians are drug dealers, drug dealers speak French, therefore Nigerians speak French. Police need to learn French as a priority language
- International drug cartels conduct business in English
- West Africans speak French

A senior police officer observed that the police:

assume that people who can't speak English or Afrikaans must be from over the border. We establish that a person is a foreigner if he can't speak one of our languages.<sup>52</sup>

A mindset continues to exist which frames English and Afrikaans as the two "official" South African languages.

Research conducted among immigrants in Winterveld suggests that some immigrant children are denied access to education because the language of instruction is Setswana, which many cannot speak or understand.<sup>53</sup> A similar situation exists with access to health care: anyone who is not competent in Setswana is likely to be treated discourteously by health care workers.

Equally disturbing were acts of misidentification of foreigners. Several Ndebele-speaking women from Zimbabwe (who were also reasonably competent in English) were introduced to us at Lindela Deportation

Centre as Kenyans by a Zulu-speaking security guard.<sup>54</sup> One possible explanation for this misidentification, is that she wished to label these young, dark-skinned, obviously poor women as “more foreign” than they actually were.

Several Lindela staff also introduced a Korean couple as “Chinese”. Although the staff are not proficient in a Chinese language or Korean, their lack of interest in determining national identities and languages was apparent. The couple themselves expressed their opinion that European immigrants were treated differently from “Orientals” who, they believe, are perceived by South Africans as very wealthy and welcome only if able to invest large sums of money.

Migrants and immigrants are certainly not passive in the face of the communication deficiencies of the South African state with whom they have to deal. There is evidence of linguistic pre-selection influencing migration. There may be a disproportionate number of migrants coming from cross-border language groups (eg Tsonga, Sotho, Ndebele-Zulu speakers). Some migrants from elsewhere, for example, undergo linguistic preparation prior to entering South Africa. Many Mozambican immigrants from the north and centre of that country apparently spend time in southern Mozambique in order to learn some Tsonga (Changana) before entering South Africa. Most of the deportees at the Lindela Deportation Centre could communicate in one of South Africa’s official languages, mostly in Tsonga, Zulu or English.

Evidence from Winterveld suggests that certain immigrant groups may cease using their languages and assimilate into the surrounding linguistic environment to decrease their visibility and stigmatisation.<sup>55</sup> Although this may appear to resolve certain policy issues it sows the seeds for later problems when issues of identity and consent have been blurred by a hostile environment.

Another interesting example of immigrant linguistic strategies came from the Korean couple at Lindela Deportation Centre. Neither partner was confident to conduct negotiations in English, although both could speak, read and write it. Their children, who are more fluent in English, would accompany them to the Home Affairs offices, but they were also accompanied by Afrikaans-speaking friends to assist with interpreting. According to the couple, they would speak Korean to their children, who would translate into English for their friends who would then negotiate with the Home Affairs officials in Afrikaans.

## CONCLUSIONS AND RECOMMENDATIONS

### THE PROBLEMS

**T**he current political environment is not particularly propitious for a constitutionally-grounded rethink of language policy. Migrants are increasingly perceived as a threat to the economic viability and political identity of the new South Africa. This is despite the historical reality of migration as a continuous and vital component of South Africa's economy and cultures. Foreigners are becoming an under-class within South Africa. Their presence is necessary but unwelcome, and they are in a constant state of vulnerability. Silence on the big issues spills over into other arenas such as culture and language. There is a cycle in which the denial of the foreign under-class feeds a policy silence, which feeds the public and bureaucratic denial of problems, which in turn provides fertile ground for human and civil rights violations. This cycle of silence and denial threatens the human rights culture espoused in the Constitution.

- Our research shows that within the new government, English is being promoted and Afrikaans sidelined as the bureaucratic language of choice. Owing to sensitivity over the perceived link between Afrikaans and racism, Afrikaans speakers are loath to complain about their marginalisation and trigger a debate about multiculturalism, multilingualism and access. This situation confuses race issues with larger issues of Africanisation (linguistic, cultural and class) of the bureaucracy and access for the majority of the population to services and resources. The English-only trend in the bureaucracy means that the language facilitation that could be developed to work with (and for) immigrants and migrants is constrained in the current environment.
- Where government departments have problems communicating with non-citizens, the situation is only resolved if there is some kind of watch dog (eg a magistrate or the UNHCR). None of the main government departments dealing with immigrants and migrants has so far developed an approach to language facilitation or capacity building. Where policy exists it is for internal departmental communication and favours English while discouraging multilingualism. The most serious issues of language rights violations involve court proceedings where interpreters may not be available, or are not qualified, and may not even have

received any training. This prejudices speakers of foreign languages, whether they are citizens, residents or illegally in South Africa.

- Typically, no one is responsible for language issues in most departments, and no one has the mandate to co-ordinate inter-departmental strategies. Most senior civil servants do not understand the role and function of language policy. Moreover, no one is sure what a multilingual and multicultural civil service should look like.
- Cases of successful language facilitation are there but isolated. Resources such as SLS, NTS, court interpreters, the Foreign Affairs language school, and others are under-utilised. State Language Services and LANGTAG are unknown to the majority of bureaucrats, and the vision promoted by these structures are not understood or promoted by NGOs working in the field of immigration.
- The stigmatisation of foreigners is heightened by growing nationalism. Admittedly, the situation facing immigrants and migrants is not substantially different from that facing most rural and less educated South Africans. When a Tanzanian detainee reported that some police had beaten women in prison and called them dogs (in English), she claimed that such treatment was not confined to foreigners, but that South African citizens were treated equally badly. On the other hand, there is *prima facie* evidence that black immigrants and migrants are treated substantially worse than their white counterparts, and that Asian immigrants are treated somewhere between the two. This should be a warning bell to the watchdogs of the Constitution.
- These problems are mitigated somewhat by (a) the willingness of foreigners to learn South African languages, (b) the fact that some South African languages are shared with neighbouring states, and (c) the high degree of multilingualism among low-ranking state employees. Migrants are keenly aware of the price to be paid for maintaining their identities, however. The absence of policy by government and awareness by NGOs creates a strong pressure for immigrants to assimilate, abandoning their languages and culture-knowledge. Evidence abounds of immigrants (legal and undocumented) adopting South African identities, or avoiding speaking in their mother-tongue, out of fear of being detected and identified as outsiders. One interviewee observed that “Zimbabweans speak English because Shona gives them away”.<sup>56</sup>

## POLICY RECOMMENDATIONS

- A greater sense of the inter-related character of key issues around language policy research needs to be developed and to inform strategies to resolve current problems. An important element in any solution should be mediation and talking through of the issues by interested parties, particularly those disadvantaged by the current situation.
- If multilingualism is undermined by the marginalisation of Afrikaans by English-speaking elites, then the Afrikaans speakers must be encouraged to talk about their perceptions, as must African language speakers currently being excluded. The resolution of that potential source of conflict will bring in its wake a new mindset that will open up an awareness that language can be a creative resource for governance.
- A dialogue should be initiated with migrants and immigrants. As with the debate over first language instruction in ex-DET schools, immigrants should not be pushed into making decisions about language without the options being on the table. Dialogue has the advantage of educating people on both sides of the conversation. Bureaucrats and policy makers need to understand the concerns and experiences of the people who access government services. Policy needs to be a living thing, constantly renewed in the face of changing conditions.
- The recommendations to PanSALB highlight the need for responsibility to be assigned to particular civil servants, and for watchdogs to be assigned to monitor implementation. Without responsibility, there is not accountability. Without monitoring and evaluation by independent groups, the power dynamics inside the government will dominate priorities. Clear communication and leadership can help affirm civil servants who do have some understanding of language policy and practice.
- The racist legacy of immigration policy (including linguistic access) needs to be aggressively exposed and understood. A poignant reminder of racism and linguistic discrimination in South African immigration policy is exemplified by the presence of the so-called Zanzibaris in KwaZulu-Natal.<sup>57</sup> The Zanzibaris were ex-slaves of Mozambican origin who came to South Africa at the time of their emancipation in 1873. Under apartheid they were reclassified four times, eventually being referred to as “Other Asians” despite having never been in Asia. At no point have their languages been recognised by the government, taught in schools, played on radio. After 120 years in South Africa, and

having survived as a distinct religious, ethnic and linguistic community, this community is under the greatest threat to disband in our new democracy. Their presence, and that of many other dark-skinned immigrants is perceived as an affront to the nation. Having been Other Asians, they, like millions of others may now become Other Africans. Whereas the Zanzibaris number only 10 000, Mozambicans and other undocumented migrants from SADC number in the hundreds of thousands. Not to accept this fact, and acknowledge their presence and rights, is to tread a dangerous path, too similar to our recent past.

We also have a number of very specific recommendations for dealing with the current situation identified in this report:

- The PanSALB should make immigrant and migrant language issues more visible.
- A watchdog needs to be assigned to key contact points between non-citizens and government.
- People in government, NGOs and non-citizens themselves need to know what language rights exist and how to easily and effectively take up a case of rights violations.
- Victims of language rights violations should know where to take their complaints for investigation, and the information should be publicised on this in government departments, through NGOs, and to immigrant civil society structures.
- Promotion of language rights among foreign language users of government services; including the rights of detained or arrested persons, the right to an interpreter under certain conditions, the right to receive in writing explanations for administrative action that negatively affect individuals, etc.
- The PanSALB could facilitate an inter-departmental forum on language policy and planning involving appropriate civil servants, language experts and representatives of civil society. Encourage workshops among civil servants on what language policy involves, identifying their own needs and possible solutions, linking this with the new Constitution, LANGTAG and a resource-orientated approach to language diversity.
- Ministries need to locate responsibility for language policy in one particular office within each respective department, at each level of government.
- The PanSALB should seek high level political patronage for implementation of the language clauses of the constitution and LANGTAG.
- Conditions need to be created whereby all government departments send memoranda, departmental circulars,



consultative documents, draft reports and reports related to language to PanSALB and SLS for comparison with the language provisions of the Constitution.

- There needs to be support for advertising of government and non-government language expertise (eg State Language Services, SACS, Foreign Affairs Language School, etc) and promoting awareness of language issues amongst NGOs working with migrants and training police in diversity awareness and community policing.
- The PanSALB could convene an inter-departmental meeting on interpreter training and provision, including foreign language issues and promote specific responsibility in government for training, evaluating and accrediting interpreters

## FUTURE INFORMATION NEEDS

To our knowledge, this report is the first of its kind dealing with immigrant and migrant language issues in South Africa. Much basic information, such as the size of the language communities or the frequency of occurrences of language problems in government offices, is simply not available. More importantly, the views, needs, attitudes of immigrant and migrant communities need to be canvassed and stimulated.

In this regard, the PanSALB or other organisations should commission or encourage investigation of the following:

- A more accurate statistical picture of immigrant language communities in South Africa, starting with a more detailed analysis of the last two censuses. What are the language attitudes of immigrant and migrant communities? What are the language attitudes of host communities? Is there language intolerance or tolerance? Are immigrants assimilating linguistically and culturally? To what degree is assimilation voluntary or forced?
- The attitudes of state officials towards developing a human rights culture in the civil service, with specific reference to language rights – especially those officials responsible for the implementation of immigration policy.
- Inter- and intra-departmental decision-making processes: who makes decisions? On the basis of what criteria and assumptions? What is the validity of such assumptions and criteria? In whose perceived interests are such decisions made? How consultative, transparent and accountable are these decisions? Do they conform to the spirit and the letter of overall legislation affecting the departments? Do they conform to the spirit of a human rights culture, as specified in the Constitution?

- The degree of awareness of human resource management in national departments to build appropriate multilingual capacity, and to put in place mechanisms to identify and reward multilingual capacity in individuals and departments.
- Provincial departmental capacity and political dynamics surrounding language issues, with specific reference to the implementation of immigration policy. Given that the provinces of Gauteng, Mpumalanga, and KwaZulu/Natal seem to be most affected by the influx of immigrants, these provinces should form the focus of such a study. The departments which ought to be investigated are those of Home Affairs, Correctional Services, Safety and Security, Justice and Defence.

## NOTES

- 1 The Pan South African Language Board (PanSALB) is a statutory body created by the Constitution to “promote and create conditions for the development and use of all official languages, the Khoi, Nama and San languages, and sign language” and “promote and ensure respect for all languages commonly used by communities in South Africa (*The Constitution of the Republic of South Africa*, Act 108 of 1996, Chapter 1: Founding Provisions, Article 6(5)). Legislation for the Board was approved in 1995 and it came into operation in September 1996. The Board can be contacted through the State Language Planners Office, State Language Services, Dept of Arts, Culture, Science and Technology, Pretoria. The PanSALB is responsible for monitoring language rights, language planning, language policy development and implementation (including legislation, state practices and public awareness).
- 2 Ibid., Preamble to the Constitution.
- 3 Ibid., Bill of Rights, Articles 12, 26, 27, 30, 32, 33.
- 4 Sally Peberdy and Jonathan Crush, “Rooted in Racism: The Origins of the Aliens Control Act of 1991” In J. Crush (ed.), *Immigration Law and Human Rights in a Democratic South Africa* (Cape Town: SAMP/Idasa, 1997).
- 5 Maxine Reitzes, “Divided on the “Demon”: Immigration Policy since the Election” (Johannesburg: Centre for Policy Studies, 1995).
- 6 Maxine Reitzes, “Insiders and Outsiders : The Reconstruction of Citizenship in South Africa” (Johannesburg: Centre for Policy Studies, 1995).
- 7 Reitzes, “Divided on the Demon,” p. 24.
- 8 *The Star*, 25 January 1995.

- 9 Reitzes, "Divided on the Demon," p. 4.
- 10 Article 6(1) of the Constitution notes that the official languages of the Republic are: Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa, isiZulu.
- 11 Nigel Crawhall, "Negotiations and Language Policy Options in South Africa: The National Language Project Report to the National Education Policy Investigation Sub-committee on Articulating Language Policy" (Cape Town: National Language Project, 1993).
- 12 On 9 November 1995, Dr Ben Ngubane, the then Minister of Arts, Culture, Science and Technology, inaugurated LANGTAG "to advise on the issue of a National Language Plan for South Africa". LANGTAG conducted a six-month research process consisting of seven sub-committees tasked with exploring different areas where language policy needed to be developed. The researchers included experts and constituency representatives and were guided by the principles of the Constitution. An eighth research paper was commissioned to look specifically at the civil service. In July 1996 a consultative forum was held in Pretoria where the draft documents were presented to the Minister and the public for comment. The LANGTAG main committee took note of the comments and produced a final set of reports in August 1996. The reports are intended to serve as the basis for a coherent National Language Plan to be adopted by Cabinet.
- 13 LANGTAG, *Study Report on Language in the Public Service* (Pretoria: Department of Arts, Culture, Science and Technology, 1996), pp. 1-2; see also "Conference Discussion Document : Draft Report of the Language Plan Task Group (LANGTAG) of the Minister of Arts, Culture Science and Technology" (Pretoria: Department of Arts, Culture, Science and Technology, 1996).
- 14 Interview with Janine Rauch, Secretariat, Ministry of Safety and Security, 5 December 1996.
- 15 United Nations Centre for Human Rights: Programme for Technical Cooperation in the Field of Human Rights, "Report of the Needs Assessment Mission to South Africa (6-25 May 1996)" (New York, 1996), p. 9.
- 16 Department of Home Affairs, Circular No 47 of 1996.
- 17 Interview with Brian van Niekerk, National Commander: Sea Borders Border Control and Policing, Department of Safety and Security, 9 December 1996.
- 18 Interviews with Anthony Minnaar, Department of Safety and Security, 4 December 1996 (telephone); 9 December 1996 (personal).
- 19 Interview with Van Niekerk.

- 20 One individual in the Department of Safety and Security claimed that as he had superior English language skills, many Afrikaans speakers routed their written communications through his office, so that he could check their English. These dynamics result in both internal and external inefficiency, and lead to feelings of inadequacy and frustration, which could undermine morale.
- 21 Interview with Rauch.
- 22 Interview with Van Niekerk.
- 23 Interview with Minnaar.
- 24 Ibid.
- 25 Ibid.
- 26 UNCHR, "Report of Needs Assessment Mission," p. 9.
- 27 South African Communication Service (SACS), "Communication Audit: Summary Report," unpublished report submitted to Department of Home Affairs Home Affairs, 1996.
- 28 Interview with Minnaar.
- 29 Department of Home Affairs, Circular No 47 of 12 November 1996.
- 30 Interview with Hennie Meyer, Head: Communication, Department of Home Affairs, 12 December 1996.
- 31 E. Malutshana, "Implementing the Amnesty", Paper delivered at the SAMP Conference on After Amnesty: The Future of Foreign Migrants in South Africa, Pretoria, July 1997.
- 32 Nicola Johnstone, "Permanent Residency Exemption for SADC Citizens: Welcoming Neighbours or Monitoring Outsiders?" Paper delivered at the SAMP Conference on After Amnesty: The Future of Foreign Migrants in South Africa, Pretoria, July 1997.
- 33 Malutshana, "Implementing the Amnesty."
- 34 LANGTAG, *Language in the Public Service*
- 35 Interview with Mr Esterhuysen, Department of Home Affairs, Market Street office, Johannesburg.
- 36 Interview with Rauch.
- 37 Interview with Minnaar.
- 38 LANGTAG, *Language in the Public Service*
- 39 Interview with Rauch.
- 40 Interview with A.T. Letsholo, Chief Court Interpreter, Department of Justice, 12 December 1996.

- 41 JITI was an initiative of the Language Facilitation Programme at the University of the (Orange) Free State with the support of State Language Services. In 1994-95 it brought together interested parties to discuss the development of the interpreting profession, with particular emphasis on simultaneous interpreting for parliaments and legislatures, and consecutive interpreting for courts. Training courses were run for each of these special areas. The initiative was not carried through into 1996, though the Language Facilitation Centre in Bloemfontein continues to train simultaneous interpreters.
- 42 Interview with Mr Nienaaber, Internal Tracing Units, Department of Safety and Security, 9 December 1996.
- 43 Interview with Letsholo.
- 44 Ibid.
- 45 Ibid.
- 46 Interview with Claude Schraivesande, Director, Refugee Affairs, Department of Home Affairs, 5 December 1996.
- 47 Interview with G. Nolin, Director, Language Service Directorate, Personnel Division, South African National Defence Force, 12 December 1996.
- 48 Interview with Sheena Duncan, Black Sash, 4 December 1996.
- 49 Interview with Rauch.
- 50 United Nations Centre for Human Rights, "Needs Assessment Mission to South Africa" Annex 2, p. 1.
- 51 Islamic Forum, "A Study of the Issues Facing Refugees and Refugee Relief Providers: Towards Developing a Strategy for Refugee Care in the Durban Area" (Domerton, n.d.), p. 1.
- 52 Interview with van Niekerk.
- 53 M. Reitzes and S. Bam, "One Foot in, One Foot Out: Immigrants and Civil Society in the Winterveld" (Research Report No 51, Centre for Policy Studies, Johannesburg, 1996), p. 20.
- 54 Lindela is a private deportation centre working under contract with the Department of Home Affairs. Lindela is situated at the Dyambu centre on the West Rand, which includes a youth rehabilitation centre, sports facilities and a school. It is located on a disused mine site outside Krugersdorp, Gauteng.
- 55 Reitzes and Bam, "One Foot in, One Foot Out."
- 56 Interview with Minnaar.
- 57 R. Mesthrie, "Lessons in Survival: The Zanzibari Story" *Bua!* (National Language Project, Cape Town, 1996), p. 14.

## APPENDIX A: LIST OF INTERVIEWEES

Beneke, Dion: Land Borders, Department of Safety and Security, 9 December 1996.

Cluver, August: Language Policy Consultant, 9 December 1996.

Duncan, Sheena: Black Sash, 4 December 1996.

Handmaker, Jeff: Lawyers for Human Rights, 3 December 1996.

Home Affairs officials, Market St Office, Johannesburg (Mr Esterhuyse, Mrs Olivier, Mrs Booyens and Mrs Xaba).

Lindela Deportation Centre: Dyambu Centre, Krugersdorp, Interviews with Deportees, 6 December 1996.

Kgotse, Judas: Manager, Lindela Deportation Centre, Dyambu Centre, Krugersdorp, 6 December 1996.

Khola, SS: Deputy Director-General – Aliens Investigation: Deportation, Department of Home Affairs, 9 December 1996.

Klaaren, Jonathan: Centre for Applied Legal Studies, University of the Witwatersrand, 3 December 1996.

Letsholo, AT: Chief Court Interpreter, Department of Justice, 12 December 1996.

Massingue, Orlando: Researcher, Department of Public and Development Management, University of the Witwatersrand.

Meyer, Hennie: Head: Communication, Department of Home Affairs, 12 December 1996.

Minnaar, Anthony: Researcher, Department of Safety and Security, 4 and 9 December 1996.

Nienaaber, Mr: Internal Tracing Units, Department of Safety and Security, 9 December 1996.

Nolin, G: Director, Language Service Directorate, Personnel Division, South African National Defence Force, 12 December 1996.

Op't Hof, B: Secretary, Language Service Directorate, Personnel Division, South African National Defence Force, 12 December 1996.

Rauch, Janine: Secretariat, Ministry of Safety and Security, 5 December 1996.

Schraivesande, Claude: Director, Refugee Affairs, Department of Home Affairs, 5 December 1996.

van Niekerk, Brian: National Commander: Sea Borders Border Control and Policing, Department of Safety and Security, 9 December 1996.

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