Legal intervention and language policy in schools: The case of isiZulu Second Language Teaching in KZN with special reference to the case against Durban High School in 2008

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Abstract

This paper looks broadly at the situation of the Government's Language Policy in schools and at the declining numbers of pupils opting to take isiZulu as a first additional language subject in KwaZulu-Natal compared to Afrikaans. In particular, the recent court case against Durban High School (DHS) in 2008 will be examined as well as the impact of this case generally with regards second language teaching in KwaZulu-Natal.

Introduction

IsiZulu is the most widely spoken language in South Africa but particularly in KwaZulu-Natal. Official figures put isiZulu as the first language (L1) for over 80% of speakers in the region. In senior schools in KwaZulu Natal at the present moment, students are required to study one language as a first language (in KwaZulu–Natal either English, Afrikaans or isiZulu), and then they are given the option of studying an additional language known in the old terminology as a second language (L2), or as it is currently known as first additional language. Indigenous African languages are not compulsory at this level. Pupils are also free to study a third language which may be a foreign language or a local language. A major surprise is finding that only a small percentage of schools in KwaZulu Natal offer isiZulu as a first additional language subject (L2) at Grade 12 level, in order to cater for the remainder of the population who do not speak Zulu as their home language. The majority of students who opt to write this subject at Grade 12 level as a first additional language, are in fact from isiZulu speaking homes. Even more surprising is

the fact that 14 years after the change from the Apartheid system to the new Democratic government of the country, one finds that Afrikaans, despite the demographics of the region, is still more widely chosen as a second language subject in schools for non isiZulu speakers. This paper examines the current situation in KwaZulu-Natal schools (focusing on the case of Durban High School), and offers reasons as to why Afrikaans is more popular as a first additional language than isiZulu.

The Theory of Transitiology and Language Legislation in South Africa

In trying to understand why an important part of the government's language policy has failed and resulted in indigenous languages falling in popularity as languages being studied by non African speaking pupils in KwaZulu Natal schools, it is useful to look at the theory of transitiology, popularized by Cowen (2002). He defines it in terms of education being given a major symbolic and deconstructionist role in the social processes which attempt to eradicate the past and redefine the future. A study of transitiologies poses questions such as what the relationship is between prevailing education practices and future ideologies and how much of the existing education system needs to be changed in order to transform education in accordance with the new ideologies. De Wet and Wolhuter in the examples cited below, however, illustrate how educational transformation in South Africa post 1994, have fallen short of the mark of success in this regard. They give the example of the merger of universities in South Africa, which is recorded in detail by Jansen 2002. The second is the institution of Outcomes Based Education (OBE) which even the founder and most voluble exponent thereof, Willian Spady (2008) has admitted is not working and has counseled the government to abandon the project. The third example, broadly speaking, is in the educational field, and deals with how to address the legacies of the past, which includes matters relating to language in schools, which is the focus of this paper.

Since 1994, far-reaching steps have taken place with the intention of breaking down the structures of apartheid and reforming various educational

inequalities and handicaps. In addition to this has been the drive to provide equal opportunities and rights for all learners. For some considerable time, particularly since 1994, there has been a strong call for the use of indigenous (L1) or 'mother tongue' languages as the languages of learning and teaching (LOLT), both in South Africa (Pan South African Language Board - PANSALB -, 2001; Finlayson & Madiba, 2002; Alexander, 2002); and internationally (Williams, 1996) not only in schools but also in higher education institutions as well. The South African Schools Act (RSA, 1996b: Section 6) and the National Education Policy (RSA, 1996c: Section 3(4)(m)) have as a basis the right to education for all, and the right to education in the language choice of the learner or the learner's parents (where this education is fairly feasible), which is stipulated in the Constitution (RSA 1996a: Section 30). The right to education in the language of the learner's choice is very high on the list of transformation priorities of the ANC government which regards language as an instrument to advance education and political transformation and to establish democracy. For this reason, the Department of Education (DoE, 2001:29) is committed to the promotion of multilingualism: "Speaking the language of other people not only facilitates meaningful communication, but also builds openness and respect as barriers are broken down". Previously during apartheid times, the National Party government had promoted the Afrikaans language with vigor as a language not only of education, but of politics and economics. The ANC government however, has been in favour (albeit on paper) of the promotion of African languages: "Given the historical onus on black learners to learn English and Afrikaans, it is reciprocally important now that non-African learners acquire at least one African language" (DoE, 2001:29). However, this aim was little more than political rhetoric as African languages still do not seem to be of paramount importance in gaining access to higher education, appointments or promotions in the civil service and public debate in parliament. As Plüddermann points out (in De Wet & Wolhuter:2009), multilingualism that has been implemented on a symbolic level in the new South Africa has not yet become viable on a material level.

In terms of general schooling, the Department of Education (DOE) (1997) in its education policy clearly articulates the values of multilingualism and use of

the mother tongue of pupils as the language of learning and teaching (LOLT). This policy however, does not provide details about how to implement this in schools with limited budgets and resources, with the result that the language policy is extremely difficult to implement and occurs "within a maelstrom of seemingly irresolvable conflicting linguistic affiliations, political and ideological positions and educational needs" Heugh (2002:172). The issue of language in education in South Africa at the turn of the millennium remains contested. In 1997 the old apartheid language policy was replaced with a new policy which focused on nondiscriminatory language use, and the internationally accepted principle of L1 education in the context of a bilingual or multilingual framework. It was designed to secure mother-tongue maintenance and proficiency in a second language (L2) (English for the majority of pupils), aiming at optimal cognitive development. The policy has not however, been accompanied or reinforced by any significant government initiated implementation plan, but has rather been met with several arguments against its implementation which has led to a situation where the government remains frozen on the matter, and the discriminatory policy of the former apartheid government continues, by default, to be practiced in schools. The very nature of the language of the legislation in the Provincial Gazette KwaZulu-Natal No 5104 which states that:

Every person shall have the right to mother tongue instruction where practically possible and to establish educational institutions based on a common culture, language or religion, provided that there shall be no discrimination on the ground of race

entrenches this situation as it remains vague and difficult to enforce, and accounts for one of the reasons why this case against Durban High School was laid by a parent who was a member of PANSALB (The Pan South African Language Board).

The case against Durban High School (DHS)

On 23rd July 2008, the Independent on Line (IOL:2008) carried the story of Ntombenhle Nkosi, the chief executive of the PANSALB, who brought an application accusing her son's former school, Durban High School, of

discriminating against him by teaching "substandard Zulu". Nkosi told the court, "Our children are being taught what we call kitchen Zulu", stating that her son, who attended the former Model C school in 2007, was being discriminated against because he was being taught sub-standard isiZulu and that the indigenous languages were still subservient to English and Afrikaans. Durban High School has an enrolment of about 950, of which about 85 percent on average have English as their home language (IOL:2008). Nkosi's son had received low marks in Afrikaans, achieving as little as 4 percent and 17 percent on his year-end report card. Nkosi said her son could have been spared this humiliation had he had the option of taking isiZulu at a higher level, instead of having to study Afrikaans as a first additional language. At that time in 2007, Nkosi's son was still a pupil at Durban High School, where in Grades 8 and 9, pupils had to study English as a first language, Afrikaans as a second language and isiZulu as a third language. Nkosi told the court that if the school did not have the resources to offer her son "proper" Zulu, it should have applied to the KwaZulu-Natal Education Department for resources to teach pupils at the respective levels in the languages requested by them. It was, she said, the responsibility to teach pupils the language of their choice. "We have to correct [the impression] that English is the home language of most people in the province," she said. Maurice Pillemer, who was presenting the case for the school made the point that "The school is actually an English language medium school." David Magner, the headmaster of Durban High School, said that parents who wanted their children to be taught isiZulu as a first language, had the option of taking their children to schools that offered this, as DHS was an English-medium school. This incurred the wrath of Advocate Siphokazi Poswa-Lerotholi, representing Nkosi, who said parents took their children to DHS as it was renowned for its high quality of education as opposed to township schools, and that that these children should not be discriminated against, but given a chance to learn isiZulu at a higher level so they could pursue the subject, should they choose to do so, in tertiary institutions. Parents who sent their children to former model C schools did so not because they wanted their children to be fluent in the "Queen's language" at the expense of their own, but because the quality of education at African schools still remained poor (IOL 23 July 2008).

This led to a series of meetings at DHS amongst the language staff and the eventual hiring of a new teacher, to ensure that grades eight and nine were taught isiZulu at the same level that Afrikaans was being offered (as L2). Magner said that the extra teacher hired was paid for out of the school's budget and not by the KwaZulu-Natal education department. He said that of the school's 66 teachers, the state only paid the salaries of 32. However, as a result of this case, isiZulu is now being taught at the school on a par with Afrikaans as a first additional language. Nkosi was also pushing for the school to offer isiZulu as a first language subject to pupils wanting to study their mother tongue as a subject to Grade 12 level. This has not come to fruition due to financial constraints at the school. Under cross-examination, Magner conceded that the school had not approached the education department for additional resources for teaching isiZulu as,

"We know we would have got nothing. After Nkosi visited us last year we re-visited our language policy and made changes to accommodate both additional languages at both levels. Both of our other full time staff can teach at first and additional levels. The department does not have the means to supply extra staff. They know that, and if every school sought an addition to their PPN on the basis of language they would be in trouble! Two of our staff have second language training, one at UKZN and one at Edgewood. We have had no non-isiZulu speakers take isiZulu as 2nd language at matric level. No Zulu boys take Afrikaans these days. We are definitely of the opinion that isiZulu as a 2nd language for nonisiZulu speakers, is far more difficult than Afrikaans. We have had in the past boys attempting it, but they have given up in grade 10. We have had farm boys who speak isiZulu fluently, but cannot manage the subject as a second language" (Magner D: 2008).

In Magner's opinion, the level of isiZulu as an additional language is very difficult for non mother tongue speakers, and it is for this reason that no non mother tongue speaking boys opt to take the subject in Grade 10, 11 and 12. The only boys who take it are the actual isiZulu mother tongue speaking boys. This is not only the opinion of Magner, but is a commonly held opinion

amongst the secondary school isiZulu first additional language (L2) teachers, who meet annually at the Grade 12 IEB (Independent Examination Board) meetings, as well as the Heads of the 5 biggest public secondary schools in the greater Durban area, with whom I have corresponded on this issue. The IEB meetings are held after the writing of the Grade 12 isiZulu L2 examinations to discuss the outcomes and concerns which may arise from the IEB examination paper which is written at most private schools. In addition a recent article (Govender:2008) expresses the same sentiments. The article concerns a pupil at Greenside High School in Johannesburg, opting to study isiZulu as an additional language for Grade 12. The pupil's Zulu teacher, Merriam Sibande, who advises isiZulu teachers at eight other schools in Johannesburg's northern suburbs, admits to encouraging grade 8 pupils to take Afrikaans instead because of the shortage of Zulu study material and reference books, as well as the level of difficulty for pupils who are not constantly exposed to the language at home. The matric pupil at Greenside High is quoted in the article as saying "We all hear in grade 7 that Zulu gets much tougher once you get past grade 10 and that seems to scare a lot of pupils." In the same article written by Govender, he goes on to quote a number of different principals of schools. Parktown Boys' High prinicipal Tom Clarke, is quoted as saying that it was impossible to "fight the general belief that Zulu was more difficult than Afrikaans" and that they had tried to encourage more children to take the subject. The isiZulu teacher at Parktown Boys High, Bongekile Kubheka, said that in her matric class (grade 12) of 21 there were only five pupils who didn't grow up speaking the language. Her principal, Tom Clarke, said it was impossible to "fight the general belief that Zulu was more difficult than Afrikaans" and that they had tried to encourage more children to take the subject. Geoff Harrison, principal of Kingsway High School in KwaZulu- Natal said: "If pupils want to do Zulu, they need to be able to speak it fluently. At high school it's no longer a fun thing", whilst Vishnu Naidoo, head of Buffelsdale Secondary in KwaZulu-Natal, makes the point that Indian pupils were still currently choosing Afrikaans instead of isiZulu as a first additional language, because they were afraid of failing isiZulu. (Govender: 2008). These sentiments are shared by the Heads of Westville Boys High School, Westville Girls High School, Durban Girls High, Northwood

and Glenwood Boys High who encounter the same problems with regard to isiZulu L2 being offered at their schools.

The current subject package on offer at Durban High School

At DHS, as a result of the court case, the subject package with regards additional indigenous languages is as follows: Grade 8 - both Afrikaans and isiZulu are offered at first additional (L2) and second additional (L3). Boys who choose isiZulu as first additional language, do Afrikaans as second additional language and vice versa. In Grade 9, the boys choose which language they will continue with. Both languages are offered as first additional languages (L2) level, and boys choose one or the other from Grades 10 to 12.

The case is of national importance and is likely to have ramifications for former Model C¹ schools as to how they implement the national education policy on languages. The ruling seems to favour forcing schools to offer English and Zulu as first languages. The problem lies with the pragmatics of salaries and staff. Although there is a push in this direction, the government has not as yet, made any move to back this stance with discussion on how the state will fund this initiative, as the thorny issue all boils down to money. This is where the language of the policy remains vague. The school told the court that such a policy meant money had to be found out of its own funds to employ extra isiZulu teachers. The school's headmaster, David Magner, said

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¹ Part of the Model C arrangements included the recognition of the schools as legal personae and the transfer of ownership from the state to the schools concerned, subject to certain conditions. The schools were converted from state to state-aided, with the education department concerned being responsible for the salaries of teachers. The practical effect of the introduction of the Model C system ensured a perpetuation of substantial advantages and privileges to the community whose children were served by these schools. The provision of state aid to a semi-privatised school system served to entrench existing privileges and retain the best schools, the best facilities and the most highly qualified teaching staff in the interest of those who had historically been most advantaged by the policy and practise of racial preference in this country. In recent years, the State has reversed the policy of Model C schools and the property which was transferred in the past from the state to the legal personae of these schools has been re-transferred to the state.

currently, it would be impossible to implement both languages being offered as first language subjects, as he had huge staffing constraints and a low budget. It is clear that this is where the Language in Education policy states one thing but clearly lacks a Government implementation plan to fund such an initiative.

Language and Segregation

Prior to 1994, black and white learners not only attended separate schools but the segregated schools had different policies regarding medium of instruction. Resistance to the language policy regarding black education resulted in the 1976 Soweto uprisings which lead to the scrapping of both Afrikaans and black home languages as language of instruction in black secondary schools. Currently in state secondary schools, the majority of South African learners opt for English rather than their home language as language of instruction. Magner felt that offering isiZulu as a first language at DHS, would lead to further problems of racial separation amongst pupils, as he believed it would lead to increasing segregation between black and white pupils. "The difficulty of the language would see isiZulu speakers choosing their own language while non-Zulu speakers choose English. We want to keep our classes mixed," said Magner (Magner: IOL 2008) Under cross-examination, Magner agreed that, based on his assessment of "two or three schools in Umlazi", he would not recommend children be sent to township schools. However, he maintained that the level of isiZulu taught at DHS was adequate for pupils to pursue the language at a higher level. He said many former pupils from the schools were succeeding in the fields of drama, literature and media studies where they required isiZulu. Asked if the school promoted multilingualism and cultural diversity as it advertised, Magner said the school had improved its language policy since it first admitted students of colour in 1990, and that its language policy was in line with the national education department policy. Magner told the court that 50 percent of the pupils who continued taking isiZulu after grade 9 achieved A's in their matric examinations. "I don't think that we have had a failure that I can remember. Over 50 percent who wrote matric last year got A's for the subject. The suggestion from Mrs Nkosi was that we should teach isiZulu at the same level as Afrikaans and we are doing

that now." He conceded that the isiZulu taught to mother tongue speakers of the language as a second language, would not be at the same standard as English being taught to mother tongue English speakers as a first language. He said they now had three teachers teaching isiZulu, of which two were already paid for by the school itself and not by the state. (Magner IOL: 2008)

The Court Decision

Pressure on schools, many of them already struggling with scarce resources to provide greater parity in language instruction, has now been increased by the judgment on this case that was handed down by the Equality Court in Durban on 30 September 2008. The court found that Durban High School had discriminated against Nkosi's son, the Grade 8 pupil, by offering him isiZulu tuition only at the lowest language level (L3). The school at the time offered English as a first language and Afrikaans at L2. This was discriminatory, the court found, in that pupils whose home language was Afrikaans received a greater number of lessons at a higher level of tuition than those whose home language was isiZulu, who were obliged to learn isiZulu at the L3 level.

The court said the ideal was for DHS to offer isiZulu at the highest level of tuition, but it stopped short of finding that the school must do so. The ideal standard, the judgment said, was one which "no school in this province or this country meets". It added that a finding by the court that the school should meet this ideal would not, circumstances "serve the any real lasting or purpose". The Director General of Education Duncan Hindle said his department would like to move faster in achieving parity in language teaching, but said it was hampered by "resource constraints". Hindle made the point that all schools were being encouraged to offer African languages, but in urban areas account had to be taken of the logistics involved. "Teachers of African languages are also among our most scarce resources." He said most schools offered the language of instruction at "level one". Other languages, like Afrikaans in an English-language school, would be offered at a different level. "We have expressed the view that every school should offer an African

language at L2 level." (The Sunday Tribune P4 05/10/2008). Schools should also work towards an ideal where they could offer more than one language at L1, he said. The magistrate, J V Sanders, when presenting his "personal view" at the end of the judgment made the point that

"The ideal of true, meaningful and lasting transformation in the area at which isiZulu is taught at schools, is that every single school in this province should be fully equipped to offer isiZulu at L1 level. It is my considered view that the day that isiZulu is indeed offered at L1 level by all, or at least the vast majority of schools in KwaZulu-Natal, then genuine transformation in this area would have been achieved." (The Sunday Tribune P4 05/10/2008)

The Case of isiZulu as a first additional (second language) subject at KwaZulu-Natal Schools

The importance of the DHS court case is that it throws into sharp focus the very issue of offering isiZulu at a first additional level at KwaZulu-Natal schools. In a letter published in the Sunday Times on 22nd October 2007 entitled "Easy' Afrikaans Chosen Over African Languages", the issue was raised of Afrikaans being chosen by many pupils at schools instead of opting for the study of an indigenous language. The article however was rather superficial and failed to examine in detail the reasons behind this complex issue. In examining the situation of first additional (second) language learning and teaching in KwaZulu-Natal, several issues need to be raised. The main issue revolves around the much lower numbers of pupils writing isiZulu as a second language in KwaZulu-Natal at Grade 12 level as compared to Afrikaans. In examining this core issue, not only the attitude of the learners need to be taken into account, but also the attitude of the Model C and private schools towards students opting to take isiZulu as a second language. These attitudes contribute significantly towards the low numbers of pupils opting to study isiZulu as a second language. Wolff (2002:142) argues that it is people's attitudes towards a language, that can be stumbling blocks to people being receptive towards using that language. He views attitude as fundamental to the "growth or decay, restoration or destruction..." of a language. He continues to say that an attitude is a hypothetical psychological construct that impinges in an important way on the reality of language life. Gardner's (1985) work in the area of social psychology specifically explores attitude toward second language acquisition. He suggests that measuring attitude is more straightforward for attitude objects or referents than it is for abstract ideas. According to Gardner, attitude is only one component of motivation, where motivation is also comprised of effort and desire to learn. In itself, motivation entails a behavioral aspect, which in turn may prompt an action. Negative attitude towards isiZulu being taken as an additional language at schools in KwaZulu-Natal is a result of the perception that isiZulu and other African languages, are exceptionally difficult. This perception, is to a large degree, the result of extremely difficult examination papers for genuine non mother tongue speakers, that are set at the Grade 12 level both for IEB and for the government Provincial examinations. In examining the statistics of genuine second language (non mother tongue) pupils who write the exam as a second language, then comparing the average of these students who manage to obtain A and B aggregates compared to other subjects that they write, the results show that far less pupils are able to achieve high aggregates in isiZulu than they are in Afrikaans, English or indeed other Foreign Languages. This issue has been addressed on numerous occasions not only by teachers of isiZulu as a second language at the post Matric/Grade 12 subject teachers forums (at which I have been present on several occasions), but also by academics at the University of KwaZulu-Natal who are involved in the teaching and promotion of the isiZulu language. Letters have been sent to the Examining Bodies outlining the problems expressed by teachers in various forums such as KNATZU (KwaZulu-Natal Teachers of Zulu) and IEB subject Revision Meetings. These letters to date have had no positive effect. In these letters the issues raised by teachers have referred to points such as:

- ➤ The level of difficulty of the Second Language papers as compared to the parallel Afrikaans Language Papers
- The fact that these papers are set by Mother Tongue speakers who are often more interested in 'catching out' the first language speakers who are the large majority of pupils who write isiZulu as a second language

- ➤ Examiners from Gauteng who are multi lingual using Tswana/Sotho/Xhosa words in the examination paper that are foreign to isiZulu learners
- ➤ The inappropriate content of the examination papers which often touches on issues outside of the learner's life experience (e.g. articles pertaining to aspects such as HIV AIDS, references to shebeens and drinking, violence, on which comprehensions are based).

Other issues involve the attitude of the teachers and heads of schools. Many of the teachers at the KwaZulu-Natal schools actively intervene and suggest that students be wary of taking isiZulu, as the likelihood of them receiving a distinction in the subject is more remote than if they opt for Afrikaans. The reason behind the intervention is that the pupil's choice of subjects for Grade 12 affects the number of straight A pupils the school may produce, as well as the number of individual subject distinctions that a school is proud to be associated with. Trevor Hall, the Headmaster at Westville Boys High School, in personal email correspondence, informed me that an added reason for the low number of boys opting to take isiZulu as a first additional language² at his school was in his opinion the perceived low level of teaching of afrikaans at primary school, as well as the perceived high level of teaching of Afrikaans at primary school. This results in learners finding that Afrikaans was easier for them coming into high school.

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² Numbers of non Zulu speaking pupils who have taken isiZulu as L2 at Westville Boys High since 2006:

Total learners in Grade 12		L2 isiZulu Pupils
	2006	
	190	0
	2007	
	196	0
	2008	
	236	1
	2009	
	221	1
	2010	
	205	7

The scarcity of adequately trained isiZulu L2 teachers is also a source of concern. At the University of KwaZulu-Natal's Edgewood campus, which is one of the largest teacher training facilities in the country, there has been no isiZulu L2 methodology course actively offered, only a L1 course for the past 5 years. Currently, most schools who offer isiZulu as first additional language subject, employ mother tongue isiZulu speakers who have only done a L1 methodology course and have limited experience in L2 methodology.

Conclusion

The outcome of the DHS court case was indeed a hollow victory for Nkosi and for the Pan South African Language Board. As the study of transitiologies poses questions such as what the relationship is between prevailing education practices and future ideologies and how much of the existing education system needs to be changed in order to transform education in accordance with the new ideologies, it is clear that this court case has not had the desired effect of transforming the situation in education to meet the government's new ideologies. IsiZulu as a first language has still not been introduced at DHS or any other English medium secondary school in KwaZulu-Natal. What in effect is apparent as a result of this case, is the increasing polarization of learners in L2 classes, with fewer mixed classes of learners (those who speak isiZulu as a home language and those who do not). Non mother tongue isiZulu pupils who want to continue learning the language beyond the elementary levels, are now finding the level of L1 (first additional language) way beyond their reach as they feel they cannot compete with mother tongue students. This is born out by the remarks of the headmaster of DHS, Mr David Magner, recorded earlier in this paper, but which bears repeating.

"We have had no non-isiZulu speakers take isiZulu as second language at Grade 12 level. No Zulu boys take Afrikaans these days. We are definitely of the opinion that isiZulu as a second language for non-isiZulu speakers, is far more difficult than Afrikaans. We have had in the past boys attempting it, but they have given up in grade 10. We have had farm boys who speak isiZulu fluently, but cannot manage the subject as a second language".

The situation at DHS pretty much reflects the situation at the five other big state schools in Durban which I investigated, and is echoed in many of the private schools in KwaZulu-Natal. The issue of increasing the number of learners wishing to take isiZulu as an additional language requires urgent attention from all stakeholders who genuinely wish to see multilingualism become a reality in KwaZulu-Natal. Only then will the words contained in the document issued by the Department of Education, which professes to be committed to the promotion of multilingualism, ring true: "Speaking the language of other people not only facilitates meaningful communication, but also builds openness and respect as barriers are broken down". (DoE, 2001:29)

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