

**LINGUISTIC RIGHTS IN AFRICA: A CRITICAL ANALYSIS OF THE
SURVIVABILITY OF INDIGENOUS LANGUAGES OF NAMIBIA**

A DISSERTATION SUBMITTED IN FULFILMENT OF THE REQUIREMENTS FOR
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By

CHRISTIAN HARRIS

200403338

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SUPERVISOR: PROFESSOR JOHN BALORO (UNAM)

CO-SUPERVISOR: DR. NDATEGA ASHEELA-SHIKALEPO (UNAM)

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Abstract

The call for the protection and promotion of languages, especially minority languages has gained prominence in recent years largely due to awareness campaigns by academics and human rights organisations. The United Nations through its agency the United Nations Educational, Scientific and Cultural Organization (UNESCO) continues to promote linguistic and cultural diversity as well as multilingualism. To this effect, the UN recognizes 21 February as 'International Mother Tongue Day'. Alarming, about 90% of the world's languages are expected to die out within the next 100 years or so if mechanisms to reverse this impending tragedy are not adopted by various states across the world. The study therefore focused on the language situation in Africa in general and Namibia in particular. It should be noted that the study was interdisciplinary in nature. It encompassed areas of sociology, linguistics, anthropology, history, political science and law. Because of its interdisciplinary approach, the study discussed issues of language and nation state, language loss, international law and language rights, the linguistic history of Africa as well as the economic and political effects related to the marginalization of African languages. Desktop research methodology and to a lesser extent face to face interviews were the main methods used to acquire data for the study. The study revealed two crucial findings: These are: (1) there is no specific international legal instrument that recognizes the right to language. (2) The study further found that Namibia recognizes the right to language under its Constitution, however, there is no specific law nor a language body that specifically protects and promotes local languages. The author thus recommended that the Namibian National Language Policy as crafted in 1981 be reviewed and updated. The author further recommends that African languages be used in all educational settings. This will encourage language scholars to develop new vocabulary and new scientific terminologies to represent new thoughts and philosophies articulated in African languages.

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Dedication

To my late father Benedict Stalin Basakeng Harris, a notable polyglot of the family and to all speakers of indigenous/native languages of mother Africa.

“Ku bandanda ba Benedict Stalin Basakeng Harris, bezibahele kuwamaba mishobo mingi ni ku bantu bonse be ibu ni nkanda za Africa basa swabeli kuwamba mishobo yaabo”. -Chisubia

“Kwa baba yangu Benedict Stalin Basakeng Harris, Polyglot mashuhuri wa familia na spika wote wa lugha za kiasili za mama Afrika”. -Kiswahili

Supervisor's Certificate

I, Professor John Baloro, hereby certify that the research and writing of this
Dissertation was carried out under my supervision.

Professor John Baloro

Date

Declaration

I, the undersigned, hereby declare that this study entitled “Linguistic Rights in Africa: A Critical Analysis of the Survivability of Indigenous Languages of Namibia” is a true reflection of my own research, and that this work, or part thereof has not been submitted for a degree in any other institution of higher education. No part of this thesis may be reproduced, stored in any retrieval system, or transmitted in any form, or by any means (e.g. electronic, mechanical, photocopying, recording or otherwise) without the prior permission of the author, or the University of Namibia in that behalf.

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Christian Harris

Date

List of abbreviations/acronyms

ACALAN: African Academy of Languages

ACHPR: African Charter on Human and Peoples Rights

APP: All Peoples Party

BAKITA: *Baraza la Kiswahili la Taifa* (National Swahili Council)

BSN: Bible Society of Namibia

CCHDC: Cape Culture Heritage Development Council of South Africa

CEDAW: Convention on the Elimination of All Forms of Discrimination against Women

CRL: The Cultural, Religious and Linguistic (CRL Rights) Commission

DTA: Democratic Turnhalle Alliance

ECD: Early child development

GDP: Gross Domestic Products

HPP: Harambee Prosperity Plan

HIV/AIDS: Human Immuno-Virus/Acquired Immuno-Deficiency Syndrome

ICJ: International Court of Justice

ICERD: International Convention on the Elimination of All Forms of Racial Discrimination

ICCPR: International Covenant on Civil and Political Rights

IOF International Organisation of La Francophonie

MTM: Mother Tongue Medium

NAMCOL: Namibian College of Open Learning

NCIS: Namibian Central Intelligence Services

NHIES Namibia Household Income and Expenditure Survey

NHC: The National Heritage Council

NSA: Namibia Statistical Agency

NIPAM: Namibia Institute of Public Administration and Management

NDP: National Development Plan

NIED: Namibian Institute of Educational Development

NUDO: National Union Democratic Organization

NUST: Namibian University of Science and Technology

PANSLAB. Pan South African Language Board

RAW: Representative Authority for Whites

RDP: Rally for Democracy and Progress

RP: Republikein Party

SASL: South African Sign Language

SWANU: South West Africa National Union

SWAPO: South West African Peoples Organization

UDF: United Democratic Front

UPM: United Peoples Movement

UNPO: Unrepresented Peoples Organization

UNESCO: United Nations Educational, Scientific and Cultural Organization

UNHRC: United Nations Human Rights Council

UNIN: United Nations Institute of Namibia

UN: United Nations

UNAM: University of Namibia

UNDM: UN Declaration on Rights of Peoples belonging to National or Ethnic, Religious and Linguistic Minorities

ZANUPF: Zimbabwean African National Union Patriotic Front

CHAPTER 1: INTRODUCTION AND BACKGROUND OF THE STUDY

1.1 Introduction

Linguistic and cultural rights form an integral part of constitutions of most of the modern democracies in the world and Namibia is no exception. Language, especially a common one, enhances national and regional unity. A common language is usually native to the people as found in the advanced countries of the world and in regional entities in some other parts of the world particularly in Africa. However, language could also be foreign to a nation depending on the latter's historical antecedents, again, particularly in Africa.¹ It is important that Africans preserve their languages, globalization notwithstanding. African nations ought to provide the means by which their languages and cultures could be saved from extinction. This can be done by promoting the native languages both at home, the school and also in businesses and also promote a strong national identity. Ironically, hundreds of African languages have remained unstudied or poorly documented.²

Governments in Africa should make their people appreciate the importance of their languages by appreciating it themselves. African governments should make serious and bold efforts to save native languages in danger of extinction and at the same time preserve the cultures of those languages by all means. African governments should make serious and conscious efforts to develop their nations scientifically and technologically albeit along their own culture and tradition. It is however lamentable that the stymieing role of the African elite, including

¹ Abari, A.O, Oyetola, I.O, Okunuga, A.A. (2013) Preserving African languages and territorial integrity in the face of education and globalization. p.1. Available at: <http://oaji.net/articles/2014/457-1420056486.pdf>

² Negash, G. (2005). Globalization and the role of African languages for development. Available at: ies.berkeley.edu/...Colonial%20Language%20Conference%20Papers/NE...

political leaders and university professors aid in sustaining Africa's linguistic disaster.³ Instead of investing in and using their linguistic, cultural, and human potential, African governments and the elite still continue to channel away their resources and energies into learning 'imperial' languages that are used by a tiny minority of the population.⁴

The Namibian Constitution under Article 19 promotes and protects every citizen's or group's right to culture. In addition to the constitutional provisions protecting the right to culture, Namibia is a state party to several international legal instruments that cater for the protection and promotion of the human rights of linguistic minorities as well as for the promotion of all indigenous languages of the land.⁵ Like most African states, Namibia is a multicultural and multilingual state comprising of different ethnic and linguistic groups. The largest language category in the country is the Bantu linguistic group, which comprises diverse languages such as Oshiwambo, Otjiherero, Rukavango, Setswana and Silozi. The second linguistic grouping consists of Indo-European languages such as English which is the sole official language, German and Afrikaans. The third category of languages consists of Khoisan linguistic group, namely, Damara>Nama and several San (Bushmen) languages and dialects.⁶

At independence, the incoming post-apartheid government replaced Afrikaans and German as official languages with the English language, this despite the fact that less than 1% of the

³ Ibid.

⁴ Ibid.

⁵ Namibia is a state party to the following international conventions that have provisions for the protection of linguistic and cultural rights, namely, the International Covenant on Civil and Political Rights (ICCPR), African Charter on Human and Peoples Rights (ACHPR) and International Covenant on the Elimination of All Forms of Racial Discrimination (ICERD).

⁶ For more information on the ethnic and linguistic make up of Namibia, see paragraph 1 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Fourth and Fifth Country Report. Republic of Namibia.p.9.

population speak English as a native language.⁷ The replacement of Afrikaans and German by English as the official language of the country was largely necessitated by the politics of the day, as the ruling SWAPO party, then a liberation movement, regarded Afrikaans and to an extent German as languages of oppression whose dominance in post-independence Namibia had to be curtailed.⁸

Of the dozens of languages spoken in Namibia, the government recognized only eight (8) as national languages; namely, Afrikaans, German, Damara>Nama, Oshiwambo, Otjiherero, Rukavango, Setswana and Silozi. Surprisingly, Damara>Nama is the only one among several Khoisan Languages which is afforded the status of a national language. According to the United Nations Educational, Scientific and Cultural Organization (UNESCO), Khoisan Languages rank among several African languages which are endangered as many of their speakers are either being forcibly assimilated by dominant ethnic groups linguistically and culturally or are voluntarily abandoning their mother tongues for dominant ones.⁹

Historically, the Khoisan people are said to be the original inhabitants of most of Southern Africa and several artifacts and engravings discovered in the region make them among the first civilized humans. However, their progress and development was arrested largely in part by one of the largest human migration in history, that is, the movement of Bantu peoples in the 14th century from West and Central Africa to present day Southern Africa.¹⁰ The Khoisan also had

⁷ Frydman, J. (2011) "A Critical Analysis of Namibia's English-Only Language Policy." Selected Proceedings of the 40th Annual Conference on African Linguistics, ed. Eyamba G. Bokamba et al., 178-189. Somerville, MA: Cascadilla Proceedings Project. p.182.

⁸ Maho, J.F. (1998) Few People, Many Tongues: The Languages of Namibia. Gamsberg Mcmillan (Pty) Ltd, p.173.

⁹ Mufwene, S.S (undated) Globalization and the myth of Killer Languages. What is really going on? p.32-33. Available at: <http://mufwene.uchicago.edu/publications/globalization-killerLanguages.pdf>

¹⁰ Omar-Cooper, J.D. (1987) History of Southern Africa. Jones Currey Publishers. p.5.

to survive white expansion from the Cape Colony by Dutch settlers who were “trekking” inland from the coast.¹¹

The arrival of Europeans and continental Africans brought untold destruction to Khoisan culture and language. Those who survived were either enslaved by these new arrivals or subsequently assimilated. Over 300 000 people speak a Khoisan or related dialect in three Southern African countries: Botswana, Namibia and South Africa as well as Tanzania in East Africa.¹²

1.2 Orientation of the Study

The research is oriented towards assessing the importance of utilizing Namibian Languages in governmental and educational settings as well as employing strong legal and policy mechanisms to reverse the threat of language loss and/or displacement. The extent of marginalization of indigenous languages in general and Khoisan languages in particular, as well as efforts to revitalize them in both Namibia and the SADC region are explored in this dissertation.

The right to profess and promote linguistic and cultural rights is inherent in customary international law. The rightful demand by minority groups such as the San and other communities to be taught in their own languages at government schools is protected in many of the international human rights instruments to which Namibia is a state party. It is a very well-known fact that the majority of San speakers are taught in languages of their numerically dominant Bantu neighbours. In light of this, it can be deduced that the government of Namibia is in direct violation of its obligations to respect and protect these minority languages as

¹¹ Ibid.

¹² Kohler, O.S (2015) Khoisan Languages. In *Encyclopaedia britannica*. Retrieved from [http://www.Brittanica.com/EBchecked/topic/316792/khoisan languages](http://www.Brittanica.com/EBchecked/topic/316792/khoisan%20languages)

guaranteed under the International Covenant on Civil and Political rights (ICCPR) and the International Covenant on the Elimination of All Forms of Racial Discrimination (ICERD).¹³

1.3 Statement of the Problem

The government of Namibia, like its counterparts in Africa, continues to favour colonial languages at the expense of the country's indigenous languages. The National Language Policy adopted at independence remains passive as the English language continues to dominate every aspect of governance in Namibia. The development and survival of indigenous languages is at stake if the current status quo continues. Anecdotal evidence shows that many speakers of minority languages are gradually being assimilated into dominant cultures and losing their linguistic identities in the process. The research therefore attempts exploring the notion of human rights protection of minorities' languages in Africa and Namibia in particular and to scrutinize the efficiency of existing mechanisms and policies to that effect. Article 19 of the Namibian constitution which among other things deals with the right to promote and protect one's culture served as a departing point for the Namibian aspects of the study.

1.4 Objectives of the study/Research questions

This study is aimed at assessing the importance of protecting and promoting indigenous languages in Namibia and Africa in general. The rationale for protecting and promoting indigenous languages in line with international human rights instruments is thoroughly discussed and scrutinized in this dissertation. In short, the study has the following objectives and research questions:

¹³ Author's own emphasis.

- 1.4.1 To discuss the nature, scope and history of minority and indigenous language protection in international law;
- 1.4.2 To investigate whether sociolinguistic approaches to the study of language can answer some of the questions on language rights within the ambit of international law?
- 1.4.3 To investigate the economic benefits of developing and promoting indigenous African languages;
- 1.4.4 To assess the effectiveness of Namibia's policy and legal framework on linguistic rights;
- 1.4.5 To make the case for Kiswahili to become the official language of all of Africa.

1.5 Significance of the Study

The study comes at a crucial time in the history of post-independence Namibia and Africa at large, where there is debate from most sectors of society on this important but often divisive issue. The debate has permeated both the political and academic circles with arguments for and against the use of indigenous languages in all sectors of government and education. The survival of Namibia's indigenous languages forms the basis of this study. Therefore, among the main motivations for this study is to accentuate and contribute towards an understanding of the challenges that beset the protection and promotion of indigenous languages in Africa.

A single chapter in this dissertation pays particular attention to Khoisan languages as they are the most endangered when compared to their Bantu counterparts. Several Khoisan languages have become extinct or moribund and the remainder might not survive in the next 50-100 years.¹⁴ A significant percentage of Khoisan speakers are abandoning their languages due to

¹⁴ Simons, G.F and Lewis, M.P. (2011) *The World's Languages in Crisis. A 20-year update.* A paper presented at 26th linguistic symposium: Language death, Endangerment, Documentation, and Revitalization, University of

external pressure in favour of Bantu languages. In the case of San people, many of them tend to prefer communicating in Bantu languages and in Afrikaans in the case of Damara and Nama speakers. The study will thus be beneficial to the speakers of these languages as they will have an interest in revitalizing their culture, of which language is an integral part. In addition, critics of the Namibian education system contend that the overreliance on the use of English as the medium of instruction at the expense of indigenous languages is to blame for the high failure rate in government schools.

The study will therefore contribute to the on-going debate on the use of mother tongue instructions in the Namibian educational system. Supporting the assertion above, the study provides some of the possible reasons why parents, especially those from minority languages tend to disregard the use of indigenous languages at early child development (ECD) level, thereby, informing policy makers in education. Moreover, language barriers between government functionaries and rural inhabitants hinders the delivery of quality education and health care in some regions. It is thus hoped that the findings in this dissertation might influence policy decisions of the state in this regard.¹⁵

1.6 Limitations of the study

As it is common for every academic research, it is inevitable to encounter challenges. The research topic on human rights for linguistic minorities is a very sensitive issue to the communities concerned. Several members of the community viewed my research in their communities with suspicion. This is due to the fact that there exists a great deal of enmity between various indigenous groups of the country. Moreover, the Namibian political landscape, like elsewhere on the continent is fragmented along ethnic or tribal lines. This

Wisconsin, Milwaukee, 20-22 October 2011. pp. 1-4. Available at <http://www-01.sil.org/~simonsg/preprint/Wisconsin%20Symposium.pdf>

¹⁵ Staff reporter. "Language barrier hinders healthcare delivery in Kunene." 25 November 2015.

hindered my ability to source the right information as some groups assumed that I had bad intentions. Lack of sponsorship meant that two-thirds of my research was conducted in the capital city of Namibia, Windhoek. By implication this meant that I had to reduce the number of key informants with firsthand information on the subject matter.

1.7 Delimitation of the study

Although the research topic pertains to the linguistic situation in Africa, the bulk of the research was conducted in Windhoek, Namibia. The majority of key informants (both local and international) are residents of Windhoek. In sourcing relevant data, the author employed desktop research and face to face interviews. Desktop research was chosen as it saves time and data collected this way has already been refined and analyzed. In other words, it is data that is readily available to be used. The author further relied on face to face interviews because of their flexibility and other advantages. A critical advantage that the author observed during this study was that face to face interviews allows for more information to be gathered and at greater depth. Since the bulk of the study was done in Windhoek, Namibia, most of the findings, especially those that relate to the language situation in Namibia are likely to reflect the views and/or opinions of the people of Windhoek to the exclusion of those citizens residing in other parts of the country. However, to overcome this shortcoming, the author of this study relied heavily on secondary sources relevant to the subject matter.

1.8 Literature Review

Despite a plethora of international human rights instruments, there is no international treaty specifically dedicated to language rights, major international and regional legal instruments

deal with the language-related interests of minorities.¹⁶ This creates a gap in the existing literature on linguistic rights. These treaties and conventions stress that the best approach to regulate minorities' language claims is through a human rights vocabulary and that the legal protection of minority languages and their speakers should be based on the cultural importance of language.¹⁷ They further assume that the protection of language is part of a larger policy of nurturing cultural diversity.¹⁸ In addition, existing literature on minority languages is largely found in the sociology, anthropology, linguistics, economics and politics fields of study. This is yet another significant literature gap. A lot has been written about the language complexities of Africa, more so on the uneasy relationship between indigenous African languages and the languages of the continent's erstwhile colonial masters.

Multilingualism is the accepted norm in Africa. Three types of languages play a role. The first is the language of the former colonial powers. European languages, mainly English, French, and Portuguese, have spread throughout all African countries and have become the official languages of many of those countries.¹⁹ However, the use of European languages have been mostly restricted to certain domains, such as higher education, politics and business and to a small number of people. Only ten percent or less of the rural African population have a considerable competence in any of these European languages.²⁰ The second type of language is the African lingua franca. Kiswahili is the most common African lingua franca, but there are

¹⁶ Paz, M. (2013) The Failed Promise of Language Rights: A Critique of the International Language Rights Regime. *Harvard International Law Journal* / Vol. 54. p. 170.

¹⁷ Ibid, p.170.

¹⁸ Ibid.

¹⁹Ando, N (1995) Identity and Language Death in Africa.p.6. Available at: http://triceratops.brynmawr.edu/dspace/bitstream/handle/10066/10664/Ando_thesis_1995.pdf?sequence=3 accessed 11 April 2016

²⁰ Brezinger, M, Bernd H, and Gabriele S. (1991) "Language Death in Africa." *Diogenes* no153 Spring 1991.pp. 19-41.

a number of other such high-prestige, urban languages that an increasing number of speakers are speaking as a second language. The third type of language is the indigenous languages.²¹

Cameroon is among the most multilingual nations in Africa where an identity crisis is well pronounced. Some linguists put the number of living languages spoken natively in the country at over 400. Despite the fact that most Cameroonians speak indigenous African languages as first languages, the country has for political and administrative purposes been divided into Francophone and Anglophone regions. Ironically, a significant percentage of Cameroonians proudly either refer to themselves as Anglophones and Francophones despite many of them unable to speak either language fluently, hence, the question, are Cameroonians suffering from an identity crisis? The answer can be partially found in the speech of the first post-independence president Ahmadou Ahidjo declaration:

When we consider the English language and culture and the French language and culture, we must regard them not as the property of such and such a race but as an acquirement of the universal civilisation to which we belong. That is in fact why we have followed the path of bilingualism since we consider not only that it is in our interests to develop these two world-wide languages in our country but that furthermore it offers us the means to develop this new culture ... which could transform our country into the catalyst of African unity.²²

This state of affairs that irked Tanzania's liberation hero and pan Africanist Julius Nyerer. He laments:

²¹ Ando, *supra* note 19, p.6.

²² Anchimbe, E.A (2006) Functional Seclusion and the Future of Indigenous Languages in Africa: The Case of Cameroon. Selected Proceedings of the 35th Annual Conference on African Linguistics, ed. John Mugane et al., 94-103. Somerville, MA: Cascadilla Proceedings Project. p.95.

Reject the nonsense of dividing the African peoples into Anglophones, Francophones, and Lusophones. This attempt to divide our peoples according to the language of their former colonial masters must be rejected with the firmness and utter contempt that it richly deserves.²³

Africa is characterized by an unusual richness and variation of indigenous languages, but these are in danger of being replaced, not by the European languages, but by the African lingua franca. When discussing language death, it is almost certain to concern one of these indigenous languages.²⁴ Breinzinger *et al*²⁵ claim that there are 222 cases of languages/dialects in decline or on the brink of extinction in Africa. Leaving aside the complicated question of where to draw the line between languages and dialects, the real number could be expected to be more, since the countries with reliable linguistic information tended to have a dis-proportionately high number.²⁶

One of the important factors that impact on shift and maintenance of language is attitude. The speakers' outlook and value system which is part of social value and system is the main determinant of language choice and influences people's choice of which language to speak and which one to abandon.²⁷ This brings me to the question of what really constitutes a minority language? Allardt²⁸ contends that the key issue in determining the minority status of a language is whether or not those who use it feel they are in a subordinate status to those who use another language. He asserts that 'a minority language is always subordinated in some sense, but it is apparent that there are many kinds of subordination'. Allardt cites the subordination of being

²³ Julius Nyerere: "Without unity, there is no future for Africa". New African Magazine. Available online at: <http://newafricanmagazine.com/nyerere-without-unity-there-is-no-future-for-africa/#sthash.8sqViZGO.dpuf>

²⁴ Ibid.

²⁵ Breinzinger et al, supra note 20, pp. 19-41.

²⁶ Ibid.

²⁷ Holmes, J., & Harlow, R. (1991). *Threads in the New Zealand Tapestry of Language*. Auckland: Linguistic Society of New Zealand.

²⁸ Allardt, E. (1984) What constitutes a language minority? *Journal of Multilingual and Multicultural Development*, 1 (2), pp. 195-205.

either less powerful or numerically smaller as a group, but he affirms that ‘the decisive factor in determining minority status is the social organisation related to patterns of subordination and maintained by processes of categorisation and self-categorisation’.²⁹

On the indicators of minority status, Simpson posits that a minority language exhibits a number of characteristics. It is not the language of all areas of activity indulged in by its speakers³⁰. It may live in the shadow of a culturally dominant language, that dominance arising from political, educational, social, or religious factors. There may be people committed to its extirpation and some of these may even come from the ranks of those who speak it.³¹

Africans partially shoulder the blame for the continual marginalization of their languages, as many still regard the languages of their erstwhile colonial masters as superior to their own. In this regard, Adebija posits that naturally many Africans have grown to firmly believe that European languages are superior to African languages, because only they are used in Africa in the expression of modern science and technology, and in higher education.³² Conversely, it is felt that African languages are inferior because, owing to their present levels of development, they have not been used as a medium of instruction.³³ As such Qunta advocates that schools should be freed from colonial indoctrination, and that African culture should be mainstreamed, especially African languages.³⁴

²⁹ Ibid.

³⁰ Simpson, J.M.Y. (1981) The challenge of minority languages. In Haugen et al. 1981:235-41.

³¹ Ibid.

³² Adebija, E. (1994) Language Attitudes in Sub-Saharan Africa: A Sociolinguistic Overview. Multilingual matters Ltd, p.33.

³³ Ibid.

³⁴ Qunta, C. (2016) Why we are not a nation. Cape Town: Seriti sa Sechaba Publishers.

Fanon's book, *The Wretched of The Earth*, ably questions the subjugation of the oppressed in their own countries and interrogates the representation of African languages as second-class, with African people portrayed as inferior to white cultures. Fanon recognized that African people can be mobilized to contest colonialism through the use of African languages. His contribution to the struggles of the oppressed is highly regarded as a contribution to the understanding of the issue of language and the post-colonial era.³⁵ Kamwanyah describes the state of Africa today:

Poor Africa, a cursed continent that is always last in everything! Last in obtaining independence. Last in introducing democracy. Last in having ethical governing leadership. Last in world sports competitions and last in embracing and developing its own cultures and languages to scientific level.³⁶

Adegbija further opines that such negative attitudes towards African languages in the domain of education would have changed drastically had post-colonial language and educational policy makers taken bold steps to install the use of indigenous African languages in the educational domain in general and higher levels of education in particular.³⁷

Crystal uses the term 'language suicide' to explain how peoples' attitudes and values toward their own language can kill that language. He argues that "people make a conscious decision to stop using a language or not to pass it on to their children"³⁸ Baker defines attitude as "a hypothetical construct used to explain the direction and persistence of human behaviour".³⁹

³⁵ Makanda, A.P.T. (2011) An investigation into the Creation of a Language Policy and subsequent Implementation in Selected Domains of Life in Zimbabwe. Submitted in accordance with the requirements for the degree of Doctor of Literature and Philosophy in the subject African Languages at the University of South Africa. p.19. Available at:

http://uir.unisa.ac.za/bitstream/handle/10500/4940/dissertation_makanda_a.pdf;jsessionid=8A36B31B5CBA1506C47DFCD41A5EFFF3?sequence=1 Cf. Fanon, F. (1965) *The Wretched of the Earth*: MacGibbon and Kee; Great Britain

³⁶Ndumba J Kamwanyah. "Urbanization is Not Working Well for Africa". The Namibian newspaper. 22 September 2016.

³⁷ Ibid.

³⁸ Crystal, D. (2000). *Language Death*. Cambridge University Press. p. 86.

³⁹ Baker, C. (1992). *Attitudes and Language*. Multilingual Matters Ltd, p.10.

Personal attitudes and values in language maintenance or language shift are such strong forces that can cast a shadow over all aforementioned factors. Bilinguals or multilinguals have the freedom to choose the language they want in various situations.⁴⁰

Supplementing Adebija's argument, Desai⁴¹ opines that some of the constraints on the development of African languages are the negative attitudes on the part of the speakers of African languages as the major stumbling block in promoting African languages. The negative attitudes are perceived as being immutable and often overwhelm language activists with a sense of hopelessness. Although Desai's observation seems correct, she did not take into consideration other factors that led to these attitudes among the speakers of African languages. Relatedly, the author falls short of elaborating on the consequences of 400 years of European colonialism and its psychological impact on the psyche of Africans. This author will therefore focus on how European colonial policies impaired the viability and development of African languages.

Bamgbose,⁴² argues that arising from the false association of language with ethnicity, two complementary myths have developed around the concept of language and the nation. The first is that multilingualism is a barrier to national integration; the second is that national integration necessarily involves the emergence of a nation state with one common language. Bamgbose dismisses the above assertion as a fallacy. He states that:

Differences do not need to be divisive. Divisiveness is an ideologised position and it can magnify minor differences; indeed, it can manufacture differences in language as in other matters almost as easily as it

⁴⁰ Majid, A (2013) "English as a global language; Threat or opportunity to minority languages." *Mediterranean Journal of Social Sciences* MCSER Publishing, Rome-Italy. Vol 4 No 11, pp.33-40

⁴¹ Desai, Z. (2000). "Mother Tongue Education: The Key to African Language Development? A conversation with an imagined South African Audience," in Phillipson, R. (2000) *Rights to Language: Equity, Power and Education*. Lawrence Erlbaum Associates, Publishers Mahwah, New Jersey.

⁴² Bamgbose, A. (1991). *Language and the Nation: The Language Question in Sub-Saharan Africa*. Edinburgh University Press. pp. 14-15.

can capitalize on more obvious differences. Similarly, unification is also an ideologised position and it can minimize seemingly major differences or ignore them entirely.

This author strongly supports of Bamgbose's viewpoint on the importance of multilingualism. To further complement the author's argument, I will specifically give a detailed analysis of case studies in some other countries with more than one language. The legal framework that is used to regulate languages in countries such as Switzerland, Luxembourg, Spain and other countries will be explored to support Bamgbose's assertions.

The controversy surrounding the language of instruction in schools has not escaped scrutiny in post-independence Namibia. Assuredly, this is not only a Namibia problem, but an African problem. many countries on the continent have for years failed to promote the use of African languages as a medium of instruction in schools. Language of instruction, or the language in which education is principally conducted, is one of the most far-reaching and significant features of any education system.⁴³ The language of instruction, the language of educational formation, in any society is also the language of hegemony and power. It is the language in which basic skills and knowledge are imparted to the population, and the medium in which the production and reproduction of knowledge take place. Implicit in this is the acknowledgement that it is in this medium that knowledge is accumulated and deposited.⁴⁴

On the subject of mother tongue education, Samassekou argues as follows:

⁴³ Prah, K. K. (2005) Language of instruction for education, development and African emancipation, p. 27. In languages of instruction for African Emancipation: Focus on Postcolonial Contexts and Considerations, edited by Birgit Brock-Utne and Rodney Kofi Hopson.

⁴⁴ Ibid.

It is now time that Africa stopped being the only continent where a school child can have access to knowledge and science only through a language other than the one spoken in his family.⁴⁵

Brock-utne posits that the strengthening of the African languages both in education and in the public domain, in courts, and in the media also has to do with social justice for the masses of Africans as well as with the exertion of democracy.⁴⁶ Brock-utne further argues that the forms of knowledge fostered is knowledge built on European culture and tradition and delivered in European languages. The forms of knowledge that could have empowered the underprivileged would have to be built on African culture and tradition and be delivered in African languages.⁴⁷ As Heller and Martin-Jones submit, schools play a key role in affirming the legitimacy of the dominant language and culture and in reproducing the sociolinguistic order.⁴⁸

A genuine concern for social justice and democracy would lead African political leaders to work for a strengthening of the African languages. Donor pressure, as well as the impact of the capital led market economy, often globalization, however, work to retain the Euro languages.⁴⁹ Lack of confidence in one's or a group's own mother tongue as a medium of instruction has largely led to the attrition of the *Khoekhoegowab*⁵⁰ language in Namibia. The said language faces a threat from two dominant languages of the land, namely, Afrikaans and English. With many parents preferring to have their children be taught in Afrikaans instead of Nama. There have been very strong protests from parents against the Ministry of Education for "imposing"

⁴⁵ Samassekou, A. (2005). Foreword to the Special Bulletin of the African Academy of Language, January 2002. In Alexander, N. (Ed.) The intellectualization of African languages. The African Academy of Languages and the implementation of the Language Plan of Action for Africa. PRAESA: Cape Town, pp. 5-13.

⁴⁶ Brock-Utne, B. (undated) "The Language Question in Africa in the light of Globalisation, Social justice and Democracy." The International Journal of Peace Studies, p.1.

⁴⁷ Ibid.

⁴⁸ Heller, M. and Martin-Jones, M. (eds.) (2001) Voices of authority: education and linguistic difference. Westport/London: Ablex.

⁴⁹ Brock-utne, supra note 46, p. 1.

⁵⁰ The word "Khoekhoegowab" is the official name used in schools for "Damara/Nama".

Khoekhoegowab on their children. This sad scenario typifies the attitudes of many Namibians towards their own languages, especially in areas of education.⁵¹

With the advances in recent years in computer technology, a great deal of learning and processing of knowledge now has to take place through the use of machine, and, as is well known, computer language is based largely on LWCs and other European languages, but not on any African language.⁵² Another less explored aspect of the importance of indigenous African languages is the relationship between language and development. There is an obvious link between literacy and development. For instance, the world's poorest countries are also the countries with the highest rates of illiteracy. Since literacy liberates untapped human potential and leads to increased productivity and better living conditions, it is not surprising that countries with the highest rates of literacy are also the most economically advanced.⁵³

Given that development effort aims to reach the masses, it is obvious that the language to be used in literacy and communication, for example, must be one that is capable of reaching a large proportion of the population. In literacy education, the pride of place has usually belonged to indigenous languages.⁵⁴ Grin states that "...nothing, in economic theory, mandates a restriction to material or financial resources, and that intangibles like social networks and interpersonal affection are, from the perspective of economic analysis, perfectly relevant resources".⁵⁵ Therefore, there is a need to relate educational rights and the economics of poverty to intangible resources such as language and cognitive capabilities. This clarifies the

⁵¹ Staff reporter. "Karas parents snub Khoekhoegowab", *New era*, 24th January 2014.

⁵² Bamgbose, *supra* note 42, pp.14-15

⁵³ *Ibid*, p. 38.

⁵⁴ Bamgbose, *ibid*, p. 41.

⁵⁵ Grin, F (2003). *Language Planning and Economics. Current Issues in Language Planning*, p. 7.

role of dominant languages and indigenous mother tongues in formal education in a context of social mobility and class/caste/gender at a global level.⁵⁶

It has also been argued that Namibia's language planning is non-existent or poorly defined. The choice of English as the sole official language was not as straightforward as it might at first seem.⁵⁷ Haacke characterizes the South West Africa Peoples Organization (SWAPO) and the United Nations Institute for Namibia (UNIN) document on language planning as follows: 'The overall recommendations of this document are commendable-they are avoided language hegemony by choosing a supra-ethnic language as official language, and they recognized the importance of mother tongue education for cognitive and cultural purposes. Nevertheless, the impression cannot be avoided that the document largely served to present predetermined party ideology'.⁵⁸

To overcome the deficiencies associated with language planning in Africa, Bokamba⁵⁹ suggests that the best language policies for African states are multilingual ones that will enable each state to empower its citizens and yet permit it (the state) to remain a partner or player in the global market of goods, knowledge, and politics. He further opines that there should be "in our language planning appropriate places for selected African languages and ELWC. To do otherwise is tantamount to committing suicide".⁶⁰

⁵⁶Ole Henrik Magga, O.H. Nicolaisen, I, Trask, M. Skutnabb-Kangas, T. and Dunbar, R. (undated) Indigenous Children's Education and Indigenous Languages. Expert paper written for the United Nations Permanent Forum on Indigenous Issues, p. 7.

⁵⁷ Maho, supra note 8, p. 189.

⁵⁸ Haacke, W. (1994) "Language Policy and Planning in independent Namibia. Annual review of applied linguistics," vol. 14, p. 243.

⁵⁹ Bokamba, E. G. (1995) The politics of language planning in Africa; Critical choices for the 21st century, p. 23. In Joshua Fishman (1995) Discrimination through Language in Africa? Perspectives on the Namibian Experience. Mouton de Gruyter.

⁶⁰ Ibid.

Globalization is often blamed of contributing to the continuing marginalization for African languages and has the potential to ultimately result in their extinction. In the era of intensified globalization, mobility of people across the world has increased too. English is accepted as the language of global discourse and gaining mastery in English language promises financial security as well as social adjustment. Paulston⁶¹ maintains that language shift only takes place if the language being shifted to has “social prestige and economic advantage, primarily in the form of source of income”.

Holmes⁶² believes that obtaining work is the most obvious economic reason for learning another language. She indicates that job seekers see the importance of learning a new language which is widely used in business. The high demand from industries for employees with English fluency has successfully encouraged job seekers to equip themselves with English and being competent in English leads to well-paid jobs too. A clear example of this category is “immigrants”. When a group of different minority language communities live in a dominant context, they would have very little chance to practise their own language. This could happen both in internal and external migration. In both situations the speakers of minority languages have little chance to practise their local language and would have to shift to the dominant language; otherwise they would not be able to survive and would be isolated. Without shifting to the language of host context the risk of isolation and being isolated would increase too.⁶³

Mufwene, however, disagrees with the assertion that globalisation is a threat to the survival of indigenous and minority languages in the world. He postulates as follows: “Whether or not

⁶¹ Paulston, C. B. (1988). *International Handbook of Bilingualism and Bilingual Education*. New York: Greenwood Press, p. 5.

⁶² Holmes, J. (2008). *An Introduction to Sociolinguistics* (3rd ed.). Pearson Longman, Harlow, England.

⁶³ *Ibid.*

European languages will endanger indigenous languages of Africa and Asia is an open question. Right now, it is the indigenous lingua francas languages of Africa and Asia is an open question. Right now, it is the indigenous that do, and their effect has been far less extensive than that of European languages in former settler colonies. One would not even want to speculate on the effect of English, identified precociously by Crystal⁶⁴ as a “global language”, because in most of the countries where its usage has increased over the past few decades, it’s strictly lingua-franca function is in competition with none of the indigenous vernaculars. The fact that a language acquires prestige from functioning as a world language does not necessarily situate it in the kind of ecological dynamic that would make it dangerous to indigenous vernaculars. Not all ecologies favour world languages over indigenous ones.”⁶⁵

Contemporary international law provides the legal framework for the protection of the use of languages. It is worth noting that the United Nations Charter proscribes discrimination on the ground of language⁶⁶ as does the Universal Declaration of Human Rights⁶⁷ and the two international covenants adopted in 1966.⁶⁸ Namibia is a state party to several international legal instruments that cater for the rights of indigenous people in relation to their rights to their linguistic and cultural rights. There is little to no literature on the potential consequences of Namibia’s complete or partial disregard of these international legal instruments.⁶⁹

⁶⁴ Crystal, D. (1997). *English as a Global Language*. Cambridge: Cambridge University Press. pp. 3-27

⁶⁵ Mufwene, S. (undated) *Globalization and the Myth of Killer Languages: What’s Really Going on?* pp.28-30. Available at: <http://mufwene.uchicago.edu/publications/globalization-killerLanguages.pdf>

⁶⁶ See United Nations Charter, article 2.3.

⁶⁷ See Universal Declaration of Human Rights, article 2.

⁶⁸ See International Covenant on Civil and Political Rights, article 2.1; International Covenant on Economic, Social and Cultural Rights, article 2.2.; See also: Committee on Economic, Social and Cultural Rights, General Comment No.16, UN Doc. E/C.12/2005/4, para.

⁶⁹ These instruments are: The International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights, (ICESCR), The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), as well as the African Charter on Human and Peoples Rights. (ACHPR).

To fully understand the relationship between language, identity and Nationalism in Namibia, it is vital to explore the theories of nationhood and their impact on language and identity. In his *Nationalism and the State*,⁷⁰ Breuilly accepts the existence of nations and national sentiments in medieval Europe, but he restricts nationalism to the modern period and envisages it as a consequence of the development of the modern state and of the international state system. As he puts it: "nationalism should be understood as a form of politics that arises in close association with the modern state".⁷¹

Prakeh warns that 'defining national identity in a multicultural society is an exceedingly difficult enterprise'.⁷² This is so because most of the time a dominant group tends to identify itself with the country and to appropriate its identity. Among the preconditions for such an enterprise to succeed, one stands as especially crucial: the definition of national identity should not only include all citizens, but also accept them as equally valued and legitimate members of the community.⁷³

In order to forge a universal linguistic and cultural identity for Africa, some scholars have proposed that Kiswahili language be made the Pan-African language. Kiswahili is currently the only genuinely "Black" African language among the five working languages of the African Union.⁷⁴

Kiswahili has a well-established grammar and written literature as opposed to many indigenous languages in Africa.⁷⁵ In supplementing the argument for Kiswahili to become the future

⁷⁰ Breuilly, J. (1982) *Nationalism and the State*. Manchester, Manchester University Press.p.12

⁷¹ Llobera, J. R. (1999) Recent Theories of Nationalism. pp. 1-26.Available at:

http://maxweber.hunter.cuny.edu/pub/eres/SOC217_PIMENTEL/nationalismtheories.pdf

⁷² Parekh, B. (1999) 'Defining national identity in a multicultural society', in E. Mortimer (ed), *People and State*, London, I.B. Tauris. pp. 64-74

⁷³ Ibid.

⁷⁴ The other working languages being Arabic, English, French and Portuguese.

⁷⁵ Mukhuturia, M. (2006) Kiswahili and Its Expanding Roles of Development in East African Cooperation: A Case of Uganda. *Nordic Journal of African Studies* 15(2): pp. 154–165.

vernacular of Africa, Moshi⁷⁶ posits that there is no doubt that Kiswahili has gained ground as a language of choice by millions of people in East Africa and its neighbours. It has been transported to different parts of Africa and the West due to migration, both voluntary and as a consequence of ethnic wars, including the fight against colonialism and apartheid. Refugees from neighbouring countries learn Kiswahili during their short stay in Kenya or Tanzania and keep the language when they finally immigrate to England, the United States, or other western countries.⁷⁷

The signs are there considering the growing use of Kiswahili in world media such as the *Voice of America*, and *Radio Deutsche Welle*, *BBC radio and Television*, and *Asia radio and TV* programs that come to many homes in East Africa. Some of these programs are broadcasted to East Africa (especially Kenya, and Tanzania) on a regular basis (in some cases twice a day). In addition, Kiswahili has been identified by Microsoft for the development of scanner OCR that would identify Kiswahili text.⁷⁸

The idea of adopting Kiswahili in both primary and secondary education is indeed welcomed. This will not only be beneficial to Tanzania but also will serve as an example to other Africa States to follow suit. According to Sa, the adoption of Swahili as the medium of instruction at both primary and secondary levels of education would have enormous symbolic power, representing a final casting-off of colonial chains and acceptance of African culture. Although

⁷⁶ Moshi, L. (2006) *The Globalized World Languages: The Case of Kiswahili*. Selected Proceedings of the 36th Annual Conference on African Linguistics, ed. Olaoba F. Arasanyin and Michael A. Pemberton, 166-175. Somerville, MA: Cascadilla Proceedings Project. pp. 167-169.

⁷⁷ Ibid.

⁷⁸ Ibid.

this may not affect the life of the average Tanzanian as obviously as a change in the daily wage, it may have value nonetheless.⁷⁹

Despite attempts to promote the effective use of indigenous African languages in most domains of governance and society at large, little progress has been made to this effect. The situation is dire in Namibia among other African states.⁸⁰ In this vein, Makanda⁸¹ argues that a general trend of lamenting the imbalances and inadequacies of language policies in Africa is prevalent at various gatherings discussing African languages. This sad situation is that it appears as if these conferences and gatherings always come up with the same findings with nothing concrete that comes out of it. This is probably because the gatherings are mainly academic and government representatives attending these workshops are either Euro-centric so much that they cannot influence policy makers to craft policies that are Afro-centric and functional to the situation prevailing in African countries.⁸²

Makanda's sentiments regarding the inertia on the part of African academics and politicians on the effective promotion of African languages were earlier expressed by Bamgbose, in his paper motivating the establishment of the African Academy of Languages (ACALAN) in 2001. Bamgbose, among other things, referred to the fact that at most of the conferences where the status of African languages had been and were being discussed the conference resolutions were no more than a recycling exercise, whether the conference participants were aware of this or

⁷⁹ Sa, E. (undated) Language Policy for Education and Development in Tanzania. pp. 9-10. Available at: https://www.swarthmore.edu/sites/default/files/assets/documents/linguistics/2007_sa_eleuthera.pdf.

⁸⁰ My emphasis.

⁸¹ Makanda, A.T.P. (2009) The Language Question in Africa: Zimbabwe case study. A Thesis submitted in fulfillment of the requirements for the degree of Master of Arts in the subject of African Languages. pp.5-6. Available at: http://uir.unisa.ac.za/bitstream/handle/10500/2683/dissertation_makanda_%20a.pdf?sequence=1.

⁸² Ibid.

not.⁸³ Equally critical of the approach taken by African states in promoting indigenous languages, Kamwangamalu posits that:

The evidence gleaned supports the argument that language policies in most African countries have succeeded only in creating space, on paper at least, for the promotion of the indigenous languages in higher domains. However, they failed to implement the policies and sever ties with inherited colonial language policies.⁸⁴

Kamwangamalu further cites two divergent sets of ideologies and “the legacy of inherited colonial language policies” as the main reason behind the failure of these language policies. The evoked pairs of ideologies are “the ideology of development versus the ideology of decolonization, the ideology of globalization versus the ideology of localisation”.⁸⁵ Lack of political will from the leadership of these countries is also added to the list of causes for failure.

Of late some pertinent African scholars hope that eventually the African languages can become strong enough to take the place of the European languages in the official spheres.⁸⁶ However, the majority propose a ‘psychological’ return to African languages and values, and not a complete ousting of modernity and Western culture.⁸⁷ They believe that tradition is meant to help organize life, rather than to be a shield from the changing realities of life.⁸⁸ These scholars are seeking what Samper⁸⁹ calls “hybridity.” Poorly defined language policies in many African

⁸³ Intergovernmental Conference of Ministers on Language Policy in Africa, Harare 20-21 March 1997: The Harare Declaration, p. 3. Available at:

<https://www0.sun.ac.za/taalsentrum/assets/files/Harare%20Declaration.pdf>.

⁸⁴ Kamwangamalu, K. (2009). Reflections on the language policy balance sheet in Africa. *Language Matters*, 40: 2, Routledge. pp.133-144.

⁸⁵ Ibid.

⁸⁶ Katupha, J. M. M. (1994). The language situation and language use in Mozambique. In R. Fardon & G. Furniss (Eds), *African Languages, Development and the State*. New York: Routledge, pp.89-96

⁸⁷ Fink, K. T. (2005) Attitudes Toward Languages in Nairobi. Submitted to the Graduate Faculty of Arts and Sciences in partial fulfillment of the requirements for the degree of Masters of Linguistics. pp. 19-21.

⁸⁸ Van Doorne, H. (1995). Language, creativity and development. In K. Senanu & D. Williams (Eds), *Creative Use of Language in Kenya*. The Jomo Kenyatta Foundation: Nairobi, Kenya.

⁸⁹ Samper, H. (2002). Talking Sheng: The role of a hybrid language in the construction of identity and youth culture in Nairobi Kenya. Dissertation, University of Pennsylvania, pp. 126-132

states are partly to blame for the current status that African languages find themselves.⁹⁰ The Namibian Language Policy is not clear and lacks substance and efficiency in ensuring that the country's native languages are robustly used in all aspects of governance.⁹¹

Sukumane argues that in Southern and East Africa, in particular, local languages share, with English, the role of official languages. In Tanzania, for example, English has even been deinstitutionalized altogether and is now taught in the Department of Foreign Languages at the University of Dar es Salaam. However, some countries, like Namibia, can make no such claim. In the last three decades, politicians and language planners in these countries have claimed language agendas to be interventions into perceived obstacles to modernization and to unity, such as ethnicity, regionalism, and ethnic group loyalty.⁹² In 2015, Tanzania was set to become the first sub-Saharan African country to use an African language as the medium of instruction throughout the schooling years.⁹³ Likewise, Pakistan despite opposition from some of its elites, decided to replace English with Urdu as the sole official language of the State.⁹⁴

The usual pattern is for the foreign language to be designated official and the language of education. African languages tend to have little or no official status. However, the adoption of a single official European language, in multilingual societies like the African states, depoliticizes other languages, which are declared to be the symbols of the nations. Resistance

⁹⁰ Harris, C. (2015) A critical assessment of the National Language Policy in promoting the use of indigenous Namibian languages in governance. A paper presented at National Research Symposium Program 23 - 25 September 2015 at Hilton hotel, Windhoek, pp. 1-11.

⁹¹ Sukumane, J.B.G. (2000) Issues in Language Policy and Planning: The Case of Namibia. *Studies in the Linguistic Sciences*. Volume 30, Number 2 (Fall 2000). pp.1-3. Available at: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.176.197&rep=rep1&type=pdf>

⁹² Ibid.

⁹³ Tanzania dumps English as its official language in schools, opts for Kiswahili. Available at: <http://qz.com/355444/tanzania-dumps-english-as-its-official-language-in-schools-opts-for-kiswahili/>

⁹⁴ Pakistan to replace English with Urdu as official language. Available at: <http://tribune.com.pk/story/928480/pakistan-to-replace-english-with-urdu-as-official-language/>

to the official language is seen as opposition to national unity and modernization, yet participation is always limited to individuals speaking the official language.⁹⁵

Like many proponents of African languages, Prah alleges that African societies are also contributing to the marginalization of their own languages. He asserts “the problem is not merely one of shaking off the remnants of the past, but of convincing those within every level of African society that undermining the status of African languages serves the interests of no one. “It’s not just a question of Western arrogance,” but also of African complicity. The cultural power of the African elite is based on the fact that they are proficient users of post-colonial languages. They instill a new colonial order which excludes the majority from the structures of power.”⁹⁶ In order to reverse linguistic loss and promote language pluralism, mechanisms have been developed/or proposed to this effect. McIvor states that documentation of a language is sometimes seen as a passive exercise that does not work towards creating new speakers, some indigenous groups advocate for preservation activities to save what remains of the language before it is too late.⁹⁷ Language revitalization programs face a number of common challenges, mostly related to lack of resources. For example, it is impossible to pick up a catalogue and order a textbook for Naro (an endangered language of Namibia), so language program developers have to design all of their own materials. Human and financial resources must also be considered.⁹⁸

⁹⁵ Ibid.

⁹⁶ Kwesi Kwaa Prah. “No country can make progress on the basis of a borrowed language”. eLearning Africa. 16 May 2013. Available at: <http://ela-newsportal.com/no-country-can-make-progress-on-the-basis-of-a-borrowed-language/>

⁹⁷ McIvor, O. (undated) Strategies for Indigenous Language Revitalization and Maintenance. p.2. Available at: <http://www.ecdip.org/docs/pdf/Language%20Revitalization%20&%20Maintenance%20MCIVOR-CLLRNET.pdf>

⁹⁸ Haynes, E. (2010) What is language loss? pp.1-2. Available at: <http://www.cal.org/heritage/pdfs/briefs/what-is-language-loss.pdf> Cf. Grenoble, L. A., & Whaley, L. J. (2006). *Saving languages: An introduction to language revitalization*. New York: Cambridge University Press.

1.9 Theoretical framework for language rights

Theories are formulated to explain, predict, and understand phenomena and, in many cases, to challenge and extend existing knowledge within the limits of critical bounding assumptions. The theoretical framework is the structure that can hold or support a theory of a research study. The theoretical framework introduces and describes the theory that explains why the research problem under study exists.⁹⁹

1.9.1 Linguistic human rights theory

Skutnabb-Kangas and Phillipson¹⁰⁰ have argued that linguistic human rights encompass two fundamental rights and these are:

1. The right to learn the state's official (written) language;
2. Right to one's native language that is right to a native language identity, education and public services.

Regulation of language becomes necessary when one language group considers its language threatened by other languages in the same region. Linguistic co-existence based on linguistic contacts is a natural source of problems and conflicts. Governments try to cope with such phenomena by laying down legal standards, defining official and public use of languages above all in law, administration and education and, to a lesser extent in the private sphere (culture, communication, work, commerce and business). States have obligations to their citizens and permanent residents pertaining to language or languages. These obligations are linguistic human rights used by the state to lay a basis for use and study of recognised languages. Such rights are laid down in national and international law.¹⁰¹

⁹⁹ Gabriel. A. (2008) "The Meaning of Theory." *Sociological Theory* 26. pp.173–199

¹⁰⁰ Phillipson, R and T. Skutnabb-Kangas. T. (1994) (eds), *Linguistic Human Rights: Overcoming Linguistic Discrimination* (Berlin and New York: Mouton de Gruyter). p. 71

¹⁰¹ Linguistic Human Rights and Security. Available at: http://aastakonverents.humanrightsestonia.ee/wp/wp-content/uploads/2015/12/THEORETICAL-ASSUMPTIONS-toimENG-Keelelised-inimoigused_0112.pdf

Although it is generally accepted that there is no specific treaty dedicated to promoting and protecting language. However, several treaties do have provisions for language protection. A prime example of this is Article 27 of the ICCPR, a covenant commonly regarded as an instrument that forms a part of the “International Bill of Rights.” Article 27 provides that “persons belonging to [ethnic, religious or linguistic minorities] shall not be denied the right . . . to enjoy their own culture . . . or to use their own language.” However, Molos¹⁰² argues that Article 27 of the ICCPR does not protect a universal right to culture, religion or language, but rather the rights of some minorities. To qualify for protection under article 27, it would seem that an individual would have to be both (i) a member of an ethnic, religious or linguistic minority group, and (ii) in a state in which ethnic, religious or linguistic minorities exist.¹⁰³

On the other hand, Macklem¹⁰⁴ argues that the rights enshrined in article 27 are not only framed in individualistic terms. The interests they aspire to protect can be comprehended in universal terms, as essential features of our common humanity. The capacity to participate in one's culture, to hold and exercise spiritual beliefs, and to speak to others in a shared language may plausibly be thought to possess universal value. That is, cultural, religious, and linguistic affiliations help to shape who and what we are.¹⁰⁵ Article 27 thus protects interests that are relevant to all in circumstances where they are likely to be threatened, namely, when a majority seeks to impose its cultural, religious, and linguistic beliefs and preferences on a minority whose members hold different beliefs. Viewed this way, international minority rights protect a minority's cultural, religious, and linguistic practices

¹⁰² Molos, D. (2013) Underappreciated resource or inadequate measure? Minority Protection under Article 27 of the International Covenant on Civil and Political Rights. A thesis submitted to the Graduate Program in Law in conformity with the requirements for the Degree of Master of Laws. p.29. Available at: https://qspace.library.queensu.ca/bitstream/handle/1974/8402/Molos_Dimitrios_201310_LLM.pdf?sequence=1&isAllowed=y

¹⁰³ Ibid.

¹⁰⁴ Macklem, P. (2008) Minority rights in international law, *International Journal of Constitutional Law*, Volume 6, Issue 3-4, pp. 531–552. Available at: <https://doi.org/10.1093/icon/mon019>.

¹⁰⁵ See Kymlicka, W. (1995) *Multicultural Citizenship: A Liberal Theory of Minority Rights*. Oxford University Press.

because of the fragility of these affiliations in minority contexts.¹⁰⁶ However, Thornberry points out:

In the fields of anti-discrimination, genocide, and minorities there is a profusion of terms, listed differently in different instruments. The Universal Declaration of Human Rights lists, *inter alia*, as impermissible grounds of distinction in the entitlement to human rights ‘race, colour . . . language, religion, . . . national or social origin’, all of which terms share a certain kinship with those employed in Article 27. The Genocide Convention prefers ‘national, ethnical, racial or religious’ groups. In the International Convention on the Elimination of All Forms of Racial Discrimination, discrimination on the grounds of ‘race, colour, descent, or national or ethnic origin’ in the recognition, enjoyment, or exercise of human rights is forbidden. Elsewhere in the Covenant on Civil and Political Rights, the grounds of discrimination are listed in a fashion similar to the Universal Declaration of Human Rights.¹⁰⁷

1.9.2 Language policy theory

Language policies are born amidst the complex interplay of social, cultural, religious and political forces.¹⁰⁸ In this regard, Spolsky theorizes that the language policy of any independent nation is driven, at its core, by four co-occurring conditions namely national ideology, English in the globalization process, a nation’s attendant sociolinguistic situation, and the internationally growing interest in the linguistic rights of minorities.¹⁰⁹

With language planning comes the debate of whether multilingualism is socio-economically viable to a state. In this regard, Fishman¹¹⁰ posits “...a country that is linguistically highly heterogeneous is always underdeveloped or semi developed and a country that is highly

¹⁰⁶ Macklem, *supra* note 104, p.1.

¹⁰⁷ Thornberry, P. (1991) *International Law and the Rights of Minorities*. Oxford: Clarendon Press. pp. 1-2.

¹⁰⁸ Albury, N.J. (2016). National language policy theory: exploring Spolsky’s model in the case of Iceland. *Lang Policy* 15, pp. 355–372. Available at: <https://doi.org/10.1007/s10993-015-9357-z>

¹⁰⁹ Spolsky, B. (2005). Language Policy. In J. Cohen, K. T. McAlister, K. Rolstad, & J. MacSwan (Eds.), *ISB4: Proceedings of the 4th international symposium on bilingualism* (pp. 2152–2164). Somerville, MA: Cascadilla Press; see also Spolsky, B. (2004). *Language policy*. Cambridge: Cambridge University Press.

¹¹⁰ Fishman, J. (1972) *The sociology of language; an interdisciplinary social science approach to language in society*. Rowley, Mass.: Newbury House, p. 213.

developed always has considerable language uniformity. Language uniformity then, is a necessary but not sufficient condition of economic development and economic development is a sufficient but not a necessary condition of language uniformity”.

While a number of scholars are in favour of monolingualism, Chibaka on the other hand is in support of multilingualism. He posits that multilingualism has been attributed to the strength of promoting mobility of the labour force in a single marketplace, thereby fostering employment heights and subsequent economic growth in the society.¹¹¹ Thus, if any nation wants to benefit from this type of economic force that can be easily generated by the mobile labor force, it has no choice than to operate a multilingual context.¹¹²

1.9.2. 1 Haugan’s Model

The developmental theory of Language Planning which originated in the 1960’s starts with Einar Haugen who in 1966 provided a four-fold model for Language Planning: i) Selection of norm; ii) codification, iii) elaboration of function, iv) implementation. Selection is choosing a particular language or language variety for optimal status or as a common national language or as a medium of education.¹¹³ This is a political decision to be taken by the government resulting in official policy. Codification is a process of stabilization and standardization. Production of reference materials, teaching and testing materials, production of dictionaries and grammar books, and spelling reforms come under this process of Language Planning.¹¹⁴ Code selection presupposes norm selection and is related to the standardization process. Elaboration involves the expansion of language functions and the assignment of new codes such as scientific,

¹¹¹ Chibaka, E.F. (2018) Advantages of Bilingualism and Multilingualism: Multidimensional Research Finding. pp. 16-22. Available at: <https://cdn.intechopen.com/pdfs/59744.pdf>

¹¹² Ibid.

¹¹³ Language planning theories and models. Available at: https://shodhganga.inflibnet.ac.in/bitstream/10603/101864/7/07_chapter%202.pdf.

¹¹⁴ Ibid.

technological and legal. It thus involves assignment of new roles to the chosen variety. Evolving technical terminology and such other modernization aspects come under this heading. Implementation involves either a centralized or decentralized coordination of government agencies, institutions, academies and individuals for the adoption and use of the selected code.¹¹⁵

1.10 Research Methodology

Different research methods were employed in this study. Each method was selected largely for its advantages. The dissertation utilised qualitative analytical research method to establish a human rights framework for the protection of African languages in general and minority languages in particular. The dissertation further used this method to explore how various sociological and linguistic theories can be utilised to preserve, maintain and promote indigenous languages. To this end, this involved analysing of human rights treaties, soft law, jurisprudence as well as writings from linguistic scholars.

1.10.1 Desktop research or secondary data

The bulk of this study relied on desktop research or secondary data. This technique involves research and analysis of *existing* research and data, hence the name, “secondary research.”¹¹⁶ This study is concerned with examining legal and policy frameworks that Africa in general and Namibia in particular can invoke which may save indigenous and/or minority languages from extinction, as well as promoting and protecting other major African languages from the hegemonic colonial ones, as is the case in almost the whole of Africa. To this effect, it was vital to largely rely on desk research as the most appropriate methodology used for this study.

¹¹⁵ Ibid.

¹¹⁶ Primary vs. Secondary Market Research: What’s the Difference? Available online at: <https://www.mymarketresearchmethods.com/primary-secondary-market-research-difference/>

Published reports, textbooks, journals, case law, law reports, electronic resources, conference papers, newspaper articles, official government statistics and other secondary sources were crucial for this study.

1.10.2 Case study approach

The study, to an extent, comparative in its nature, aimed at highlighting the similarities and differences between the countries various language policies. Since the bulk of the study centres on the linguistic situation in Africa, language policies in countries such as South Africa, Tanzania, Angola, Zimbabwe, and others are compared with one another. Controversies surrounding linguistic rights *vis a vis* conflicts are discussed using case studies involving countries such as Spain and Canada. Considering the above, the case study approach was thus chosen to supplement secondary data because of its advantages. This qualitative case study is an approach to research that facilitates exploration of a phenomenon within its context using a variety of data sources. This ensures that the issue is not explored through one lens, but rather a variety of lenses which allow for multiple facets of the phenomenon to be revealed and understood.¹¹⁷

1.10.3 Socio-legal method

Since the study encompasses aspects of sociolinguistics, it was prudent to adopt the socio-legal method. Socio-legal research methods are crucial when researching a topic that links sociology with law. Socio-legal research is therefore a broad church where library based theoretical and empirical work is undertaken as well as policy orientated research which directly feeds into policy and law reform.¹¹⁸ Considering the above, socio-legal method was chosen by this author because

¹¹⁷ Baxter, P. and Jack, s. (2008) *Qualitative Case Study Methodology: Study Design and Implementation for Novice Researchers*. pp. 544-559. Available at: <http://www.nova.edu/ssss/QR/QR13-4/baxter.pdf>

¹¹⁸ Salter, M. & Mason, J. (2007). *Writing Law Dissertations: An Introduction and Guide to the Conduct of Legal Research*, Harlow: Pearson Education. pp.119-130.

it offers the following advantage: Social-legal research highlights the ‘gaps’ between ‘legislative goals’ and ‘social reality’ and thereby ‘depicts’ a ‘true picture’ of ‘law-in-action’. It particularly highlights the ‘gap’ in relation to (a) the practice of law enforcers, regulators and adjudicators and (b) the use or under-use of the law by intended beneficiaries of the law.¹¹⁹

1.11 Research Design

In conducting this research, qualitative research method was employed. In some cases, elements of quantitative research were also employed. For the purposes of this study, it is imperative to distinguish between the two research methods. Terreblanche *et al*¹²⁰ state that the distinction between quantitative and qualitative research marks a series of differences in approaches to research. Quantitative researchers collect data in the form of written or spoken language, and analyse the data by identifying and categorizing themes. These surface differences in method mark deeper differences in orientation.¹²¹ Qualitative methods allow the researcher to study selected issues in depth, openness, and, detail as they identify and attempt to understand the categories of information that emerge from the data.¹²²

Qualitative research design was mostly used over quantitative research method in this study because of the following merits. Qualitative techniques are extremely useful when a subject is too complex by a simple yes or no hypothesis. These types of designs are much easier to plan and carry out. The broader scope covered by these designs ensures that some useful data is

¹¹⁹ Ibid, p.93.

¹²⁰ Terreblanche, M, Durrheim, K and Painter, D. (1999) *Research in Practice: Applied Methods for the Social Sciences*. University of Cape Town Press. p. 47.

¹²¹ Ibid.

¹²² Ibid, p.47

always generated, whereas an unproved hypothesis in a quantitative experiment can mean that a lot of time has been wasted.¹²³

1.12 Population of the study

A research population is generally a large collection of individuals or objects that is the focus of a scientific query. It is for the benefit of the population that researches are done. However, due to the large sizes of populations, researchers often cannot test every individual in the population because it is too expensive and time-consuming. This is the reason why researchers rely on sampling techniques.¹²⁴ The target population for this study were mainly members of Namibia's different ethnic groups, academics, as well as some several senior government officials and politicians.

1.13 Sampling method

Purposive Sampling was utilized in this study. Judgmental or purposive sampling is a non-probability sampling technique where the researcher selects units to be sampled based on their knowledge and professional judgement.¹²⁵ The sample of the population mentioned are members of different tribal communities and several senior government officials, academics, ordinary citizens and politicians.

¹²³ Shuttleworth, M. (undated) Qualitative Research Design. p.1. Available at: <https://explorable.com/qualitative-research-design>.

¹²⁴ What is research population? Available at: <https://explorable.com/research-population>

¹²⁵ Explorable.com (Sep 13. 2009). Judgmental Sampling. Retrieved April 07, 2015. From Explorable.com: <https://explorable.com/judgmental-sampling>

1.14. Methods of data collection

1.14. 1 Interviews

Face to face interviews were conducted in this regard to selected interviewees from government officials, academics, politicians and members of the tribal communities. Semi-structured interviews were mostly used in this research. The advantage of a face to face interview is that the presence of an interviewer allows for complex questions to be explained, if necessary, to the interviewee.¹²⁶

1.15 Procedures

The researcher intended to invite selected members of the Namibia's different ethnic groups viz Lozi, Oshiwambo, Kavango, Herero, Tswana, *Damara*, *Nama* and *San* communities as well as senior government officials to participate in this study. Those that agreed to be interviewed were asked questions on why they think it is important for the government to develop and promote indigenous languages. Semi-structured interviews were thus used in this regard to obtain the relevant information from participants. The researcher aimed to interview five Chiefs and/or senior members of the said communities. However, this could not materialize. Three senior government officials/politicians were also interviewed to obtain information regarding the government's position with regard to the language issue. Moreover, one (representative from the Namibian Institute of Educational Development (NIED) as well as three academics from local universities were also interviewed.

¹²⁶ Phellas, C. N, Bloch, A, Seale, C. (2011) Structured Methods: Interviews, Questionnaires and Observation. p.183. Available online at: http://www.sagepub.com/sites/default/files/upm-binaries/47370_Seale_Chapter_11.pdf

1.16. Ethical issues

There are many ethical issues to be taken into serious consideration for research. I accepted the responsibility to secure the actual permission of all those involved in the study. Information obtained from interviewees was not misused in any way. I understood there was a duty upon me to protect the rights of people in the study as well as their privacy and sensitivity. The confidentiality of those involved in the observation was respected, keeping their anonymity and privacy secure. Interviewees who requested anonymity were granted this wish. Those interviewees who requested anonymity are cited as “anonymous” throughout the dissertation. Byram¹²⁷ notes that the “ethical issues of representing a group or institution to the outside world, even if anonymity can be guaranteed, are to some extent clarified if the actors have opportunity to comment.” Giacomini et al¹²⁸ refer to “member checking to establish whether the participants “viewpoints were adequately interpreted”. Moreover, I adhered to the university’s rules and regulations in relation to academic referencing. All the works from relevant authors were properly and adequately cited.

1.17. STRUCTURE OF THE DISSERTATION

Chapter 1: Introduction and background of the study

Chapter 1 provides a basic introduction to the dissertation, and contains the orientation of the study, the statement of the problem, objectives of the study, research questions, significance of the study, research methodology, literature review and research ethics.

¹²⁷ Byram, Michael (1985). Techniques in participant observation in a majority school, “ in Nelde (ed.), pp. 45-59.

¹²⁸ Giacomini, Mita K. and Deborah J. Cook (2000). Qualitative research in health care. Are the results of the study valid? JAMA, Vol. 284:3, pp. 357-362.

Chapter 2: The nature and evolution of language: the importance of language to humanity and its relationship with nationalism

Chapter 2 lays the foundation for the thesis by examining in detail the nature and evolution of language from an anthropological, biological, historical and socio-political perspective.

CHAPTER 3: Language situation in Africa: an assessment of legal, policy and mechanisms pertaining to the promotion of indigenous languages on the continent

Chapter 3 deals with the language situation in Africa. It focuses mainly on the linguistic history of Africa-from colonial times to the present. The chapter also explores legal and policy mechanisms that have been adopted by the African Union and other regional blocs in ensuring that African languages are accorded the same level of respect and prestige as those of the continent's erstwhile colonisers.

Chapter 4: Language rights under International Law

Chapter 4 investigates the role of International law in relation to the right to language. This chapter further interrogates the relationship between the right to language and self-determination. The case study of Rehoboth Basters of Namibia is explored in this regard.

Chapter 5: The language situation in Namibia: legal and policy framework

Chapter 5 deals with legislative and policy frameworks on linguistic and cultural rights in Namibia. The chapter scrutinizes the existing legal and policy framework by the Namibian state that expressly or impliedly protect and promote language rights. The constitution, policies, and other statutes are scrutinized to this effect.

Chapter 6. The role of language in socio-economic development of a country. A Namibian and African perspective

Chapter 6 advances the argument that there is a link between language and development. The chapter discusses the concept of development and as well as interrogating the role that indigenous languages can play to develop Africa.

Chapter 7: The intricacies of language policy and planning in Namibia and Africa in general

Chapter 7 is largely sociolinguistics in nature. Therefore, this chapter adds an interdisciplinary flavor to the dissertation. It specifically deals with language policy and planning in the Namibian and African perspective. It is in this chapter that the author discusses aims/goals of language planning and policies in the context of selected African countries. The chapter examines the strengths and weaknesses of such language policies.

Chapter 8: Mechanisms to preserve and promote indigenous African languages: A case study of Khoisan languages of Namibia.

Chapter 8 deals with mechanisms to preserve and promote indigenous African languages. Mechanisms aimed at reversing linguistic loss as applied in some other jurisdictions was discussed, analyzed and examined. Khoisan and other endangered languages are the center of discussions in this chapter.

Chapter 9: Conclusions and recommendations

Chapter 9 provides conclusions and recommendations of the dissertation as well as suggestions for further research.

CHAPTER 2: THE NATURE AND EVOLUTION OF LANGUAGE: THE IMPORTANCE OF LANGUAGE TO HUMANITY AND ITS RELATIONSHIP WITH NATIONHOOD.

2. 1 Introduction

This chapter discusses the nature, functions and evolution of language from an anthropological, historical and socio-political perspective. The role and importance of language in society is also discussed in this chapter. This chapter is crucial as it sets the stage for the interdisciplinary nature of this research. Therefore, Chapter 2 provides an overview of the relationship between language, history, sociology, anthropology and law. The chapter also underscores the relationship between language and the nation as well as theories of nationalism to this effect. The said relationship has been well pronounced in European history since the treaty of Westphalia in the early 17th century. The quest for independence vis a vis secession in several European states viz Spain (Catalonia) and Belgium (Flanders) is largely driven by unresolved language questions emanating from the political arrangements that came after the treaty of Westphalia.

2.2 Defining language

Before discussing the nature and evolution of language, it is imperative to define what language is. Language can be operationally defined as a communications system that permits the exchange of new, unanticipated information.¹²⁹ Whereas Wardhaugh defines language to be: “a knowledge of rules and principles and of the ways of saying and doing things with sounds,

¹²⁹ Lieberman, P. (1973) On the evolution of a language: A unified view. Paper prepared for the Ninth International Congress of Anthropological and Ethnological Sciences, Chicago, U.S.A, September 1973.

words, and sentences rather than just knowledge of specific sounds, words, and sentences.”¹³⁰ McWhorter¹³¹ describes Language as more than words; it is also how the words are put together, that is grammar. It also signifies the ability to use fluent, nuanced language is local to humans: bees, parrots, and chimps can approximate it but not with the complexity or spontaneity that comes naturally to us.

2.3 Functions of language

The functions of language include its purpose, its use and what it does.¹³² These include the following:

1. Informative function: communicating information, such as facts.¹³³
2. Expressive language function: reporting feelings or attitudes or evoking these feelings in the reader/listener¹³⁴.
3. Directive language function: using language to cause or prevent actions, such as in commands or requests.¹³⁵
4. Declaratives: Declarations or decrees that alter ‘real world’ conditions by utterances.¹³⁶
5. Representatives: Claims, reports, denials, affirmations, belief-assertions and other assertions that commit a speaker to the truth claim of a proposition.¹³⁷

¹³⁰ Wardhaugh, R. (1987) *Languages in Competition*. Basil Blackwell. London. p.90.

¹³¹ McWhorter, J. (2004) *The Story of Language*. p.3. Available online at: <http://www.emse.fr/~bsimon/documents%20p%E9dagogiques/p%E9dagogie/The%20story%20of%20language/TTC%20-%20Story%20of%20Human%20Language%20-%20John%20McWhorter/Story%20of%20Human%20Language%20-%20Course%20Guide.pdf>

¹³² Forms and functions of language. Available at: http://treasures.macmillanmh.com/assets/extras/0001/0367/Forms_and_Functions_FINAL.pdf

¹³³ Ibid.

¹³⁴ Ibid.

¹³⁵ Ibid.

¹³⁶ Searle, J.R., (1969), *Speech Acts: An Essay in the Philosophy of Language*. Cambridge: Cambridge University Press; Hatch, E., (1992), *Discourse and Language Education*. Cambridge: Cambridge University Press.

¹³⁷ Ibid.

2.4 The importance of language to humanity

Fishman states, language is the mind, spirit, and soul of a people. Every effort must be made to protect, preserve, promote, and practice our Indigenous/Aboriginal languages.¹³⁸ As stated by Fanon:¹³⁹

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

Below are some of the most important functions of language to humanity:

According to the belief of Aboriginal Australians, people, language, and land are closely connected.¹⁴⁰ Sutton, thus, states that: It is a general rule in Aboriginal Australia that languages are held to have originated when Dreamings (Ancestral Beings, totemic heroes) invested the land with meaning and human beings".¹⁴¹ Therefore, language can be said to be a gift from the ancestral beings.¹⁴² Language is "the necessary means of communion; it is the one indispensable instrument for creating the ties of the moment without which unified social action is impossible."¹⁴³

Language as a medium of instruction, mirrors one's identity and is an integral part of culture. According to Wa Thiongo language is regarded as the soul of culture.¹⁴⁴ The importance of language for ceremonies is elaborated on by Jocks, he opines: "the ceremonial life of a traditional people is threatened by language erosion.....when the most deep and far-reaching

¹³⁸ Fishman, J. (1996). What do you lose when you lose your language? In G. Cantoni (Ed.), *Stabilizing indigenous languages* pp.80-91. Flagstaff, AZ: Northern Arizona University. <http://www.ncbe.gwu.edu/miscpubs/stabilize/iii-families/lose.htm>.

¹³⁹ Fanon, F. (1967) *Black Skin, White Masks*. New York: Grove Press, Inc. p.17.

¹⁴⁰ Tsunoda, T. (2005) *Language Endangerment and Language Revitalisation: An Introduction*. Mouton de Gruyter. Berlin/New York. p.136.

¹⁴¹ Sutton, P. (1991) Language in Aboriginal Australia: Social dialects in a geographical idiom. In Suzanne Romaine (ed), 49-66.

¹⁴² Ibid.

¹⁴³ Diamond, A.S. (1959) *The History and Origin of Language*. Methuen and Co. Ltd., London, p.12.

¹⁴⁴ Wa Thiongo, N. (1986) *Decolonizing the mind, the politics of language in African Literature*.

forms of expression the people possess and the critical relationship they enliven, especially with other than human beings grow pale, lose significance and coherence, and begin to die”.¹⁴⁵ Jocks calls this phenomenon “cartooning”. That is, Jocks argues that without their language, they and their culture become cartoons.¹⁴⁶

Makoni and Trudell posit that in sub-Saharan Africa, language functions as one of the most obvious markers of culture.¹⁴⁷ Cultures are systems of symbols for the identification of a people and language is one of the most potent symbols in the network. Even when language shift has taken place, cultural identities remain despite the use of new linguistic codes of a Language of Wider Communication (LWC).¹⁴⁸ Culture is further said to be both a product and a source of creation. As Sekou Toure pointed out:

It is all the material and immaterial works of art and science, plus knowledge, manners, education, a mode of thought, behaviour and attitudes accumulated by the people both through and by virtue of their struggle for freedom from the hold and domination of nature; we also include the result of their efforts to destroy ... social systems of domination and exploitation through the productive process of social life.¹⁴⁹

Language is a means of expression and allows a person to participate in community activities. It can be used as a medium of fostering a democratic culture. In this sense, language policy plays a vital role in the process of democratic transition.¹⁵⁰ In this view, language is above all

¹⁴⁵ Jocks, C. (1998) Living words and cartoon translations: Longhouse texts and the limitations of English. In Lenore A. Grenoble and Lindsay J. Whaley (eds), 217-233.

¹⁴⁶ Ibid.

¹⁴⁷ Makoni, S. and Trudell, B. (2006) ‘Complementary and conflicting discourses of linguistic diversity: Implications for Language Planning. pp. 14-28.

¹⁴⁸ Emananjo, E. N (2002) Language Policies and Cultural Identities. p.10. Available online at: http://www.linguapax.org/wp-content/uploads/2015/07/CMPL2002_Plenari_EEmananjo.pdf

¹⁴⁹ Toure, S. (1972), ‘a Dialectal Approach to Culture’, in Woodie King and Earl Anthony (eds), *Black Poets and Prophets* (New York: Mentor Books, 1985). See also Ntuli, P. (1999) *The Missing Link between Culture and Education: Are We Still Chasing Gods that are not Our Own?*, in Makgoba, M.W (ed), *African Renaissance: The News Struggle*. (Mafube Publishing Limited, 1999).

¹⁵⁰ See the role of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) on language protection. Available online at: <http://portal.unesco.org/education/ev.php>

an instrumental tool for communication, and linguistic homogeneity facilitates market cooperation and political unification. Here value is assigned to the smooth operation of the market and the political state, and linguistic diversity is seen as generally imposing costs rather than benefits to society.¹⁵¹

The importance of language in African societies was further recognized in *Malawi African Association and Others v Mauritania*¹⁵² para 136, where the African Commission on Human and Peoples' Rights established that:

Language is an integral part of the structure of culture; it in fact constitutes its pillar and means of expression par excellence. Its usage enriches the individual and enables him to take an active part in the community and its activities. To deprive a man of such participation amounts to depriving him of his identity.

Languages are also valuable as collective human accomplishments and on-going manifestations of human creativity and originality. This is buttressed by the argument for language preservation by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) that:

The world's languages represent an extraordinary wealth of human creativity. They contain and express the total 'pool of ideas' nurtured over time through heritage, local traditions and customs communicated through local languages.¹⁵³

Education and language are closely interrelated because the content of education is passed on through the medium of language. Education is a dynamic process which helps to mould the

¹⁵¹ Paz, M. (undated) *The Tower of Babel: Human Rights and the Paradox of Language*. p.3. Available online at: web.law.columbia.edu/sites/.../the_tower_of_babel_moria_paz.docx

¹⁵² *Malawi African Association and Others v Mauritania*¹⁵² (2000) AHRLR 149 (ACHPR 2000) para 136.

¹⁵³ *Ibid.*

personality, the character and behaviour of a person in a positive direction. It helps young people to mould themselves and carve a niche for themselves in society.¹⁵⁴

According to Ottaway, "Education is the process of preparing people to fit into this complex social structure, and to play particular social roles as members of more than one institutional group."¹⁵⁵ Moreover, language is also seen by many aboriginal peoples as a source of sovereignty. According to Littlebear, "language is a basis of sovereignty", and "our land base and sacred practices are passed on through our languages, not by English, the language spoken by people who killed our people and oppressed our languages".¹⁵⁶

2.5 Language and Nationalism

The link between language and nationalism is indelible. Most nation states, especially those in the western world were formed as a result of this relationship. Linguistic nationalism has defined the history of Europe since ancient times and continues to do so in contemporary times. It is important to note that language has not always been directly linked to national identity.¹⁵⁷ The transformation in the sixteenth century from using Latin as the language of government and authority to using the vernacular (the language spoken by the ordinary people of any given region) was vital in constructing this link.¹⁵⁸

¹⁵⁴ The importance of language in society. Available at:

http://shodhganga.inflibnet.ac.in/bitstream/10603/29223/17/9_chapter%201.pdf

¹⁵⁵ Ottaway, A.K.C. (1962) *Education and Society. An Introduction to the Sociology of Education*. Routledge and Kegan Paul, London, Second Edition, p. 13.

¹⁵⁶ Littlebear, R. (1999) Some rare and radical ideas for keeping indigenous languages. In Jon Reyhner, Gina Cantoni, Robert N. St. Clair, and Evangeline Parsons Yazzie (eds). pp. 1-5.

¹⁵⁷ Rezakhanl, K. (2018) Language nationalism One nation, one language? *Babel. The Language Magazine*. p.1. Available at: <https://babelzine.co.uk/wp-content/uploads/2018/11/No25-Article-Language-and-nationalism.pdf>

¹⁵⁸ Ibid

2.6 Defining the nation

Defining the “nation” continues to be a hot debate amongst many scholars¹⁵⁹. There is no agreed definition of what constitutes a nation. However, Smith attempts to define “nation” as follows: Definitions of the nation range from those that stress ‘objective’ factors, such as language, religion and customs, territory and institutions, to those that emphasize purely ‘subjective’ factors, such as attitudes, perceptions and sentiments.¹⁶⁰ Smith further defines a nation as: “A named human community occupying a homeland, and having common myths and a shared history, a common public culture, a single economy and common rights and duties for all members.”¹⁶¹

2.7 Defining Nationalism

According to Calhoun Nationalism is too diverse to allow a single theory to explain it all. Much of the contents and specific orientation of various nationalisms is determined by historically distinct cultural traditions, the creative actions of leaders, and contingent situations within the international world order.¹⁶² A growing group of liberal authors argue that a theory of nationalism is implicit in liberalism.¹⁶³ Liberalism and nationalism are mutually reinforcing ideals: ‘As nationalism needs liberalism to tame it and to set moral constraints on it, so liberalism needs nationalism in order to achieve its ends.’¹⁶⁴ According many liberal nationalists, social justice and democracy are best realized within the context of a national

¹⁵⁹ Van Efferink. L. (2015) Nation, nationalism and state – Modernism, Ethno-Symbolism, Primordialism.p.1. Available at:

http://www.exploringgeopolitics.org/publication_efferink_van_leonhardt_nations_nationalism_states_modernism_ethno_symbolism_primordialism_perennialism_identity_ethnies_vernacular_languages_industrialisation/

¹⁶⁰ Smith, A. D. (2001), Nationalism (Cambridge: Polity). p.11.

¹⁶¹ Ibid, p.13

¹⁶² Calhoun, C. (1997) Nationalism. Minneapolis, University of Minnesota Press. p.123.

¹⁶³ Vandeveld, T, Van Parijs, and Degryse, A. (undated) The Borders of Nationalism and Patriotism: Cosmopolitanism according to KoK-Chor Tan. Paper for the Seminar on Ethics and Public Policy.p.9. Available at: <http://www.uclouvain.be/cps/ucl/doc/etes/documents/Degryse.pdf>

¹⁶⁴ Tan, K.C. (2004) Justice without Borders. Cosmopolitanism, Nationalism and Patriotism. Cambridge, Cambridge University Press. p. 85.

culture. Kymlicka for example writes that ‘there must be some sense of common identity and common membership uniting donor and recipient, such that sacrifices being made for anonymous others are still, in some sense, sacrifices for ‘one of us.’¹⁶⁵

On the other hand, Smith considers five usages essential in the modern academic debate on what constitutes Nationalism:

- (1) a process of formation, or growth, of nations;
- (2) a sentiment of consciousness of belonging to the nation;
- (3) a language and symbolism of the nation;
- (4) a social and political movement on behalf of the nation;
- (5) a doctrine and/or ideology of the nation, both general and particular.¹⁶⁶

Hearn states that nationalism can take five forms: “feeling”, “identity”, “ideology;”, “social movement” and “historical process.”¹⁶⁷ He acknowledges that nationalism can take all these forms at once, but stresses that most approaches focus on some of these forms.¹⁶⁸

African nationalism yet again differs from that proposed by western scholars:

African nationalism is a feeling among the African people. It is not only a feeling against something, but also for something. It is a feeling against European rule.....This is the fundamental feeling of African nationalism-the African feeling against Eurocracy, in favour of Afrocracy.....African nationalism is therefore essentially a political feeling.¹⁶⁹

¹⁶⁵ Kymlicka, W. (2001) *Politics in the Vernacular: Nationalism, Multiculturalism and Citizenship*. Oxford, Oxford University Press. p. 225.

¹⁶⁶ Smith, supra note 160. pp. 5-6.

¹⁶⁷ Hearn, J (2006) *Rethinking Nationalism: A critical Introduction* (Basingstoke: Palgrave). p.6

¹⁶⁸ See also Gellner, E (2006), *Nations and Nationalism*, 2nd ed. (Oxford: Blackwell Publishing; Hobsbawm, E.J. (1992), *Nations and Nationalism since 1780: Programme, Myth, Reality*, 2nd ed. (Cambridge: Cambridge University Press); Connor, Walker (1994), *Ethno nationalism – The Quest for Understanding* (Princeton: Princeton University Press).

¹⁶⁹ Paulston, C.B. (1994) *Linguistic minorities in multilingual settings: implications for language policies*. John Benjamins Publishing Company. Amsterdam. p.34.

On the same subject matter, Fanon justifies liberation struggle as a legitimate means of espousing nationalism. He opines:

Individual experience, because it is national and because it is a link in the chain of national existence, ceases to be individual, limited, and shrunken and is enabled to open out into the truth of the nation and of the world. In the same way that during the period of armed struggle each fighter held the fortune of the nation in his hand, so during the period of national construction each citizen ought to continue in his real, everyday activity to associate himself with the whole of the nation, to incarnate the continuous dialectical truth of the nation and to will the triumph in his completeness here and now.¹⁷⁰

Nkrumah, Ghana's first post-independence President and staunch pan Africanist proffered that nationalism was also inseparable from the idea of race consciousness among the colonised and their shared experience of dehumanisation and humiliation by the white race. Within nationalism, it is asserted that each nation has a right to self-determination within the economic as well as political spheres of existence.¹⁷¹

Similarly, on the intricacies surrounding African nationalism, Rodney rebuts the narrative that colonialists developed nationalism in Africa. According to Rodney this is a superficial and mischievous claim, which entirely ignores the numerous states in Africa on the eve of colonisation, and the direction of their evolution.¹⁷² Nationalism is a certain form of unity which grows out of historical experience. It is a sense of oneness that emerges from social groups trying to control their environment and to defend their gains against competing groups. The nation-state also imposes order and maintains stability within its own boundaries, usually

¹⁷⁰ Fanon, F. (1968) *The Wretched of the Earth*. Trans. Constance Farrington. New York: Grove Press p.200. For more insight on Fanon's exposition on nationalism, see Lazarus, N. (1999) *Nationalism and Cultural Practice in the postcolonial world*. Cambridge University Press.

¹⁷¹ Nkrumah, K. (1961). *I Speak of Freedom: A Statement of African Ideology*. New York: Praeger. p.162.

¹⁷² Walter, R. (1972) *How Europe underdeveloped Africa*. Pambazuka Press. p.222.

on behalf of a given class. All those characteristics were present in nineteenth century African states, some of which were much larger than the colonies arbitrarily defined by Europeans.¹⁷³

Kohn points out that while all instances of nationalism will vary according to history and culture, present social structure and geographical location, all forms of nationalism still share certain traits.¹⁷⁴ Looking at it from another spectrum, Cottam insists that nationalism not be dealt with as a thing reified but rather interpreted as a manifestation of nationalistic behavior.¹⁷⁵ To support his argument, Cottam defines a nationalist as “an individual who sees himself as a member of a political community, a nation that is entitled to independent statehood, and is willing to grant that community a primary and terminal loyalty.”¹⁷⁶

Van der Veer cites an example of Hindu nationalism in India and its impact on the politics of the state there. Hindu nationalists in India seek to redefine India as a state founded on Hindutva or Hinduness, a state of and for Hindu ethnoreligious ‘nation’.¹⁷⁷ The origins of Hindutva or militant and revivalist Hindu chauvinism can be traced back to the early 20th century British rule in India. Hinduism is a religion unlike others, especially the Abrahamic faiths, in that you are born a Hindu, but you cannot be converted into one through any ceremony. There is also no fundamental creed or any book or books which every Hindu should know or recite. The basis for the spread of Hinduism across the Indian subcontinent was its pluralism, its acceptance of differences and its catholicity.¹⁷⁸

¹⁷³ Ibid.

¹⁷⁴ Kohn, H. (1968) “Nationalism”. International Encyclopaedia of the Social Sciences. New York. Crowell, Collier and MacMillan. p.64.

¹⁷⁵ Cottam, R. W. (1964) Nationalism in Iran. Pittsburgh: University of Pittsburgh Press. p.3.

¹⁷⁶ Ibid.

¹⁷⁷ Van der Veer, P. (1996). The Ruined Center: Religion and Mass Politics in India. *Journal of International Affairs*, 50(1), 254-277. Retrieved from www.jstor.org/stable/24357412 . See also Van der Veer, P. (1994) Religious Nationalism. Hindus and Muslims in India. Berkeley, CA, University of California Press.

¹⁷⁸ Aparna Pande. “Secular India v. Hindu Nationalism”. The Huffington Post. 07 March 2015. Available at: http://www.huffingtonpost.com/aparna-pande/secular-india-v-hindu-nat_b_6397778.html

However, there were Hindus who increasingly believed that their polytheistic faith lacked the wherewithal to face monotheistic faiths. A conservative backlash within Hinduism started which led to the creation of various organizations, some educational and cultural and others political. In 1909 a pamphlet titled 'Hindus: A Dying Race' was published which made the absurd argument that Hindus would soon become a minority and Muslims would become the majority in India.¹⁷⁹ This unqualified use of 'nation' can be misused to exclude Muslim members and other religious minorities from membership of the nation, just as similar claims to 'ownership' of the state in the name of an ethnocultural core nation exclude other ethnoreligious, ethnolinguistic, or ethnoracial groups in other settings.¹⁸⁰

Despite calls from Hindu hardliners to make Hindi the sole official language of India, the Supreme Court of the country has from time to time evolved certain proportions while delivering its judgments on minority questions and the cultural rights of such communities.¹⁸¹

In one ruling, the court stated that:

Even though Hindi is the national language of India and Article 351 provides a special directive upon the state to promote the spread of Hindi, nevertheless, the objective cannot be achieved by any means which contravenes rights guaranteed by Article 29 or 30, that is cultural and educational rights of minorities.¹⁸²

2.8 Language and nation state formation

Language has a big influence on national identity, but just how big a role language plays in nation-state formation is still debated. Countries like Wales, the autonomous region of Iraqi

¹⁷⁹ Ibid.

¹⁸⁰ Brubaker, R. (1996) *Nationalism Reframed: Nationhood and the National Question in the New Europe*. Cambridge, Cambridge University Press. p.15

¹⁸¹ Vrajendra Raj Mehta, *Linguistic Rights in India*. In Niec, H. (ed) *Cultural Rights and wrongs. A collection of essays in commemoration of the 50th anniversary of the Universal Declaration of Human Rights*. Institute of Art and Law. UNESCO Publishing. p.127.

¹⁸² Ibid.

Kurdistan are examples of strong support for a language despite a lack of mobilization for political independence. There are strong programs to support the language through education of children in Welsh, societies devoted to Welsh language music, and other non-political means, but little evident desire for more power being devolved to the principality.¹⁸³

The three main theories on national identity - essentialism, constructivism and ethno-symbolism - all have different views on what national identity is, how it came into existence, what the main national symbols are and most importantly, which role language plays in national identity.¹⁸⁴ Jarach states that essentialism is the idea that there exists some detectable and objective core quality of particular groups of people that is inherent, eternal, and unalterable; groupings can be categorized according to these qualities of essence, which are based on such problematic criteria as gender, race, ethnicity, national origin, sexual orientation, and class. These external qualities are almost always marked by visual cues, making the categories more obvious and/or easier to notice.¹⁸⁵

On the other hand, Ethno-symbolism, concentrates on the symbols which define the nation's heritages and distinguish them from other nations. Therewith, it enables the readers to understand nationalism through the exploration of symbolic features and particular dimensions.¹⁸⁶ According to Cahan¹⁸⁷ The constructivist view with regard to national identity

¹⁸³ Young, M. (2011) Language and Nation: An Analysis of Croatian Linguistic Nationalism. A Thesis presented to the Faculty of San Diego University in Partial Fulfilment of the Requirements for the Degree of Masters of Arts in Political Science. pp.39-41. Available at:

http://scholarworks.calstate.edu/bitstream/handle/10211.10/1223/Young_Mitchell.pdf?sequence=1; see also Nguyen, Y, Reeves, R, Hossfeld, C.M, Karditzas, A and Williams, B. (2013) Understanding Wales: Nationalism and Culture. Colonial Academic Alliance Undergraduate Research Journal. Vol.4.

¹⁸⁴ Espersen, M. B. (2012) Multilingualism in Belgium and Switzerland: A comparative analysis of the two countries' linguistic conflicts and the significance of language to national identity.p.12.

¹⁸⁵ Jarach, L. (2004) Essentialism and the Problem of Identity Politics. p.1. Available online at:

<https://theanarchistlibrary.org/library/lawrence-jarach-essentialism-and-the-problem-of-identity-politics>

¹⁸⁶ Smith, A. D (2009) Ethno-symbolism and Nationalism; A Cultural Approach. Routledge: USA & Canada.p.23.

¹⁸⁷ Cahan, J. A. (2019) National identity and the limits of constructivism in international relations theory: a case study of the Suez Canal. Journal of Association for the Study of Ethnicity and Nationalism. 25 (2), pp. 478–498.

holds, principally, that nations and nationalism, which emerged as such in the second half of the nineteenth century, were and continue to be largely the result of conscious construction, and sometimes fabrication, by governing classes, especially in Europe. Koestler¹⁸⁸ described the descendants of the biblical tribes as ‘the classic example of linguistic adaptability’, in which a strong and continuing sense of group identity outlived repeated shifts in communicative language: First they spoke Hebrew; in the Babylonian exile, Chaldean; at the time of Jesus, Aramaic; in Alexandria, Greek; in Spain, Arabic, but later Ladino—a Spanish-Hebrew mixture written in Hebrew characters, the Sephardi equivalent of Yiddish; and so it goes on. They preserved their religious identity but changed languages at their convenience.¹⁸⁹

The strong link between language and nationality was first explored in the works of the eighteenth-century German Romantics such as Johann Gottlieb Fichte and Johann Gottfried von Herder. These philosophers defined the linguistic and cultural identity of the German nation, and their ideas were immensely influential in shaping nationalist movements throughout Europe.¹⁹⁰ The German Romantics believed that national communities are natural and unique. They argued that even if these communities should forget their true identities, they could reclaim their authentic selves through an “awakening of consciousness.”¹⁹¹

Language plays an essential role in the process of reclaiming one’s true nature. Herder believed that language was synonymous with thought and was to be learned in a community. Since every language is unique, he reasoned that each community had its own mode of thought and the

¹⁸⁸ Koestler, A. (1976) *The Thirteenth Tribe*. London: Hutchinson. p.157.

¹⁸⁹ Ibid.

¹⁹⁰ Cemiloglu, D. (2009) *Language Policy and National Unity: The Dilemma of the Kurdish Language in Turkey. A Case Study on Language Policy between 1924-2009*. A senior honours thesis submitted to the Department of Political Science pp. 6-9. Available at:

<http://repository.upenn.edu/cgi/viewcontent.cgi?article=1115&context=curej>

¹⁹¹ Smith, A.D. (1971) *Theories of Nationalism* (New York: Harper & Row) p.17.

community is the sum of these modes of expression.¹⁹² In his essay *Treatise on the Origins of Language*, Herder wrote:

Every nation has its own storehouse of thought rendered into signs; this is its national language: a store to which the centuries have added, that has waxed and waned like the moon, that has experienced revolutions and transformations, [language is] the treasury and the thought of an entire people.¹⁹³

Nationhood is the most primary unit in politics: it is perhaps “the most universally legitimate value in the political life of our time.”¹⁹⁴ Anderson¹⁹⁵ argues that a nation is simply an “imagined community”: imagined because the members of even the smallest nation are unknown and anonymous to one another, yet the image of their fellow citizens’ communion is undoubtedly in the minds of each one’s life. Anderson further states that the existence of the community or nation is often *imagined through language* and thus stresses the role of language in imagining and creating the nationhood.¹⁹⁶

2.9 Language, Identity and Nationalism: A Case study of Quebec and Catalonia

Of the relationship between Language, identity and nationalism, three case studies present an enduring legacy of the complexities of what constitutes a nation, that is, a nation within a nation. The case studies of Quebec and Catalonia attempts to dissect this problem.

2.9.1 Quebec

Another flashpoint when it comes to language nationalism is the Canadian province of Quebec. Quebec is the only official language of the province and the local authorities have tried

¹⁹² Ozkirimli, U. (2000) *Theories of Nationalism A Critical Introduction* (New York: Palgrave Macmillan,) p.18

¹⁹³ Morton, M. (1989) *Herder and the Poetics of Thought* (Pennsylvania State UP,) p.135.

¹⁹⁴ Anderson, B. (1991) *Imagined Communities: Reflections on the Origins and Spread of Nationalism*. 1st and revised editions. London and New York: Verso.p. 3.

¹⁹⁵ Ibid.

¹⁹⁶ Ibid.

everything in their power to prevent English from usurping the importance of the French language. Linguistic conflict between French and English-speaking Canadians has been brewing since the British conquest of the then New France (Quebec) in 1759.¹⁹⁷ The said conflict has taken many forms in the past centuries. Critical of these forms involved the question of religious and linguistic civil rights to economic dominance.¹⁹⁸

Immediately after the British conquest was complete, the language of business, the workplace and social integration was essentially to be English. It was not until the rebellious mindset of the Quiet Revolution and, more specifically, the reactions to the 1965 findings of the Laurendeau-Dunton Commission on Bilingualism, particularly concerning the extent of bilingualism in the federal administration, that French-speaking Quebecers began to clamour for the right to live in French in the various spheres of their society.¹⁹⁹

Anglophones fought to preserve their rights while more and more French-speaking Quebecers lobbied for better protection of their language, particularly with regard to the *francisation* of immigrants. That edict, introduced by Robert Bourassa and his Liberal government, was meant to remove any ambiguity about language in the province. It was known as Bill 22, the precursor to Bill 101 that came three years later.²⁰⁰ In *McIntyre v. Canada*,²⁰¹ members of the English-speaking minority of Quebec brought suit against the province whose legislation aimed at protecting the French language restricted the complainants from certain uses of the English

¹⁹⁷ Fenwick, R. (1981) "Social Change and Ethnic Nationalism: An Historical Analysis of the Separatist Movement in Quebec. *Comparative Studies in Society and History*, Vol. 23, No. 2. pp.196-216. Available at: http://homepage.univie.ac.at/herbert.preiss/files/Fenwick_Social_Change_and_Ethnic_Nationalism_An_Historical_Analysis_of_the_Separatist_Movement_in_Quebec.pdf.

¹⁹⁸ Ibid.

¹⁹⁹ Noël, M. (undated) Language conflict in Québec. Available at: http://www.mccord-museum.qc.ca/scripts/explore.php?Lang=1&elementid=103_true&tableid=11&contentlong

²⁰⁰ See Bill 101 (Charte de la langue française). Available at: <http://www.thecanadianencyclopedia.ca/en/article/bill-101/>.

²⁰¹ *McIntyre v. Canada Communications Nos. 359/1989 and 385/1989*, U.N. Docs. CCPR/C/47/D/359/1989 and 385/1989/Rev.1,5 May 1993.

language in commercial advertising. The Human Rights Committee was not prepared to consider the complaint as a potential violation of Article 27 on the ground, explaining in an unusual number of separate opinions, that Article 27 did not apply to a language group that was the majority group in the country as a whole despite its being a minority in the jurisdictional unit in question. However, the majority of the Committees' members agreed with the finding that the measures in question violated Article 19(2) of the Covenant protecting freedom of expression.

2.9.2 Catalonia

Catalan is a language spoken in the Spanish Autonomous Community, Catalonia. Catalan has been spoken in Catalonia since the language first emerged in the 4th century AD as a result of the spread of the Roman Empire into the Iberian Peninsula.²⁰² Catalan is classified as a Romance language developed in the Pyrenees Mountains between Spain and France during the eighth and ninth centuries. It falls under the Ibero- Romance family and is the only “East Iberian” language. Its closest relative is not Castilian Spanish but Occitan, a much smaller language spoken in southern France.²⁰³

The concepts of nationalism and Catalanism have played a powerful role within the Catalan context and they have been used by supporters as well as opponents of Catalan nationhood.²⁰⁴

²⁰² Penny, J.N. (2013) Language Policy and Planning in Spain: A Case study of Accessibility of Education, Employment, and Social Services in Catalonia.p.3 A thesis submitted in partial fulfillment of the requirements of the Research Honors Program in the Department of Modern Languages at Marietta College. Available at: https://etd.ohiolink.edu/rws_etd/document/get/marhonors1367240234/inline

²⁰³Fowler, S. (2014) Catalan in the Classroom: A Language Under Fire. pp. 104-105. *Hawaii Pacific University TESOL Working Paper Series Volume 12*, 104-115. Available at: http://www.hpu.edu/CHSS/English/TESOL/ProfessionalDevelopment/2014_TWP12/TESOL_WPS_2014_Fowler.pdfhttp://www.hpu.edu/CHSS/English/TESOL/ProfessionalDevelopment/2014_TWP12/TESOL_WPS_2014_Fowler.pdf

²⁰⁴ Hoffmann, C. (2000) “Balancing Language Planning and Language Rights: Catalonia’s Uneasy Juggling Act.” *Journal of Multilingual and Multicultural Development*. pp. 425 – 441. Available online at:

Recent debate in Catalan society shows that this still holds true even though now there is less insistence on a causal relationship between language and national identity. Furthermore, Catalanism has always fed from political opposition against the imposition of Spanish, which encouraged Catalans to adopt “the role of the unjustly treated underdog”.²⁰⁵

2.9.3 The impact of the 1978 Spanish Constitution

The 1978 Spanish Constitution recognizes, the Basque Country, Catalonia, and Galicia as three ‘historical nationalities’ within the Spanish State. They are seen, therefore, as minority stateless nations characterized by a ‘differential fact’ (*hecho diferencial*) or, in other words, as ‘distinct societies’.²⁰⁶ After 15 years of widespread political decentralisation, the political and spatial reorganisation brought about by the progressive consolidation of the Spanish *Estado de las Autonomías* is in line with a model of ‘multiple ethno- territorial concurrence.’²⁰⁷ This model relates socio-political ethno territorial mobilisation to the competitive interplay among Spanish nationalities and regions pursuing political and economic power, as well as to the achieving legitimisation for their institutional development.

2.9.4 The Catalan language and the quest for independence.

A distinct language and traditions have always played a crucial role in defining the Catalan identity. The fact that Catalan language is as equally used or even more used as Spanish in Catalonia in all societal, cultural and political arenas or unique regional traditions have always

http://usir.salford.ac.uk/1349/1/Microsoft_Word_-_Balancing_Language_Planning_Language_Rights_JMMD_article_.pdf

²⁰⁵ Pym, A. (1999) Resplendent Catalan. *The Linguist*, 38, 3, pp. 80-82.

²⁰⁶ Moreno, L, Arriba, A and Serrano, A. (undated) Multiple identities in decentralized Spain: The case of Catalonia.P.8. Instituto de Estudios Sociales Avanzados (CSIC) Working Paper 97-06. Available online at: <http://digital.csic.es/bitstream/10261/2021/1/dt-9706.pdf>

²⁰⁷ Moreno, L (1995) ‘Multiple Ethno territorial Concurrence’, *Nationalism and Ethnic Politics*, Vol. 1, No. 1, pp.11-32.

fostered the creation of a Catalan identity.²⁰⁸ Catalan National Day has long been used to mobilize the masses in support of secession from Spain. Catalonia shares cultural traits with the rest of Spain, but many Catalans feel their customs, especially their language, set them aside from the rest of Spain.²⁰⁹ At the same time, it is true that not all regions in Spain follow a homogenous cultural pattern at all; every community has its own exclusive traditions, but Catalans have never felt identified with what could be considered commonly widespread customs in the country. For instance, Catalonia is the only region in Spain that currently forbids bullfighting.²¹⁰

2.9.5 Catalonia's independence bid 2017

As alluded to above, nationalism in Catalonia was linked to both the peasantry and part of the modernising bourgeoisie. The region simultaneously experienced industrialisation (it borders France, with a weak Spanish state but a large internal market) and a so-called 'cultural renaissance'.²¹¹ During the 20th century, Catalan economic growth attracted large-scale immigration from all over Spain. While Catalans only account for around 16 % of Spain's population, the region is wealthy and accounts for 19% of GDP.²¹²

Contrary to a widespread perception, the Castilian (Spanish) language spoken more in everyday use than Catalan. In Barcelona and other urban areas, 75% of the population usually speak

²⁰⁸Adriana Diaz Martin Zamorano. "Why do Catalans want to be independent?". Pandeia. Available online at: <http://pandeia.eu/region/mediterranean/spain/why-do-catalans-want-to-be-independent/>

²⁰⁹Marisol Medina. 'Catalan separatists rally in Barcelona to support secession'. Associated Press. 12 September 2016. Available online at: <https://www.yahoo.com/news/catalan-separatists-rally-barcelona-support-secession-184039253.html>

²¹⁰ Ibid.

²¹¹ Catalonia's independence bid: how did we get here? What is the European dimension? What next?. Available online at: <http://www.realinstitutoelcano.org/wps/wcm/connect/c0f90dae-76d1-4a8e-8f78-0058f048a44b/Catalonia-Dossier-Elcano-October-2017.pdf?MOD=AJPERES&CACHEID=c0f90dae-76d1-4a8e-8f78-0058f048a44b>

²¹² Ibid.

Spanish, while Catalan is employed to a greater extent in the countryside. A full 99% of Catalans can understand Spanish and 95% are familiar with Catalan.²¹³

The region enjoys a high degree of self-government regulated by the 2006 Catalan Statute. Despite the Constitutional Court ruling in 2010 that certain articles were unconstitutional (dealing with the organisation of an autonomous judiciary and some political effects of its self-recognition as a ‘nation’), Catalonia has extensive powers in:

1. Civil law, police, culture, language, education, health care, agriculture, fisheries, water, industry, trade affairs, consumer affairs, savings banks, sports, historic heritage, environment, research, local government, tourism, transport, media and a wide range of other issues.²¹⁴
2. Catalonia also has its own tax collection system, although most tax revenues –and social security benefits– are mainly controlled by the central government. Although foreign policy is an exclusive power of the central government, the regional government has its own external action and a strong network of offices abroad.²¹⁵

In October 2017, Catalonians voted overwhelmingly for independence from Spain. The Catalan parliament enacted its own law in a vote on 6 September. There was just one question on the ballot paper: *"Do you want Catalonia to become an independent state in the form of a republic?"* Under the controversial law, the result is binding. The Spanish government reacted by asking Spain's constitutional court to suspend the Catalan law, it also moved to take control of the region's finances and policing.²¹⁶ Catalonia's government said 90 percent of those who

²¹³ Ibid.

²¹⁴ Ibid.

²¹⁵ Ibid.

²¹⁶ Catalonia referendum: Does the region want to leave Spain? Available online at: <http://www.bbc.com/news/world-europe-29478415>

voted in an unauthorised independence referendum chose to split from Spain. On a day marred by clashes between police and voters, apparently, 2.26 million people took part in the referendum. According to the regional government this figure represents a turnout of 42.3 percent of Catalonia's 5.34 million voters.²¹⁷

2.10. Conclusion

The true origins of language have not really been determined. Though it is now acknowledged that the evolutionary explanation for linguistic diversity was discovered some time before Darwin's parallel discovery of evolution by natural selection in biology, however, his (Darwin) refined theories on the subject matter tend to be widely accepted by modern scholars. The definition of language is also not universally accepted. This chapter provided notable definitions on what language is and on how such definitions help us to understand its origin.

The importance of language to society cannot be underestimated. It is through language that thousands of years of human knowledge is preserved. Language is indeed an obvious marker of identity. All cultural and religious attributes of any given society are imbedded in language. This chapter further pointed out the common ground between language and nationalism by analysing various theories of what constitutes a nation under international law. The divisive issue of Catalonia's quest for self-determination vis a vis secession from Spain is used as perfect example pertaining to the relationship between language and nationalism. The 2017 bid for Catalonia's independence from Spain highlights how determined some of the region's inhabitants are in "freeing" themselves from centuries of Spanish rule. The crisis in Catalonia is a test case for similar secessionist movements across Europe. A discussion on other case

²¹⁷ Hannah Strange and James Badcock "Catalonian referendum violence plunges EU into crisis as '90 percent of voters back independence". The Telegraph. 02 October 2017. Available online at: <http://www.telegraph.co.uk/news/2017/10/01/eu-crisis-catalonian-referendum-descends-violence/>.

studies on the relationship between nationalism and language namely Quebec (Canada), similarly revealed the complexities surrounding the said relationship.

CHAPTER 3: LANGUAGE SITUATION IN AFRICA: AN ASSESSMENT OF LEGAL, POLICY AND MECHANISMS PERTAINING TO THE PROMOTION OF INDIGENOUS LANGUAGES ON THE CONTINENT

3.1 Introduction

Chapter 3 gives a detailed and critical overview of the language situation and history of Africa. It explores the different classification of African languages from a geopolitical, historical as well as sociological perspective. To effectively understand the language situation in Africa, the chapter begins with the general linguistic history of Africa. It is estimated that about 3000 languages are spoken in Africa, of which only a few have been recognized as either national or official at state level. In some Western academic discourses, wars, poverty, famine, primitiveness, savagery and other human afflictions are what often characterize Africa and its people. Moreover, this negative image of Africa is made worse by the fact that human rights ideas and philosophies are in most instances propagated to Africans using European languages, languages of our erstwhile colonisers instead of local indigenous languages. This unfortunate state of affairs has not only vitiated the role that African languages can play in promoting and protecting human rights as well develop the continent economically, but rather continues to perpetuate the falsehood that the continent is devoid of critical thinkers. Undoubtedly, indigenous African languages are gifted with spatial thinking, critical thinking, creativity, effective communication skills, and problem-solving abilities for users of those languages and their application in socio-economic disciplines and philosophy will make a difference in the lives of its citizens. The chapter further explores legal, policy and other mechanisms adopted by regional bodies and/or organisations whose principal goal is to revitalise and accord indigenous languages the same respect and prestige as European languages.

3.2 The history of language in Africa: from colonial times to the present

Africa is home to a variety of linguistic groups. It is this linguistic diversity that makes Africa a unique continent. However, it is Africa's linguistic diversity which has the potential to propel the continent to greater socio-economic heights. Contrary to criticisms levelled against multilingualism, this author is therefore of the opinion that Africa's linguistic diversity is a blessing rather than a curse. The languages of Africa can be divided into 5 language families: 1) Congo-Kordofanian, 2) Nilo-Saharan, 3) Afro-Asiatic, 4) Khoisan and 5) Malayo-Polynesian from Madagascar. The Congo-Kordofanian and the Afro-Asiatic groups have many common cultural and historical ties, and together they account for almost three-fourths of all the languages of Africa.²¹⁸ However, Greenberg,²¹⁹ a notable African language expert, has often been criticised for only recognising four language groupings (Niger-Kordofanian, Afro-asiatic, Khoisan, Nilo-Saharan) as "a complete genetic classification of the languages of Africa to the exclusion of Malayo-Polynesian from Madagascar and Afrikaans.

Sands²²⁰ rebuts this picture of African languages projected by Greenberg as inadequate for several reasons. He opines: First of all, it ignores the continent's 27 or so sign languages, which belong to a minimum of eight unrelated lineages. Second, it ignores languages which belong to language families spoken primarily outside of Africa such as Indo-European and Austronesian. This means that Afrikaans and Malagasy are not considered to be 'African' languages, even though the majority of speakers of those languages live in Africa.²²¹ Also, a number of language isolates have been identified which were not identified by Greenberg.

²¹⁸ Lodhi, A (1993) The Language Situation in Africa Today." Nordic journal of African studies. p. 1. Available at: <http://www.njas.helsinki.fi/pdf-files/vol2num1/lodhi.pdf> Accessed on 7 November 2017.

²¹⁹ Greenberg, J. H. (1963). The languages of Africa. Bloomington, IN: Indiana University. p.1

²²⁰ Sands, B. (2009) Africa's Linguistic Diversity. *Language and Linguistics Compass*.pp. 559–580. Available at: [http://www.dcl.ish-](http://www.dcl.ish-lyon.cnrs.fr/Projets/Clhass/PageWeb/ressources/Classification/sands2009%20Linguistic%20diversity.pdf)

[lyon.cnrs.fr/Projets/Clhass/PageWeb/ressources/Classification/sands2009%20Linguistic%20diversity.pdf](http://www.dcl.ish-lyon.cnrs.fr/Projets/Clhass/PageWeb/ressources/Classification/sands2009%20Linguistic%20diversity.pdf)

²²¹ Ibid

Finally, and perhaps most importantly, a critical examination of Greenberg's groupings (of spoken languages unique to the continent) shows that the number of unrelated lineages is at least 8, or twice the diversity commonly supposed.²²²

Africa is a grand laboratory of language, a microcosm of the linguistic world. There are African societies which have relied primarily on the oral tradition to this day, and African societies which were literate long before the British Isles evolved into literate communities. Africa today is therefore a living laboratory for the transition from the oral tradition to the written word.²²³ African identities and all their constitutive elements, including language are, in their construction and composition, historical and heterogeneous. They are braided from different threads of memory and meaning that contain within them the possibilities of mutation into new configurations.²²⁴ Searches for a primordial and pristine Africa, an authentic African cultural self-awaiting retrieval and renewal beneath the contaminations of foreign cultural exchanges and invasions are often motivated by nationalist angst and they are almost invariably ideological.²²⁵

Projections or prescriptions of a singular African identity often sit ill with the existence of multiple African languages. In fact, the multiplicity of African languages is often seen as the bane of African unity whether at the national, regional or continental level.²²⁶ Simala argues that the impetus towards empowering indigenous African languages is a direct response to the

²²² Ibid

²²³ Mazrui, A. and Mazrui, A. (1998) *The Power of Babel: Language and Governance in the African Experience*. James Currey. University of Chicago Press. p.69.

²²⁴ Zeleza, P.T. (2006) "The Inventions of African Identities and Languages: The Discursive and Developmental implications." *Selected Proceedings of the 36th Annual Conference on African Linguistics*, ed. Olaoba F. in and Michael Pemberton, 14-26. Somerville, MA: Cascadilla Proceedings Project. p.20.

²²⁵ Ibid.

²²⁶ Ibid

colonial past and the neo-colonial present.²²⁷ He further posits that despite all the attention human rights issues are receiving, the progress achieved in guaranteeing language rights in Africa is deplorable. As postulated by many scholars in the field, Simala concludes that African languages endure marginalisation despite serving Africans as means of expression and communication for centuries.²²⁸

The African problems associated with the protection of the continent's languages arguably have their beginning in the colonial domination of Africa. It is said that pre-colonial Africa had communities bound together with culture and language. Language was a vehicle of culture. People were culturally identified by the languages they spoke.²²⁹

Two inter-related language questions have preoccupied postcolonial Africa: what to do about the proliferation of African languages and what to do about the predominance of European languages. Zeleza²³⁰ attempts to find an answer to this dichotomy. The first is used to justify the second when the argument is made that too many African languages impede national unity and the European languages provide a neutral alternative.²³¹ Central to the contestation between the colonial and indigenous languages is the question of capacity, their respective capacities to carry the weight of Africa's social thought and modernist dreams, to act as communicative media for African culture and aspirations for scientific and material development.²³² The protagonists swear on the superiority of their preferred languages. The arguments range from

²²⁷ Simala, I.K. 'Empowering Indigenous languages for sustainable development' in Francis. R. Owino. *Speaking African. African Languages and Development*. Casas. p.48.

²²⁸ Ibid

²²⁹ Maja, I. (2007) *Towards the Protection of Minority Languages in Africa*. A Thesis Submitted in partial fulfilment of the requirements of the LLM (Human Rights and Democratisation in Africa) of the University of Pretoria. p.20. available at: http://repository.up.ac.za/bitstream/handle/2263/5848/maja_2007.pdf?sequence=1 Accessed on 14 June 2017

²³⁰ Zeleza, supra note 224, p.20

²³¹ Ibid

²³² Zeleza, *ibid*, p.20

the epistemological to the pragmatic, and so those in support of the European languages see them as instrumental for nation-building and globalization. They find fault with African languages for their apparent lack of scientific and technical vocabulary, or they see their very simplicity as an impracticable and costly obstacle.²³³

In the same vein, Bamgbose posits that colonial powers imposed their language in each territory they governed as the language of administration, commerce and education. Objectives differ from one colonial power to another, ranging from assimilation to the culture of the occupying power to selective cultivation of an elite that can relate to the masses in their own culture.²³⁴

The elites that emerged from the colonial educational system came to be enamored of the imported languages even to the detriment of their indigenous languages. Although they were a minority, they wielded a lot of power based on the monopoly of the control of the language of colonial occupation.²³⁵ Even after independence, such languages remained official languages in most countries and any proposal to empower the majority of the population by raising the status of African languages and extending the domains in which they are used failed largely because of two factors: “elite closure”,²³⁶ that is monopoly of the language of power by the elites and resistance on their part to extend this jealously guarded power to other groups, and “inheritance situation”, that is how the policies and practices from the colonial period continue to determine post-colonial policies and practices.²³⁷

²³³ Ibid

²³⁴ Bamgbose, A (2011) African Languages Today: The Challenge of and Prospects for Empowerment under Globalisation. Selected Proceedings of the 40th Annual Conference on African Linguistics, p.1

²³⁵ Ibid, p. 2

²³⁶ Scotton, C.M. (1990). Elite closure as boundary maintenance. The case of Africa. Brian Weinstein ed. Language Policy and Political Development. Norwood, N.J. Ablex Publishing Corporation, pp.25-42

²³⁷ Gellar, S (1973). State –building and nation building in West Africa. In S.N. Einsensadt and Stein Rokkan (eds) (1973). Building States and Nations, Vol. II. Beverley Hills: Sage Publications, pp. 384-426.

Gerard²³⁸ observes that “cultural contact with western Europe affected literatures that had been in existence centuries before the white man made his presence felt in sub-Saharan Africa”. Thus, oral literature, which lies at the heart of African cultural life as it had carried the indigenous languages and culture from generation to generation, was undermined when written literature from the west was introduced.²³⁹ This nascent literary culture developed in parallel to the indigenous one, and became the beneficiary of directed colonial policy. In the course of time the literary culture outstripped the indigenous culture and unequal relations of power between the two were established and have persisted to this day.²⁴⁰ Although, only 10 percent or less of the rural African population have substantial competence in European languages, and African vernaculars are generally not in danger of being replaced by European languages.²⁴¹ However, this may not be the case in future. The use of African vernaculars is diminishing, albeit on a gradual rate. It is estimated that about 200 languages are endangered and every year several languages are lost for posterity.²⁴²

3.3 Indigenous writing systems of Africa

There is a popular belief that no indigenous script exists or existed in Africa prior to the arrival of missionaries and colonialists. Oral tradition accounted for most of Africa, and the world. The high rates of literacy we see today are a unique product of our modern world. Historically, even in literate societies, such as Western Europe, literacy was confined to the elites. Oral

²³⁸ Gerard, A. T. (1981). African Language Literatures: An Introduction to the Literary History of Sub-Saharan Africa. Washington D.C. Three Continents.p.173.

²³⁹ Ibid.

²⁴⁰The development of indigenous African languages as mediums of instruction in Higher Education: Report compiled by the Ministerial Committee appointed by the Ministry of Education in September 2003. Available online at:

<http://www.dhet.gov.za/Reports%20Doc%20Library/Development%20of%20Indigenous%20African%20Languages%20as%20mediums%20of%20instruction%20in%20Higher%20Education.pdf>

²⁴¹ Tsunoda, T. (2005) Language Endangerment and Language revitalisation: An introduction. Mouton de Gruyter. pp.27.

²⁴² Breizinger, M, Heine, B, Sommer, G. (1991) Language death in Africa. in Robert H. Robins and Eugenius M. Uhlenbeck (eds), pp.19-44

traditions have traditionally been considered unsophisticated and totally ridiculed.²⁴³ And while they have some critical developmental potential issues, oral tradition promotes a greater dependency on the usage of memory, storytelling and other socially binding traditions.

However, pictographs and symbols used in pictographic rock art, scarification, knotted strings, tally sticks, and symbol writing are considered together as forerunners of writing in Africa. They form the roots, both directly and indirectly, of African writing systems.²⁴⁴ The introduction of the Roman script since the turn of the 20th century was the first attempt of mass alphabetization in Africa, and it has become the most important writing system. It was, however, not the first script on the continent.²⁴⁵ Below are notable indigenous African writing systems:

3.3.1 Hieroglyphic and/or Hieratic script writing

The best-known and most elaborate system of writing used by the pharaonic Egyptians is known as hieroglyphic writing, or hieroglyphs.²⁴⁶ The Hieratic script is a simplified and abbreviated form of the hieroglyphic script, which allowed a higher speed of writing. It was designed more or less at the same time as the hieroglyphic script. But while hieroglyphs could be written both in rows and columns, from right to left and from left to right, the writing direction in Hieratic was initially vertical.²⁴⁷ Hieroglyphs are attested as early as c. 3000 BCE. About 1000 were used in the Old Kingdom. This number diminishes to about 750 in the

²⁴³ Shahadah, A. (2012) *Scripts of Africa: Native Writing Systems of Africa*. p.1. Available online at: <http://www.africanholocaust.net/scriptsafrica.html>

²⁴⁴ Mafundikwa, S. (2007) *Afrikan Alphabets. The Story of Writing in Afrika*. Mark Batty Publisher. p.11

²⁴⁵ Pasch, H. (undated) *Competing scripts: The Introduction of the Roman Alphabet in Africa*. *International Journal of Sociology*. pp.65-109.

²⁴⁶ Knight, S. C. (2009) *Egyptian Writing Systems and Grammar*. p.1. Available online at: <https://www.andrew.cmu.edu/course/98-030/writing.pdf>

²⁴⁷ Pasch, supra note 245, p.3

language of the Middle Kingdom but was increased to several thousand during the Ptolemaic and Roman periods.²⁴⁸

3.3.2 Nubian alphabet

Old Nubian or Nobiin, the language of the Christian Sudan in the medieval period is the only living African language which was written before the Common Era.²⁴⁹ It was spoken in a highly unusual situation of multilingualism where four languages were used for written communication: Nobiin, Greek, Coptic and Arabic. Greek and Coptic were the media of international correspondence since the 5th century CE.²⁵⁰

3.3.3 Ajami script

Ajami (‘ajamī or al’jami) comes from the Arabic word for non-Arab, or foreigner. It also refers to the practice of writing other languages using a modified Arabic script.²⁵¹ Ajami developed in communities with a long history of practicing Islam, and who sought to adapt the Arabic alphabet to their own tongues, first for religious purposes such as prayers, writing magical protective devices, and disseminating religious materials and edicts, and later for secular functions such as commercial and administrative record-keeping, writing eulogies and family genealogies, recording important events such as births, deaths and weddings, and writing biographies, poetry, political satires, advertisements, road signs, public announcements, speeches and personal correspondence.²⁵²

²⁴⁸ Ibid, p.12

²⁴⁹ Browne, G. M. (1989) Introduction to Old Nubian. Meroitica II. Berlin: Akademie-Verlag.p.9

²⁵⁰ Pasch, supra note 245, p.6

²⁵¹ Ngom, F. (undated) Introducing the Ajami Literatures of Islamic Africa. p.1. Available online at: <http://alma.matrix.msu.edu/wp-content/uploads/2010/02/AjamiIntroductionFallou.pdf>

²⁵² Ibid

3.3. 4 Nsibidi

Nsibidi is a system of symbols indigenous to what is now South Eastern Nigeria that is ideographic (a graphic symbol that represents an idea or concept), though there have been suggestions that it includes logographic elements.²⁵³ The symbols are at least several centuries old: Early forms appeared on excavated pottery as well as what are most likely ceramic stools and headrests from the Calabar region, dating between 400 and 1400 CE. Nsibidi's origin is generally attributed to the Ekoi people of Southern Nigeria. Nsibidi is a system of symbols indigenous to what is now southeastern Nigeria that is apparently ideographic, though there have been suggestions that it includes logographic elements.²⁵⁴ Udofia and Inyang postulate that the people of Cross River invented a picture writing called Nsibidi in order to overcome the difficulties in communication in government establishments, trade and diplomacy. Udofia and Inyang also support the view that Nsibidi is used throughout Calabar, beyond Igboland and even extended to some areas of Cameroon before the coming of the Europeans.²⁵⁵

3.3. 5 Ethiopic syllabary

The Ge'ez or Ethiopic syllabary is the only South Semitic script to have survived until today and it is used for several Semitic and Cushitic languages. In the first decades of the first century BCE southern Arabian immigrants brought the Sabean language to Ethiopia. Early in the next millennium, a distinctive Ethiopian version, influenced by the indigenous Cushitic peoples, was used in stone inscriptions.²⁵⁶ The history of the Ge'ez writing system is not as easy to trace

²⁵³ Shahadah, supra note 243, p.1

²⁵⁴ Ibid

²⁵⁵ Udofia, W.E. and Inyang, I.B. (1987). "Land and the people of Cross River State" in *Akwa Ibom and Cross River States; the Land, the People and Their Culture*; Abasiattai Monday B. (Ed), Calabar, Wusen Press Limited. p.75; see also Okpu, O. (2015) Nsibidi: An Artistic Expression and Communicative System in South Eastern Nigeria. Design and Art Studies. available online at:

<http://www.iiste.org/Journals/index.php/ADS/article/viewFile/20440/20859>

²⁵⁶ Hetzron, R. (ed.) (1997) *The Semitic Languages*. New York: Routledge. p.242.

as the Roman, owed primarily to widely accepted but inaccurate scholarship based on Eurocentric assumptions.²⁵⁷ The Ge'ez writing system is one of the oldest working systems in the world. This African writing system has remained unchanged for 2000 years, attesting to its adaptability and innovative method of organizing sounds. It serves not only as a system of grammar, but as an insight into the ancient world of Africa, its philosophies, belief systems, and exceptionally advanced early societies.²⁵⁸

3.3.6 N'ko script

N'ko is both a script devised in 1949 as a writing system for the Mande languages, and the name of the literary language written in the script.²⁵⁹ N'ko presents a rare example of an indigenous script that has successfully competed against other writing systems that are older, better financed, and propagated in religious and formal education. N'ko script is studied in relation to its role as one of the most popular and widespread indigenous scripts in contemporary West Africa.²⁶⁰ The social relevance of N'ko literacy is contrasted with colonial and national literacy education programs. N'ko's popularity is shown to result from the script's strong linguistic and cultural relevance to Mande communities through its faithful transcription of local languages and its corpus of publications on indigenous and foreign knowledge.²⁶¹

²⁵⁷ Scelta, G.F. (2001) The Comparative Origin and Usage of the Ge'ez writing system of Ethiopia. p.2. Available online at: http://www.thisisgabes.com/images/docs/gscelta_geez.pdf

²⁵⁸ Ibid, p.7

²⁵⁹N'ko script. Available online at: <https://www.ethnologue.com/language/nko>

²⁶⁰ Wyrod, C. (2008) A social orthography of identity: the N'ko literacy movement in West Africa. *International Journal of the Sociology of Language*. Volume 2, Issue 192, pp. 27–44.

²⁶¹ Ibid.

3.3. 7 Vai script

The Vai language is spoken in Liberia. It is one of the few West African languages with its own script. The Vai script is by far the earliest and most documented of the Liberian scripts.²⁶²

The Vai script may also have been inspired by the Cherokee syllabary. There is some evidence that Bukele had contact with Europeans and perhaps with missionaries. At the time, missionary organizations including at least one in Liberia were so impressed by the rapid spread of Cherokee literacy that they concluded syllabic scripts, in which each character represents one syllable, were superior to alphabets and they encouraged use of syllabaries among native peoples where practical.²⁶³

3.3.8 Mandombe

Mandombe which means “for the Blacks”, is a modern African script which was invented in 1978 by David Wabeladio Payi. It is one of very few scripts which were invented south of the equator. It was first designed to write Kikongo and Lingala, the most important languages of Congo, and then developed further so that basically any language can be written with this script.²⁶⁴

3.3. 9 Mwangwego

Mwangwego script is a syllabic writing system which uses symbols for syllables. It was invented in Malawi and is aimed at replacing the Latin alphabet, in the 21st century, when writing indigenous Malawian languages and serves as one of the symbols of national unity and identity. It was invented by Nolence Mwangwego in 1979.²⁶⁵ Despite African government’s

²⁶² Tuchscherer, K, and Hair, P.E.H. (2002) "Cherokee and West Africa: Examining the Origins of the Vai Script." *History in Africa*, 427-486.

²⁶³ *Ibid*, pp.457-458

²⁶⁴ Rovenchak, A. Pasch, H. Riley, C. Wazi, N.R (2005) Preliminary proposal for encoding the Mandombe script in the SMP of the UCS. p.1. Available online at: <http://www.unicode.org/L2/L2015/15118-mandombe.pdf>

²⁶⁵ Mwangwego script. Available online at: <http://mwangwego.com/script.htm>

reluctance to embrace indigenous languages, the continent has a significant number of regional, sub-regional and local institutions as well as legal instruments which tacitly or impliedly caters for the protection and promotion of African languages.

3.4 Protection and promotion of linguistic rights under various African regional human rights instruments

The African Union as the main political body on the continent has since its days as the Organisation of African Unity devised legal and policy frameworks aimed at promoting indigenous languages. However, due to a number of factors, most of its initiatives on language rights remains a pipe dream.

3.4.1 The African Charter on Human and Peoples' Rights

The African Charter on Human and Peoples' Rights was adopted African States members of the Organization of African Unity meeting in Banjul, Gambia, on 27 June 1981. It entered into force 21 October 1986. Article 2 of the said charter states as follows:

Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.²⁶⁶

There have been notable cases in which linguistic rights were discussed under the African Commission on Human and Peoples Rights.²⁶⁷ For example, in *Sudan Human Rights Organisation and another v Sudan*, the African Commission interpreted 'peoples' to include

²⁶⁶ Source: OAU Doc. CAB/LEG/67/3 rev. 5. The text of the Charter can be found on an [Internet database](#) operated by the University of Minnesota's Human Rights Library.

²⁶⁷ The African Charter established the African Commission on Human and Peoples' Rights.

linguistic minorities.²⁶⁸ While in *Gunme and others v Cameroon*, the African Commission accepted that the Southern Cameroonians were a people on the basis of linguistic tradition among others.²⁶⁹

3.4.2 The African Charter on the Rights and Welfare of the Child

Article 3 of the charter states as follows:

Every child shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in this Charter irrespective of the child's or his/her parents' or legal guardians, race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.²⁷⁰

Whereas article 17 of the same charter stipulates that:

States Parties to the present Charter shall in particular:

(ii) Shall be informed promptly in a language that he understands and in detail of the charge against him and shall be entitled to the assistance of an interpreter if he or she cannot understand the language used.²⁷¹

3.4.3 The Charter for African Cultural Renaissance

The Charter was adopted in Khartoum, Sudan on 24 January 2006. The Charter contains notable articles of the promotion and preservation of African languages.

Article 18:

²⁶⁸ Sudan Human Rights Organisation, Centre on Housing Rights and Evictions v Sudan (Communication NO. 279/03, 296/05) [2009] ACHPR 100; (27 MAY 2009)

²⁶⁹ Mgwanga Gunme v Cameroon (Communication No. 266/2003) [2009] ACHPR 99; (27 May 2009)

²⁷⁰ *Source*: OAU Doc. CAB/LEG/24.9/49 (1990). The text of the Charter can be found on an [Internet database](#) operated by the University of Minnesota's Human Rights Library.

²⁷¹ *Ibid.*

African states recognise the need to develop African languages in order to ensure their cultural advancement, and acceleration of their economic and social development. To this end, they should endeavour to formulate and implement appropriate national language policies.²⁷²

Article 19:

African states should prepare and implement reforms for the introduction of African languages into the education curriculum. To this end, each State should extend the use of African languages taking into consideration the requirements of social cohesion and technological progress, as well as regional and African integration.²⁷³

3.4.4 African Youth Charter

Article 2 of the African Youth Charter stipulates that:

State Parties shall recognize the rights of young people from ethnic, religious and linguistic marginalized groups or youth of indigenous origin, to enjoy their own culture, freely practice their own religion or to use their own language in community with other members of their group.²⁷⁴

Article 20 (1) of the African Youth Charter obliges states to:

Harness the creativity of youth to promote local cultural values and traditions by representing them in a format acceptable to youth and in a language and in forms to which youth are able to relate.²⁷⁵

3.5 The role of Regional groupings in promoting African languages

The author of this dissertation argues that the socio-economic value of African languages can only be fully realised if regional and sub-regional bodies took a leading role in harnessing their

²⁷² See Article 18 of the Charter for African Renaissance. Available online at: <http://www.unesco.org/new/fileadmin/MULTIMEDIA/FIELD/Dakar/pdf/CharterAfricanCulturalRenaissance.PDF>

²⁷³ Ibid.

²⁷⁴ See Article 2 of the African Youth Charter.

²⁷⁵ See Article 20 (1) of the African Youth Charter.

potential. Many regional and sub-regional groupings in Africa has atleast one common lingua franca spoken in that particular region, hence the need to make Africans languages the working languages of the said groupings.

3.5.1 The Southern African Development Community (SADC)

The Southern African Development Community (SADC) Region is primarily an economic and political entity, its socio-cultural integration has remained elusive, due to its gross linguistic and cultural diversity. Although, SADC covers only 15 countries of Africa, it has over 570 languages, constituting about 26% of the languages in the African continent.²⁷⁶ Due to the arbitrary nature in which borders were established during the scramble for Africa in the 1880s, several of the languages in the region are cross-border languages. Some of them have assumed the role of vehicular cross-border languages, because of their geographical extent, communicative and integrative functions and socio-political status that they have acquired.²⁷⁷

The major challenges include: the diglossic situations which perpetuate the supremacy of the language of the coloniser at the expense of indigenous African languages; the neo-colonial elites who promote languages like English, French and Portuguese as languages that buttress their power, in most cases paying lip-service to the promotion of indigenous languages; the absence of strict monitoring of the implementation of language policies in domains like primary, secondary and tertiary education, and training; the lack of support for the development of African languages from the private sector; the lack of interest in promoting the use of languages of minority groups which are faced with extinction; and the conundrum multilingual

²⁷⁶ The SADC Vehicular Cross-border languages as Tools of Regional Integration. Available online at: https://extranet.sadc.int/files/8113/3127/4961/concept_paper_2_SADC_transnational_languages.pdf

²⁷⁷ Ibid.

polities face in determining which indigenous languages to be officialised as national languages and/or ‘standard’ languages.²⁷⁸

At the formation of SADC in the early 1980s, the linguistic and cultural diversity of the region was recognised, just as the existence of some vehicular cross-border languages, which could be tapped to promote socio-economic advancement and effective education. Thus Article 12(1) of the SADC Protocol on Culture, Information and Sports states:

Member states shall formulate and implement language policies that will aim at promoting indigenous languages for socio-economic development...” Moreover, SADC was committed to the promotion of education through the medium of indigenous languages. Article 12(3) of the Protocol thus states that: “Member States shall encourage and promote the use of indigenous languages as medium of instruction.”²⁷⁹

On a positive note, leaders from southern Africa at the 39th SADC summit of Heads of State and Government at the Julius Nyerere International Convention Centre, Dar es Salaam, United Republic of Tanzania approved Kiswahili as the Fourth SADC Official Working Language, in recognition of its contribution as well as Mwalimu Julius Kambarage Nyerere’s role in the liberation struggle of Southern Africa.²⁸⁰ According to the SADC leaders, Kiswahili will be adopted at the level of council and summit, first as a language for oral communication, before eventually being adopted for written official communication within the bloc. Kiswahili thus becomes the first indigenous language to be used by the bloc as an official language at the

²⁷⁸Jairos Kangira. “SADC should rescue indigenous African languages”. The Windhoek Observer newspaper. 21 July 2016.

²⁷⁹The SADC Vehicular Cross-border languages as Tools of Regional Integration. Supra note 273.

See also Ndhlovu, F. (2013) Cross-Border Languages in Southern African Economic and Political Integration. Journal of African studies. Vol. 72. pp.19-40

²⁸⁰ Communique of the 39th SADC Summit of Heads of State and Government Julius Nyerere International Convention Centre Dar es Salaam, United Republic of Tanzania. 17-18 August 2019. Available online at: https://www.sadc.int/files/1915/6614/8772/Communique_of_the_39th_SADC_Summit-English.pdf

interstate level, even as the world celebrates 2019 as the international year of indigenous languages.²⁸¹

3.5.2 East African Federation

The East African Community (EAC) is a regional intergovernmental organization of 6 Partner States: The Republics of Burundi, Kenya, Rwanda, South Sudan, the United Republic of Tanzania, and the Republic of Uganda, with its headquarters in Arusha, Tanzania. The EAC is home to 158 million citizens, of which 22% is urban population²⁸². With a land area of 2.42 million square kilometers and a combined Gross Domestic Product of US\$ 169.5 billion (EAC Statistics for 2015), its realization bears great strategic and geopolitical significance and prospects for the renewed and reinvigorated EAC.²⁸³

The East African Community is to become the only regional grouping where an African language Kiswahili will serve as the lingua franca of the body. To buttress this idea, its Kiswahili name is “Jumuiya ya Afrika Mashariki”. Kiswahili is the widely understood and spoken African language in this region of Africa. The envisaged success of Kiswahili as the working language of this body will serve as a clear testimony that African languages are as useful as their European counterparts in relation to diplomacy.

3.5.3 Economic Community of West African States (ECOWAS)

French, English and Portuguese are the working languages adopted by the community of fifteen (15) countries that compose the ECOWAS: Benin, Burkina Faso, Ivory Coast, Mali,

²⁸¹ Edith Mutethya. “SADC adopts Kiswahili as 4th working language”. China daily. 22 August 2019. Available online at: <https://www.chinadaily.com.cn/a/201908/22/WS5d5ded0ba310cf3e35567377.html>

²⁸² East African Community. Available online at: <http://www.eac.int/about/overview>

²⁸³ Ibid.

Mauritania, Niger, Senegal and Togo for French; Gambia, Ghana, Nigeria, Liberia and Sierra Leone for English; Cape Verde and Guinea Bissau for Portuguese.²⁸⁴ The basic observation is that within the ECOWAS, countries are also organized in small groups according to the foreign language shared. That is why organizations such as the Francophonie and the Commonwealth exist and obviously affect the regional integration process engaged in by ECOWAS.²⁸⁵

3.6 Other attempts at promoting African languages past and present

3.6. 1 The Organisation of African Unity Inter-African Bureau of Languages (OAU-BIL)

The OAU Inter-African Bureau of Languages (OAU-BIL) was established in the Ugandan capital, Kampala. This was the first linguistic organ of the OAU “charged with the principal task of actively supporting and encouraging the greater use at all levels and for all purposes, of indigenous African languages.”²⁸⁶ OAU-BIL took various initiatives to fulfil its mandate. For instance, in July 1985 at its office in Kampala, it organized a meeting of linguistic experts to draft what was to be known as the Language Plan of Action for Africa, which is somewhat a blueprint for the development of African languages. Multilingual education and the development of African languages of wider communication or inter-African languages

²⁸⁴ Metondji, D.M.A (2015) Language and regional integration in ECOWAS: challenges and prospects. The Dissertation is submitted to the University of Ghana, Legon, in partial fulfilment of the requirements for the award of the Master of Arts Degree in International Affairs, pp.3-4. Available online at: <http://ugspace.ug.edu.gh/bitstream/handle/123456789/8472/David%20Morgan%20Assogba%20Metondji%20-%20Dissertation.pdf?sequence=1>

²⁸⁵ Ibid.

²⁸⁶ Matsinhe, S. F. (2013) African Languages as a Viable Factor in Africa’s Quest for Integration and Development: The View from ACALAN. Cf. Kalema, J. (1985) Introduction. In OAU Inter-African Bureau of Languages. Linguistic liberation and unity of Africa. Publication 6. Kampala: OAU Inter-African Bureau of Languages.

(including offering them in institutions of higher learning), were the cornerstones of the strategies for the implementation of the Language Plan of Action for Africa.²⁸⁷

3.6.2 The 1986 OAU Language Plan of Action

Mutasa²⁸⁸ states that the 1986 OAU Language Plan of Action for Africa, identified its aims and objectives as inter alia, to:

1. Encourage each and every member state to have a clearly defined language policy;
2. Ensure that all languages within the boundaries of member states are recognized and accepted as a source of mutual enrichment;
3. Liberate the African peoples from undue reliance on the utilization of non-indigenous languages as the dominant, and official languages of the state in favour of the gradual takeover of the appropriate and carefully selected indigenous African languages in this domain.
4. Ensure that African languages, by appropriate provision and practical promotions, assume their rightful role as the means of official communication in the public affairs of each member state in replacement of the European languages which have hitherto played this role, and
5. Encourage the increased use of African languages as vehicles of instructions at all educational levels (Organization of African Unity (OAU) Draft Language Plan of Action For Africa 1986).²⁸⁹

²⁸⁷ Mateene, K. (1980) Failure in the obligatory use of European languages and the advantages of a policy linguistic independence. In OAU Bureau of Languages (1973-1980). Reconstruction of African linguistic policies. Publication 3. Kampala: OAU Bureau of Languages, pp. 11-41.

²⁸⁸ Mutasa D. E. (2003). The Language Policy of South Africa; What do people say? Doctor of Literature and Philosophy, Department of African Languages, University of South Africa (Unpublished thesis). p.4

²⁸⁹ Ibid.

3.6. 3 The Harare Declaration of 1997

The Intergovernmental Conference on Language Policies in Africa, held in Harare from 17-21 March 1997, which resulted in the Harare Declaration and its ambitious Plan of Action has set the stage for the development of explicit policy frameworks and implementation strategies.²⁹⁰ The guidelines for policy formulation of the Harare Declaration are summed up as follows:²⁹¹

- (a) All African language policies should be those that enhance the chances of attaining the vision of Africa.
- (b) Each country should produce a clear language Policy Document, within which every language spoken in the country can find its place.
- (c) Guidelines for policy formulation should be sanctioned by legislative action.
- (d) Every country's policy framework should be flexible enough to allow each community to use its language side by side with other languages while integrating with the wider society, within an empowering language policy that caters for communication at local, regional and international levels.
- (e) A language policy formulating, and monitoring institution/body should be established in each country.

3.6.4 The Asmara Declaration on African languages

Between January 11 and 17, 2000, participants from around the world met at an international conference in Asmara, Eritrea, to examine the state of African languages in relation to

²⁹⁰Quoted from the Final Report on the Intergovernmental Conference on Language Policies in Africa: Harare, Zimbabwe 17-21 March 1997. Available online at: <http://unesdoc.unesco.org/images/0014/001457/145746e.pdf>

²⁹¹ Intergovernmental Conference of Ministers on Language Policy in Africa, Harare 20-21 March 1997: The Harare Declaration, p.3. Available online at: <https://www0.sun.ac.za/taalsentrum/assets/files/Harare%20Declaration.pdf>

government policy and administration, publishing and public education, scholarship and intellectual representation, and to the question of “development” more generally.²⁹² At the conclusion of this historic event, the writers and scholars present at the forum released the Asmara Declaration on African Languages and Literatures.²⁹³ The main title of the conference itself was “Against All Odds,” alluding to Africa’s struggle for linguistic survival in the face of “serious obstacles” that continue to threaten the vitality and diversity of its languages. It was the conference’s way of recognising the high casualty rate in language in the course of the twentieth century.²⁹⁴ Of the thousands of languages estimated to exist in the world as many as fifty percent are said to be in danger of extinction, the highest proportion of these being located in the southern hemisphere.²⁹⁵

3.6.5 African Union Academy of African Languages (ACALAN)

According to Eno²⁹⁶ like its predecessor, the Organisation of African Union (OAU), the African Union (AU) continues to use of colonial languages as official and working languages of the organisation, at the expense of local African languages. The official languages of the AU are the same as those of the OAU, namely: African languages, Arabic, English, French and Portuguese.²⁹⁷ Even though African languages were included in both the OAU Charter and the Constitutive Act of the AU as official languages of the organisations, they are rarely used because there are no interpreters, for African languages, and translators at the Secretariat of the organisation. Most of the documents of the organisation are written in either French or English

²⁹² Mazrui, A. (undated) The Asmara Declaration on African Languages: A critical appraisal. A Keynote Address delivered at the Annual Conference of African Linguistics. Ohio University, Athens, Ohio.p.1

²⁹³ Ibid.

²⁹⁴ Ibid. pp.1-2

²⁹⁵ Wurn, S. (ed), Atlas of the World’s Languages in Danger or Disappearing. Paris: UNESCO, 1996. p.5

²⁹⁶ Eno, W. (2008) Human Rights, Human Development, and Peace: Inseparable Ingredients in Africa’s Quest for Prosperity. Thesis submitted in partial fulfilment of the requirements for the award of the degree of Doctor of Philosophy (PhD) in the School of Law, Faculty of Commerce, Law & Management University of the Witwatersrand. pp.144-45.

²⁹⁷ Ibid.

and conferences are conducted in the four main languages – English, French, Arabic, and Portuguese.²⁹⁸

The Constitutive Act under Article 25(1)²⁹⁹ The official languages of the Union and all its institutions shall be Arabic, English, French, Portuguese, Spanish, Kiswahili and any other African language. The AU distinguishes between official languages and working languages.³⁰⁰ It has expressly added Kiswahili as an official language and left determination of the working languages to the Executive Council, (Article 25 (2) - The Executive Council shall determine the process and practical modalities for the use of official languages as working languages.³⁰¹

In pursuing “a New Global Partnership” the New Partnership for Africa's Development (NEPAD) endorsed “the process of reconstructing the identity and self-confidence of the peoples of Africa” and it furthermore maintains that “it is necessary that this be understood and valued by Africans themselves.”³⁰² Having noted the “need to help promote” the indigenous languages, the Office of the President of the Republic of Mali on 19 December 2000 set up a structure called the Mission for the Academy of Languages (MACALAN) to look into the feasibility of establishing an academy of African languages. It was then recommended that the prospective Academy of African Languages (ACALAN) should be constituted as part of the African Union (AU). Such a move would assist initiatives to foster the intellectualization of the African languages.³⁰³

²⁹⁸ Ibid.

²⁹⁹ Article 25 (1) of the Constitutive Act of the African Union.

³⁰⁰ Quoted in Eno, *supra* note 296, p.144

³⁰¹ Ibid.

³⁰² The New Partnership for Africa's Development (NEPAD), an African Union strategic framework for pan-African socio-economic development, is both a vision and a policy framework for Africa in the twenty-first century. NEPAD is a radically new intervention, spearheaded by African leaders, to address critical challenges facing the continent: poverty, development and Africa's marginalization internationally. NEPAD provides unique opportunities for African countries to take full control of their development agenda, to work more closely together, and to cooperate more effectively with international partners. Available at: <http://www.nepad.org/about>.

³⁰³ Ibid.

The concept behind the formation of ACALAN is to address the perceived inadequacies of existing practice by adopting a two-pronged approach.³⁰⁴ First, at the continental level, ACALAN will serve as an apex body generating ideas, translating policy decisions into workable plans and providing a reservoir of expertise available to be tapped by member states of the African Union in the formulation and implementation of their language policies. Second, at the sub-regional and national levels, there will be a grassroots approach through the setting up of a language commission for each language. (MACALAN 2001).³⁰⁵ There are two major advantages of this second approach: Stakeholders in a language will also be those intimately connected with research and implementation of language policy on the language. In addition, since African languages cut across political boundaries, there will be increased opportunity for joint action and policies regarding the development and use of cross-border languages.³⁰⁶ The core of the activities of ACALAN will be carried out by Academicians drawn from all over Africa, who will serve as models of excellence for younger researchers to emulate. They will bring to bear the wealth of their experience and facilitate the sharing of ideas and experience. By their commitment, they will demonstrate that the goal of empowerment of African languages is realistic and realizable.³⁰⁷

3.7. The call for Kiswahili to become Africa's official lingua franca

Currently, Kiswahili is the only true and “genuinely” African language that has been recognized as among the five (5) working languages of the African Union. This designation of Kiswahili by the AU has resurrected calls by many on the continent to officially endorse it as

³⁰⁴ See the Academy of African Languages (ACALAN). Available online at: <http://www.acalan.org/about-acalan/background/>

³⁰⁵ Ibid.

³⁰⁶ Ibid.

³⁰⁷ Ibid.

the continent's lingua franca. The speech given in Kiswahili by the former Mozambican President Joachim Chissano when he made his farewell address as AU chairman was meant to further the AU pledge to promote African identity and languages.³⁰⁸

Kiswahili has gone through four stages in its development. These are the Islamic stage, when the language culturally and idiomatically was associated closely with Islam; the ecumenical stage, when the language also came to serve the purposes of Christianity; the secular stage, when the main influences on the language have been non-religious and when its role has been overwhelmingly secular; and, finally, the universalist stage when the language has become the most widely used African language internationally and is becoming the medium of scientific discourse and technology.³⁰⁹ Kiswahili arouses cultural nationalism. It encompasses the whole movement to resurrect aspects of the cultural heritage of black people in different parts of the world and forge a new status of dignity in global cultural arrangements.³¹⁰

Kiswahili commands this kind of symbolic attachment not only among black Africans, but also among sections of African Americans. The language is taught in some West African countries like Nigeria and Ghana partly because it is seen as a medium that could provide a linguistic substance to black African nationalism.³¹¹ It has been taught in vastly differing parts of the black world as a major medium for the black cultural renaissance.³¹²

As stated earlier in preceding chapters, in East and Central Africa, Kiswahili is the lingua franca, having a long-written tradition that has been used as a medium of education at different

³⁰⁸ Swahili baffles African leaders. Available online at: <http://news.bbc.co.uk/2/hi/africa/3871315.stm>

³⁰⁹ Mazrui, A and A. M. Mazrui (1995) *Swahili State and Society: The Political Economy of an African Language*. East African Educational Publishers. Nairobi. James Currey. London. pp. 81-82

³¹⁰ *Ibid*, p.126

³¹¹ *Ibid*.

³¹² *Ibid*.

times in history. Since it is estimated that only 20% of people in this region speak or understand English (and even fewer know French), the potential of Kiswahili as a tool for social communication and development cannot be over-emphasized.³¹³ Moreover, in the same East and Central African region, Kiswahili has been an important factor behind urbanization, contributing to decreasing ethnic behavior, and has served as a lingua franca among the different ethnic communities. Rural to urban migration and urban functionality in certain regions of East Africa came to rely quite heavily on some proficiency in Kiswahili.³¹⁴

In broadening the social horizon of East Africans, the role of Kiswahili also included facilitating class formation. Mazrui and Mazrui further argue that in both Kenya and Tanzania, Kiswahili played a significant role in the history of proletarianization, in the emergence of a modern working class. Kiswahili not only facilitated labour migration in East Africa, but very often became the primary language of interaction at the place of work.³¹⁵ Kiswahili's importance in East Africa's regional integration projects continue to be recognized. In 2017, Rwanda made Kiswahili its fourth official language.³¹⁶ Rwanda argued that Kiswahili is the key to a seamless regional integration, the common denominator for the close to the 300 languages spoken in the EAC. That is why it has been incorporated in the education syllabus so that the language barrier in the region is eliminated. It might take time to take root in rural areas, but every journey begins with one step.³¹⁷

³¹³ King'ei, K. (2000) Language in Development Research in 21st Century Africa. *African Studies Quarterly* | Volume 3, Issue 3.

³¹⁴ Mazrui and Mazrui, supra note 309. p.128

³¹⁵ Ibid.

³¹⁶ Other official languages are: English, French and the indigenous Kinyarwanda.

³¹⁷ Kiswahili key to regional integration. Available online at: <http://www.newtimes.co.rw/section/article/2017-02-09/207847/>

Kiswahili is currently the only sub-Saharan language with advanced scientific and technological terminology. Dictionaries concentrating on technological and scientific terminology have been edited.³¹⁸ Moreover, Kiswahili has been introduced in some forms into Microsoft Windows as part of a global project to increase world usage. The company (Microsoft) argues that in a region with few computer users and high illiteracy rates, the Kiswahili version of Windows will inspire East African governments to expand their IT economies, encourage literacy campaigns and attract more computer users.³¹⁹ It is thus hoped that with the success of Swahili in Information Technology, other languages will be added and thus this will eventually promote the use of African languages and save others from extinction.

Namibia and neighbor South Africa have expressed interest in introducing Kiswahili in their respective curriculums. In 2019 the Namibian Cabinet directed the Ministry of Education, Arts and Culture to unlock the potential of introducing Kiswahili language into the Namibian school calendar.³²⁰ This move was partly inspired by a state visit by the Tanzanian President John Magufuli to Namibia. According to Magufuli the introduction of Kiswahili in Namibian schools will in the long run help remove barriers to trade and also foster better relationships between the two nations and others.³²¹ However, this move has elicited both positive and negative response from the educated and uneducated alike. As stated by one critic of this move:

“It is important that the country allows time for its indigenous languages to develop first. The government continuously complains that they do not have the means to do so. We have to bring them to the level of other European languages, and they are saying they don’t have money to do that. So, do they have money to develop Kiswahili, which is also going to contribute to the marginalizing of our languages? he asked.³²²

³¹⁸ See S.D. Irira, *Kamusiawali ya Sayansi na Tekinologia* (Dar es Salaam, 1995), TUKI, *Kamusi Sanifu ya Biolojia, Fizikia na Kemia* (Dar es Salaam, 1990)

³¹⁹ Gray Phombeah. “Microsoft to launch in Kiswahili” 17 June 2004. Available online at: <http://news.bbc.co.uk/2/hi/africa/3816717.stm>

³²⁰ Kuzeeko Tjitemisa. ‘Cabinet explores introducing Kiswahili in schools. *New Era*. 26 July 2019

³²¹ *Ibid.*

³²² Arlana Shikongo. ‘Educators not keen on Swahili in schools. *The Namibian*. 30 July 2019

Proponents of the introduction of Kiswahili in Namibia argue that those who are anti Kiswahili are victims of deep-seated inferiority complex. As stated in a passage from a pro-kiswahili editorial in the local daily:

At the beginning of 2019, the Government of Namibia announced that indigenous languages will serve as medium of instruction at primary schools and as expected, there was uproar from some sections of the public and the education sector. The so-called “educated Africans” criticised the government move arguing that indigenous languages are not developed enough to be used as medium of instruction and that national languages will take our kids nowhere very fast. Recently, government mooted plans to introduce Kiswahili and the so-called educated Africans are once again saying this is not a good idea. Swahili will destroy our native languages and has no economic value to Namibians, goes the argument. This begs the question, what do we want as Namibians? We don’t want our indigenous languages to be used as medium of instruction nor do we want a fellow African language to be taught in our schools. This smacks of inferiority complex and self-hatred. More than 10 years ago, government introduced French, German and Portuguese as foreign languages in our schools and no complaint came from our so called education experts. Similarly, had government decided to introduce Danish, Finnish, Spanish, Italian or Russian or any other European language to be taught as foreign languages today, we are left to conclude that dissenting voices will be nowhere. For our local educators and the public, it is acceptable to introduce European languages in our education system and certainly nay to African languages.³²³

However, South Africa’s introduction of Kiswahili in its local schools has largely been welcomed by many. South Africa’s enthusiasm towards Kiswahili is summarized by the country’s Minister of basic Education:

I am delighted to announce that the council of education ministers overwhelmingly agreed to incrementally introduce Kiswahili in our schools. There is a high level of enthusiasm about this. Kenya and Tanzania have committed to assist with the training of educators and the development of appropriate learning and teaching support materials in Kiswahili.³²⁴

³²³ Christian Harris and Ellison Tjirera. ‘Making a case for Kiswahili. The Namibian.’ 23 August 2019.

³²⁴ Songezo Ndlendle. ‘Motshekga says plans underway to implement Kiswahili in SA schools’. 16 July 2019

3.8 Conclusion

Chapter 3 provides a detailed history of Africa's linguistic history and the impact of European languages on the development of local indigenous languages. Although many African languages opted to retain the languages of their former colonial powers, only a few Africans, especially those residing in urban areas are well versed in these languages. Ironically, some scholars argue that African languages are crucial in developing both urban and rural areas. Development programmes/projects can only be fully implemented if they are carried out in a language familiar with the people. The impact of colonialism is still being felt today and the marginalization of African languages and culture in favour of those of our erstwhile colonisers supports my argument in the entire Dissertation. Despite proclamations often made by some mainstream western scholars that Africa had no known indigenous writing scripts, this chapter rebutted these assertions by providing evidence to the contrary. However, despite possessing her own indigenous writing systems, no country in Africa had made any efforts to formally adopt any of these alphabets for use in public administration. There has been calls from some quarters within the African continent to make Kiswahili, East Africa's lingua franca as the sole official language of the African Union. Kiswahili is often universally accepted as the only language that has a uniting characteristic as it is often seen as politically neutral. Namibia and South Africa are the latest SADC countries to answer the call to introduce Kiswahili in its schools.

CHAPTER 4: INTERNATIONAL LAW AND LINGUISTIC RIGHTS

4.1 Introduction

Chapter 4 of this study focuses on how linguistic/cultural rights are promoted and protected under International Law. The chapter further interrogates the concepts of what constitutes minorities vis a vis minority language under international law. Therefore, this chapter also investigated the possibilities of whether international law provides a basis for reparation claims for linguistic and cultural loss.

The notion of language rights and that of the right to self-determination are intrinsically linked and seemingly recognised under various international law instruments. The chapter therefore interrogates this link in relation to the Namibian case study of the Rehoboth Basters in their quest for either autonomy or independence by referring to their socio-cultural vis a vis linguistic history.

4.2 Early development of linguistic and cultural rights

There have been many language rights for dominant language speakers for millennia, without anybody calling them language rights. Several linguistic minorities have for centuries had some language rights, in some countries even legally formalised.³²⁵ The first bilateral agreements, also old, were mostly about religious not linguistic minorities, but often the two coincided. International norms on the protection of the rights of persons belonging to minorities can be traced back to the 17th century, in particular provisions in the 1648 Peace of Westphalia Treaty and rules applicable in Transylvania. Similar provisions aiming at protecting the religious freedom of persons living on territories which, as a result of peace treaties, were ceded to

³²⁵ Skutnabb-Kangas, T. (2008) Human Rights and Language Policy in Education, in Language Policy and political education, Volume 1 of Encyclopaedia of Language and Education, 2nd edition, ed. Stephen May and NANCY Hornberger. New York: Springer, pp. 107-119

another state can be found in a number of treaties such as the Treaty of Oliva (1660), the Treaty of Nijmegen (1678) or in the Austrian-Polish Treaty of 1773, concluded as a part of the treaties resulting in the first cession of Polish territories to Austria, Prussia and Russia.³²⁶ The most comprehensive multilateral agreement covering national minorities was the Final Act of the Congress of Vienna 1815.³²⁷ During the 19th century, several national constitutions and some multilateral instruments safeguarded some national linguistic minorities.³²⁸ The Peace Treaties that concluded the First “World War” and major multilateral and international conventions under the League of Nations improved the protection.

4.3 The Congress of Vienna (1814-1815)

Preece asserts that a new period of minority protection started with the advent of nationalism and the Congress of Vienna.³²⁹ The treaties signed in Vienna distinguish, for the first time, between national ethnic minorities and ideological religious groups. Article 1 of the General Treaty arranges the partition of Poland among Prussia, Russia, and Austria.³³⁰ The right of Poles to maintain their national institutions are guaranteed by the treaty. Article 1 stipulates that the Polish subjects of Austria, Prussia, and Russia shall be entitled to representation and formal national institutions.³³¹ The Vienna Act provides evidence of nascent civil rights.

³²⁶ Nasic, H. (2007) *Minority Rights Instruments and Mechanisms: Minority Protection along the Conflict Continuum*.p.5. Available at:

<http://www.eurac.edu/en/research/autonomies/minrig/Documents/Mirico/Report%20on%20HR%20instruments%20WEB.pdf>.

³²⁷ Caportorti, F (1979) *Study of the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities*, New York, United Nations. p.2

³²⁸ Skutnabb-Kangas, T. and Phillipson, R. (1994) *Linguistic human rights: past and present*, T. Skutnabb-Kangas and R. Phillipson (eds), pp.71-110

³²⁹ Preece, J (1994), *National Minorities and the European Nation-State System*. Oxford, Clarendon Press, p. 59.

³³⁰ See Article 1 of the General Treaty.

³³¹ Hurst, M, ed., *Key Treaties of the Great Powers 1914- 1914*, (Newton Abbot: Davis and Charles, 1972), p. 45 in Thornberry, Patrick, *International Law and the Rights of Minorities*, p. 30.

Article LXXVII of the General Treaty stated that the inhabitants of Bern and Basil, transferred to the corresponding cantons, were entitled to equal political and civil rights.³³²

4.4 The Congress of Berlin (1878)

The Congress of Berlin (June 13 - July 13, 1878) was a meeting of the European Great Powers' and the Ottoman Empire's leading statesmen in Berlin in 1878. It was organized under the auspices of the Concert of Europe. In the wake of the Russo-Turkish War (1877–78), the meeting's aim was to reorganize the countries of the Balkans. Otto von Bismarck, who led the Congress, undertook to balance the distinct interests of Britain, Russia, and Austria-Hungary.³³³ As a consequence, although various compromises were made, differences between Russia and Austria-Hungary intensified, as did the nationality question in the Balkans. The congress was convened to revise the Treaty of San Stefano and to keep Constantinople in Ottoman hands. It effectively disavowed Russia's victory over the decaying Ottoman Empire in the Russo-Turkish War, 1877-78.³³⁴

Preece further argues that before the Congress of Berlin, states were not required to adopt minority provisions. They would accord guarantees as a gesture of goodwill.³³⁵ Disputes were resolved through diplomacy and were regarded as the way to avoid conflict and to facilitate cooperation in Europe.³³⁶ After the Congress of Berlin, guarantees for minority protection were externally dictated to the new states.³³⁷ The Treaty of Berlin contained comprehensive provisions for the national minorities in Romania. Minorities were granted religious freedom,

³³² Danova, M.D. (2011) Roma as a Unique Cultural Minority: The Impact of Communism and Democratization on Roma in Eastern Europe, Durham theses, Durham University. Available at Durham E-Theses Online: <http://etheses.dur.ac.uk/875/>

³³³ The Congress of Berlin 1878. Available at: http://www.newworldencyclopedia.org/entry/Congress_of_Berlin

³³⁴ Ibid.

³³⁵ Preece, supra note 329, p.62.

³³⁶ The Congress of Vienna. Available online at: <http://www.britannica.com/event/Congress-of-Vienna>

³³⁷ Preece, supra note 329, p.65

the right to non-discrimination, the right to hold public office, and the right to membership in the industries.³³⁸ Article IV of the Treaty is particularly important in providing for the interests of all national groups in Bulgaria. It states that the rights of the Turkish, Romanian, Greek, and other minorities will be given due consideration when drafting the ‘Organic Law of the Principality’ and the electoral regulations.³³⁹

4.5 The League of Nations

After the devastating World War, I that afflicted many nations of Europe, the claims of national groups both large and small dominated the international legal agenda. Those claims, which ranged from demands for equal treatment with majority populations to independent statehood, varied in accordance with the historical, territorial, political, and ideological positions of the states and minorities concerned.³⁴⁰

4.6 Universal Declaration on human rights

The Universal Declaration on human rights does not specifically refer to linguistic rights but several of its provisions can be implied to give effect to language rights. The said Declaration is by far the most important and comprehensive kind of ‘soft law’ that aggressively protects and promotes human rights in the entire world.

³³⁸ Ibid.

³³⁹ Parry, C. (1969) *The Consolidated Treaty Series*, (New York: Oceana Publications Inc.), pp.182-4.

³⁴⁰ Wippman, D. (1997) The evolution and Implementation of Minority Rights. vol. 66. Issue 2. *Fordham Law Review*.p.597. Available online at: <http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=3399&context=flr>

4.7 Specific declarations (soft law) that promotes and protects linguistic rights

In addition to various international human rights treaties that caters for language rights, there exist a variety of declarations designed to supplement the said instruments. Some these declarations are listed below:

4.7.1 The Universal Declaration on Linguistic Rights (Barcelona Declaration) (1996)

The Universal Declaration on Linguistic Rights states that “all peoples have the right to express and develop their culture, language and rules of organisation and, to this end, to adopt political, educational, communications and government structures of their own, within different political frameworks”.³⁴¹ The Declaration further decrees that everyone has the right to education in their own language, of their own language and culture, and education, at all levels, should serve the needs of the linguistic communities.³⁴²

4.7.2 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)

Article 2 of the Declaration stipulates that:

Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.³⁴³

Article 4 of the same Declaration states as follows:

³⁴¹ The Universal Declaration on Linguistic Rights (Barcelona Declaration) (1996). Available online at: <http://www.unesco.org/cpp/uk/declarations/linguistic.pdf>

³⁴² Ibid.

³⁴³ Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992): <http://www.ohchr.org/Documents/Publications/GuideMinoritiesDeclarationen.pdf>

States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law. States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards. States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue. States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.³⁴⁴

4.7.3 Universal Declaration on Cultural Diversity

Article 5 of the Declaration (Cultural rights as an enabling environment for cultural diversity) states that:

Cultural rights are an integral part of human rights, which are universal, indivisible and interdependent. The flourishing of creative diversity requires the full implementation of cultural rights as defined in Article 27 of the Universal Declaration of Human Rights and in Articles 13 and 15 of the International Covenant on Economic, Social and Cultural Rights. All persons have therefore the right to express themselves and to create and disseminate their work in the language of their choice, and particularly in their mother tongue; all persons are entitled to quality education and training that fully respect their cultural identity; and all persons have the right to participate in the cultural life of their choice and conduct their own cultural practices, subject to respect for human rights and fundamental freedoms.³⁴⁵

³⁴⁴ Ibid.

³⁴⁵ Article 5 of the Universal Declaration on Cultural Diversity. Available online at: http://portal.unesco.org/en/ev.php-URL_ID=13179&URL_DO=DO_TOPIC&URL_SECTION=201.html

4.8 Who are minority groups under international law?

Due to the controversy surrounding the question of what really constitutes a minority group, a number of contemporary scholars are reluctant to use the term ‘minority’ claiming this term was closely connected with the League of Nations system and therefore is obsolete.³⁴⁶ On the other hand, some authors like John Packer had explored whether a definition of minority was really required.³⁴⁷ According to Packer a number of writers had by-passed this question, saying that the question was ‘too complex’ or that consideration of a definition would delay getting onto the actual realisation of minority rights.³⁴⁸ Packer aimed to show that minority rights exist in the context of democracy and that, rather than being based on a mix of objective characteristics including features such as ethnicity, religious belief and language (as previous writers have accepted, differing on the relevant characteristics and their interpretation) the definition of minority should focus on a free association of people whose shared desire differs from the majority.³⁴⁹ However, despite Packer’s notable weaknesses in defining what constitutes a minority, Gilbert is in agreement with him and commented that Packer's article "is, in terms of theory, superior to all that have gone before."³⁵⁰

Capotorti’s definition of a minority group has found the widest recognition in theory and practice.³⁵¹ He proposed the following wording:

³⁴⁶ Petričušić, A. (2005) *The Rights of Minorities in International Law: Tracing Developments in Normative Arrangements of International Organizations*. Croatian International Relations Review, Vol. XI No.38/39. Available online at: https://bib.irb.hr/datoteka/421246.CIRR_Petricusic_MR_IL.pdf accessed on 11-11-2017

³⁴⁷ Jones, A.P. (2006) *Minority Rights in International Law: Minority Rights and Identity-Conscious Decision-Making*. Thesis submitted for the Degree of Doctor of Philosophy at the University of Leicester. pp.18-19. Available online at: <https://ira.le.ac.uk/bitstream/2381/31088/1/U224448.pdf> Cf. Packer, John (1993) “On the Definition of Minorities” in (ed) John Packer and Kristian Myntti “The Protection of Ethnic and Linguistic Minorities in Europe” Institute for Human Rights, Abo Akademi University.

³⁴⁸ Ibid.

³⁴⁹ Ibid.

³⁵⁰ Ibid.

³⁵¹ Jabareen, Y. T. (2011) “Redefining Minority Rights: Successes and Shortcomings of the U.N. Declaration on the Rights of Indigenous Peoples.”. *U.C. Davis Journal of International Law and Policy* 18, 119-162.p.122.

A group numerically inferior to the rest of the population of a state and in a non-dominant position, whose members-being nationals of the state possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.³⁵²

This definition outlines four primary criteria which one can apply when defining a minority:³⁵³

(1) numerical inferiority; (2) the non-dominant position of the group in relation to the population as a whole; (3) differences between the ethnic, religious and linguistic characteristics and traditions of such groups in relation to the rest of a country's population; and, (4) the group's wish to preserve its special characteristics and remain true to its culture.

Whereas the first three criteria are objective, the fourth is subjective and, as such, is determined by the group itself.³⁵⁴

Maja³⁵⁵ argues that Capotorti's definition is narrow in limiting article 27 of ICCPR to citizens. According to Maja the Kenyan High Court in *IL Chamus v Attorney General of Kenya and Others* was therefore correct to hold that minorities under modern and forward-looking jurisprudence should include non-citizens as well.³⁵⁶ It would therefore follow that a minority language is a language spoken by ethnic, religious and linguistic groups (citizens and or non-citizens) that have a sense of solidarity, are numerically inferior and non-dominant.³⁵⁷

³⁵² U.N. Subcomm'n on Prevention of Discrimination and Protection of Minorities, Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, 568, U.N. Doc. E/CN.4/Sub.2/384/Rev.1, U.N. Sales No. E. 78.XIV. 1 (1979) (by Francesco Capotorti) [hereinafter CAPOTORTI, PREVENTION OF DISCRIMINATION].

³⁵³ Janet, S. C. (2002) Minority Rights Group International, Development, Minorities and Indigenous Peoples: A case study and evaluation of good practice. p.8.

³⁵⁴ Jabareen, supra note 351, p.123.

³⁵⁵ Maja, I. (2007) Towards the Protection of Minority Languages in Africa. Submitted in partial fulfilment of the requirements of the LLM (Human Rights and Democratisation in Africa) of the University of Pretoria. p.10

³⁵⁶ *IL Chamus v The Attorney General and Others* MISC Civil Application N0. 305/ 2004

³⁵⁷ Maja, supra note 355, p.10.

The *Greco-Bulgarian “Communities” case* also provided among the earlier attempts at a legislation of a minority in international law:

By tradition, which plays so important a part in Eastern countries, the “community” is a group of persons living in a given country or locality, having a race, religion, language and traditions of their own and united by this identity of race, religion, language and traditions in a sentiment of solidarity, with a view to preserving their traditions, maintaining their form of worship, ensuring the instruction and upbringing of their children in accordance with the spirit and traditions of their race and rendering mutual assistance to each other.³⁵⁸

Another interesting question is whether or not minorities can also be identified at a sub-state level, and thus in reference to the population of that sub-state unit, instead of the population of the state. The United Nations Human Rights Committee has adopted a rather restrictive attitude in this respect in that following its opinion in *Ballantyne et al v Canada* it is not possible to consider a population group which constitutes the majority nation-wide, a minority in a province (UN Human Rights Committee 1993). However, it seems more appropriate to consider which level of government has the competence to make decisions of relevance to the population group concerned. To the extent that a lower level of government has such competence, it makes sense to define minorities at that level as well.³⁵⁹ Although the most authoritative definitions do include a citizenship requirement³⁶⁰ recently this requirement has to face mounting criticism.³⁶¹ It is indeed all too easy for states to manipulate their citizenship

³⁵⁸ Advisory Opinion No. 17, July 31, 1930, *Series B, No. 17*, pp. 4 – 46, at p. 22.

³⁵⁹ Ramaga, P. V. (1993) ‘The Group Concept in Minority Protection’, *Human Rights Quarterly* 1993, 575-588; see also Varady, T. (1997) ‘Minorities, Majorities, Law and Ethnicity: Reflections of the Yugoslav Case’, *Human Rights Quarterly* 1997, 9-54

³⁶⁰ Capotorti, F. (1991) *Study of the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities*, New York, United Nations. p.12; see also Deschênes, J., 1986, ‘Qu'est-ce qu'une minorité?’, *Les Cahiers de Droit* 1986, 255-291; Duffar, J., 1995, ‘La Protection Internationale des Droits des Minorités Religieuses’, *Revue de Droit Public et de Science Politique en France et à l'Etranger*, 1995, 1495-1530.

³⁶¹ Shaw, M. N., (1992), ‘The Definition of Minorities in International Law’, in Dinstein, Y. and Tabory, M., eds., *The Protection of Minorities and Human Rights*, Dordrecht, Martinus Nijhoff.

legislation so as to exclude certain population groups that would otherwise qualify as minority.³⁶²

Furthermore, is this requirement problematic for the Roma,³⁶³ as well as when the borders of existing states change due to secessions or associations. The Human Rights Committee has in any event adopted a rather liberal stance in its General Comment on article 27 ICCPR and in its General Comment on the position of Aliens under the Covenant in that it does not require members of a minority group to be citizens of the state of residence. The related requirement of having lasting ties with the country of residence is also increasingly questioned. Not only is it very difficult to give a concrete content to this requirement but it seems also unfair to *ipso facto* deny immigrant groups the status of minority.³⁶⁴ The Human Rights Committee clearly considers lasting ties irrelevant for the identification of a minority.

The final objective requirement is the one of non-dominance, excluding dominant minority groups from the definition of minority. Obviously, such dominant minorities would not need minority rights, while dominated majorities need much more than minority rights, more specifically self-determination and the right to rule themselves.³⁶⁵

*The Lubicon Lake Band v. Canada Case*³⁶⁶ reflects the legal nature of Article 27. Chief Ominayak is the leader and representative of the Lubicon Lake Band, an Indian band living within the borders of Canada in the Province of Alberta. The Band submitted to the HRC a

³⁶² Thornberry, P., (1993), 'The UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities: Background, Analysis and Observations', in Phillips, A. and Rosas, A., eds., *UN Declaration on Minorities*, Turku, Institute for Human Rights.

³⁶³ Gilbert, G., (1992), 'The Legal Protection Accorded to Minority Groups in Europe', *Netherlands Yearbook of International Law* 1992. pp. 67-104.

³⁶⁴ Ramaga, *supra* note 359, p.580

³⁶⁵ Hernrard, K. (2001) *The Interrelationship between Individual Human Rights, Minority Rights and the Right to Self-Determination and Its Importance for the Adequate Protection of Linguistic Minorities*. *The Global Review of Ethnopolitics* Vol. 1, no. 1, September 2001, pp. 41-61.

³⁶⁶ *The Lubicon Lake Band v. Canada Case*, Communication No. 167/1984, UN Doc. Supplement No. 40, A/45/40 (1990).

communication claiming that the government of Canada denied their right of self-determination and the right to dispose freely of their natural resources through Chief Ominayak. He alleged that serious damage to their traditional way of life had been caused, because of expropriation of land by the government. He asserted that the acts of the government had violated Articles, 1,2,6,7,14,17,18,23,26, and 27 of the ICCPR.³⁶⁷

The essential reasons for seeking to protect the interests of minority groups can also be extrapolated from a pronouncement of the Permanent Court of International Justice:

[...] to secure for certain elements incorporated in a State, the population of which differs from them in race, language or religion, the possibility of living peaceably alongside that population and co-operating amicably with it, while at the same time preserving the characteristics which distinguish them from the majority, and satisfying the ensuing special needs.³⁶⁸

In the *Acquisition of Polish Nationality Case*, the PCU also used the teleological method of interpretation in dealing with the Polish government's refusal to grant citizenship to its German minority residents in the country:

It seems therefore evident that since the Minority Treaty in general, and Article 4 in particular, does not exclusively contemplate minorities composed of Polish nationals or of inhabitants of Polish territory, Poland, by consenting, in Article 12 of the Treaty, to the preceding Articles being placed under the guarantee of the League of Nations in so far as they concern persons belonging to racial or linguistic minorities, also consents to the extension of this protection to the application of Articles 3 to 6. If this were not the case, the value and sphere of application of the Treaty would be greatly diminished.³⁶⁹

³⁶⁷ Park, J. (2006) *Minority Rights Constraints on a State's Power to Regulate Citizenship under International Law*. Thesis submitted for the Degree of Doctor of Philosophy in International Law University of London December 2006. p.133. Available online at: <http://etheses.lse.ac.uk/2795/1/U615744.pdf> accessed 24 September 2016

³⁶⁸ *Minority Schools in Albania*, Permanent Court of International Justice, Advisory Opinion. PCIJ. Series. A/B No. 64. p.17.

³⁶⁹ *German Settlers in Poland*, PCIJ Series B, No. 6, 1923; *Acquisition of Polish Nationality*, PCIJ Series B, No. 7, 1923; *Access to German Minority Schools in Polish Upper Silesia*, PCIJ Series A/B, No. 40, 1931; *Treatment of Polish Nationals and Other Persons of Polish Origin or Speech in Danzig*, PCIJ Series A/B, No. 44, 1932

4.9 Recognition and identity at national level

Petričušić argues that in the absence of the precise definition of the concept of minority in international law, it is up to each state to recognize a certain group of their citizens as minority and provide for their protection, since the state of majority population, not a national ‘mother state’ bears the responsibility of minority rights realization.³⁷⁰ Recognition of minorities within states is the precondition for their rights. Since the consensus of defining national minority has neither been reached in international nor in domestic law, many issues must be taken into consideration when seeking recognition of a certain group as a minority one. Correspondingly, “the numerical size of the group, its economic strength, its homogeneity, territorial location and density, as well as its claims based mostly on its historical past and sometimes on the changed contemporary conditions” are relevant factors for the maintenance and recognition of the minority identity.³⁷¹

National minorities are “neither the authentic reproduction of their ‘mother people’, although they are tied to their people particularly by language and culture, nor a reflection of the sociological and ideological satisfaction of the dominant people, to whom they are linked by their geographical situation and economic, cultural, historical and political features.”³⁷² Therefore, they deserve an exceptional accomplishment of their preserving and fostering in the state they inhabit, though the kinstates as well shape minority policies.³⁷³ In the context of Africa, the right to cultural integrity was advanced by the *Endorois* community in their

³⁷⁰ Petričušić, supra note 346, p.5.

³⁷¹ Trifunovska, S. (1999) (Ed.). *Minorities in Europe. Croatia, Estonia and Slovakia*. The Hague: T.M.C. Asser Press. pp. 21.

³⁷² Komac, M (1991) *Nationalities and Minorities in Yugoslavia*. *European Minorities. Contemporary European Affairs*. Volume 4, Issue 4, pp. 129.

³⁷³ Huber, K and Mickey, R.W. *Defining the Kin-State: An Analysis of its Role and Prescriptions for Moderating its Impact in Arie Bloed and Pieter Van Dijk (Eds.). Protection of Minority Rights Through Bilateral Treaties. The Case of Central and Eastern Europe*. The Hague/London/Boston: Kluwer Law International. 1999. pp.17-51.

communication to the African Commission on Human and Peoples Rights.³⁷⁴ They claimed that access to their ancestral territory ‘in addition to securing cultural integrity of the community and its traditional way of life.’³⁷⁵

4.10 Language rights

As stated in preceding chapters, there is no specific treaty protecting language rights. However, several international and regional instruments have provisions that advance language rights, more so minority languages.

4.10.1 What are minority languages?

According to Price³⁷⁶ one should distinguish between ‘those languages which, though characteristic of a minority in one country, are a majority language elsewhere, and those languages, on the other hand, which are nowhere the dominant language in the state.’ Stephens³⁷⁷ on the other hand offers a different definition of linguistic minority: the term refers to ‘indigenous and, in some cases, to autochthonous populations, or to communities so well established that they can properly be regarded as the historic occupants of the territories in which they live’. In this regard, he therefore excludes all refugees, expatriates, and immigrants.

³⁷⁴ Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya, Communication 276/2003 (hereinafter: Endorois Case). The decision was adopted by the African Commission in May 2009 and approved by the African Union at its January Meeting. In this case the Endorois argued that the decision to remove them from their traditional territories was directly affecting their right to religious freedom. Access to Lake Bogoria plays an important role in the religious tradition of the Endorois, as it is a place of an annual religious ritual and at the centre of other important places of worship for the community. The Endorois contended that their dispossession amounted to a violation of article 8 of the African Charter which states that: ‘Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms’. They claimed that their spiritual beliefs and ceremonial practices attached to the land constitute a religion. In their complaint, the Endorois highlighted that an indigenous group whose spiritual belief is intimately tied to the land requires special protection that should fall under the protection of freedom to practice a religion. By not allowing them access their ancestral spiritual sites, the Government had violated their right to practice their religion.

³⁷⁵ Ibid.

³⁷⁶ Price, G. (1979) *Minority languages in Western Europe*. In Stephens 1979; 1-17. p.1; see also Wardhaugh, R. (1987) *Languages in Competition*. Basil Blackwell. Ltd.

³⁷⁷ Stephens, M. (1976) *Linguistic Minorities in Western Europe*. Llandysul: Gomer Press.p.13.

It has been said that there is no comprehensive, overarching framework for the protection of language rights in international law. International law does not actually recognise ‘language rights’ in a clear, codified form.³⁷⁸ In this regard, De Vareness states that:

There is not in the present state of international law an unqualified ‘right to use a minority language’ but there are a number of existing rights and freedoms that affect the issue of language preferences and use by members of a minority or by the state.³⁷⁹

Most of the rights relating to language are negative assurances of the non-interference of the state in the private uses of language.³⁸⁰ Article 27 of the International Covenant on Civil and Political Rights (‘ICCPR’) states in negative terms that linguistic minorities ‘shall not be denied the right...to use their own language’. This is the most extensive provision on language rights in binding human rights treaty law.³⁸¹

According to Skutnabb-Kangas³⁸² the United Nation’s 2004 Human Development report links culture to language rights and human development. It states that:

...no more powerful means of ‘encouraging’ individuals to assimilate to a dominant culture than having economic, social and political returns stacked against their mother tongue. Such assimilation is not freely chosen if the choice is between one’s mother tongue and one’s future.³⁸³

While there is no international treaty dedicated to language rights, major international and regional legal instruments deal with the language-related interests of minorities.³⁸⁴ Leading

³⁷⁸ Abayasekara, S. (undated) A Dog without a Bark: A critical Assessment of the International Law on Language Rights. p.90. Available online at: <http://www.austlii.edu.au/au/journals/AUIntLawJl/2010/4.pdf>

³⁷⁹ De Vareness, F. (1999) ‘The existing Rights of Minorities in International Law’.p.117.In Kontra, M (1999) ‘Conceptualising and implementing Linguistic Human Right

³⁸⁰ Abayasekara, supra note 375, p.90.

³⁸¹ Skutnabb-Kangas, T, Kontra, M. and Phillipson, R. (2005) ‘Getting Linguistic Human Rights Right: A Trio Respond to Wee’. pp.318-323.

³⁸² Skutnabb-Kangas et al, *ibid*.

³⁸³ United Nations Development Programme. Human Development Report 2004. Available online at: <http://hdr.undp.org/reports/global/2004/>

³⁸⁴ Paz, supra note 16. p. 170.

scholarship on human rights and major international treaties and conventions makes particular promises as to how such conflicts bearing on language ought to be negotiated.³⁸⁵

The existing legal orthodoxy is based upon three principles. First, there is growing consensus that a human rights vocabulary is the best approach to deal with language rights claims.³⁸⁶ Academics vary on the degree to which this rights approach should be privileged: some advocate an absolute *right* protection to linguistic claims as a matter of law “linguistic rights should be considered basic human rights”,³⁸⁷ others promote a human rights approach only as a normative *aspiration*, albeit carrying real practical challenges (“If a particular regime of language rights could be shown . . . to be in some way ‘integral’ . . . to human rights, then this would offer an impressive normative and political foundation for that regime.”³⁸⁸

Second, it is generally accepted that the protection of minorities’ languages is closely associated with culture.³⁸⁹ Wardhaugh recognizes the close relationship between language and culture, concluding that it was not possible to understand or appreciate one without knowledge of the other.³⁹⁰ He further states that:

The structure of a language determines the way in which speakers of that language view the world or, as a weaker view, the structure does not determine the world-view but is still extremely influential in predisposing speakers of a language toward adopting their world-view.³⁹¹

³⁸⁵ Paz, *ibid*, p. 158.

³⁸⁶ *Ibid*.

³⁸⁷ Paz, *ibid*, pp. 158-165.

³⁸⁸ Kymlicka, W. & Patten, A. (2003) Introduction: Language Rights and Political Theory, in *Language Rights and Political Theory*, at 33.

³⁸⁹ Paz, *supra* note 16, p.160.

³⁹⁰ Wardhaugh, R. (2002). *An introduction to sociolinguistics* (Fourth Ed.). Oxford: Blackwell Publishers. p.220.

³⁹¹ *Ibid*, pp.219-220.

Third, the motivation for protection of the linguistic interests of minorities is to support what is widely accepted as “the preeminent human rights norm”³⁹² “the ideal of nurturing cultural diversity at large.”³⁹³ The Convention on the Protection and Promotion of the Diversity of Cultural Expressions of 2005,³⁹⁴ based on previous works within the organisation,³⁹⁵ it is the most prominent expression of the developments to promote cultural diversity on the international level. In the preamble, cultural diversity is seen as “a defining characteristic of humanity” but in the provisions of the treaty it comes down primarily to diversity in the audio-visual sector.³⁹⁶ The definition in article 4 of the Convention refers to “the manifold ways in which the cultures of groups and societies find expression” and can be qualified as a general description of the problem.³⁹⁷

In 1992, the General Assembly adopted the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities.³⁹⁸ The Declaration puts an emphasis on state obligations versus minorities. It however, does not define a minority, it acknowledges a difference between “National or Ethnic, Religious and Linguistic Minorities.”³⁹⁹

In the case of India, the question of what constitutes a linguistic minority has often come to the fore whenever the issue of language rights is at play in the country. The Constitution of India (Article 350 A) provides that every state must provide primary education in a mother tongue

³⁹² Steiner, H.J. (1991) “*Ideals and Counter-Ideals in the Struggle Over Autonomy Regimes for Minorities*,” 66 Notre Dame L. Rev. 1548, 1550

³⁹³ See article 27 of the International Covenant on Civil and Political Rights, the Universal Declaration of Human Rights among others.

³⁹⁴ Convention on the Protection and Promotion of the Diversity of Cultural Expressions of 20 October 2005.

³⁹⁵ UNESCO Universal Declaration on Cultural Diversity, adopted by 31st Sess. Of the General Conference of UNESCO, Paris, 2 November 2001, UNESCO Doc. CLT2002/WS/09, Paris 2002.

³⁹⁶ Kugelmann, D. (2007) The Protection of Minorities and Indigenous Peoples Respecting Cultural Diversity. Max Planck Yearbook of United Nations Law, Volume 11, p.241.

³⁹⁷ Ibid.

³⁹⁸ Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, A/RES/47/135 of 18 December 1992.

³⁹⁹ Kugelmann, supra note 396, p.243

and also provide for the appointment of a ‘Special Officer’ for linguistic minorities (Article 350 B), who is responsible to investigate matters relating to linguistic minorities and report them to the President. Neither the constitution nor any piece of legislation however defines linguistic minority. It was in 1971, in the case of *DAV College etc. v/s State of Punjab*,⁴⁰⁰ and other cases, that the Supreme Court of India defined a linguistic minority as a minority that at least has a spoken language, regardless of having a script or not. In the case of *TA Pai Foundation and Others vs State of Karnataka*, it further held that the status of linguistic minority is to be determined in the context of states and not India as a whole.⁴⁰¹

4.11 Claims for cultural/linguistic loss under international law

The claim for cultural and linguistic loss under international law is obscure. No international human rights instrument spells out clearly the merits for reparations for cultural loss. However, there exist implicit provisions in many human rights instruments in which it can be inferred that reparations for language loss can indeed be entertained within the realm of international law. The passage of time and lack of political will often contributes to the complexities involved in claiming reparations for cultural loss.

4.11.1 Cultural genocide and linguistic loss

The term 'genocide' was coined in 1944, by Polish Jewish scholar Raphaël Lemkin, who combined the Greek *genos* (race, tribe) with the Latin *cide* (killing) to describe the horror of the Jewish experience in Hitler's Germany. In 1946, it was largely as a result of Lemkin's determined lobbying that the issue of the prevention and punishment of genocide was first addressed at the United Nations.⁴⁰² Lemkin described eight dimensions of genocide political,

⁴⁰⁰ *DAV College etc. v/s State of Punjab* 1971 AIR 1737, 1971 SCR 688

⁴⁰¹ *TA Pai Foundation and Others vs State of Karnataka*, (2002) 8 SCALE 1: AIR2003SC355

⁴⁰² Harris, D. (n.d) *Defining Genocide. Defining History?* p.1. Available online at: <http://www.arts.monash.edu.au/publications/eras/edition-1/harris.php> .See also Lemkin, R. (1944). *Axis Rule in*

social, cultural, economic, biological, physical, religious, and moral, each targeting a different aspect of a group's existence. Of these, the most commonly recognized are physical, biological and cultural.⁴⁰³ Physical genocide is the tangible annihilation of the group by killing and maiming its members, either directly or through what the International Criminal Tribunal for Rwanda recognized as "slow death" techniques such as concentration camps. Biological genocide consists of imposing measures calculated to decrease the reproductive capacity of the group, such as involuntary sterilization or forced segregation of the sexes.⁴⁰⁴

Cultural genocide extends beyond attacks upon the physical and/or biological elements of a group and seeks to eliminate its wider institutions. This is done in a variety of ways, and often includes the abolition of a group's language, restrictions upon its traditional practices and ways, the destruction of religious institutions and objects, the persecution of clergy members, and attacks on academics and intellectuals. Elements of cultural genocide are manifested when artistic, literary, and cultural activities are restricted or outlawed and when national treasures, libraries, archives, museums, artefacts, and art galleries are destroyed or confiscated.⁴⁰⁵

The 1948 Convention on the Prevention and Punishment of the Crime of Genocide prohibits physical and biological genocide but makes no mention of cultural genocide. This omission was deliberate. Early drafts of the Genocide Convention directly prohibited cultural genocide. As the treaty was finalized, however, a debate emerged over its proper scope. Many state representatives drafting the treaty understood cultural genocide to be analytically distinct, with

Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress, Carnegie Endowment for International Peace, Washington, pp. 79-95.

⁴⁰³ Nersessian, D. (2005) Rethinking Cultural Genocide under International Law. *Human Rights Dialogue*: "Cultural Rights". p.1. Available at:

https://www.carnegiecouncil.org/publications/archive/dialogue/2_12/section_1/5139.html#:pf_printable

⁴⁰⁴ Ibid.

⁴⁰⁵ Ibid.

one arguing forcefully that it defied both logic and proportion “to include in the same convention both mass murders in gas chambers and the closing of libraries.” Others agreed with Lemkin’s broader initial conception that a group could be effectively destroyed by an attack on its cultural institutions, even without the physical/biological obliteration of its members.⁴⁰⁶

By genocide he meant “a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups with the aims of annihilating the groups themselves.”⁴⁰⁷ Lemkin intended to cover the protection of all groups including “physical, biological, political, social, cultural, economic, and religious.”⁴⁰⁸ Believing that particular cultures take thousands of years to form, Lemkin considered the destruction of culture a second type of genocide, later known as ethnocide.⁴⁰⁹ The first type of genocide was the total or near annihilation of a group and the second was the combination of massacre and eliminating a culture.⁴¹⁰

Cultural genocide ultimately was excluded from the final Convention, except for a limited prohibition on the forcible transfer of a group’s children. The drafters acknowledged that the removal of children was physically and biologically destructive but further recognized that indoctrinating children into the customs, language, and values of a foreign group was “tantamount to the destruction of the child’s group, whose future depended on that next generation.”⁴¹¹

⁴⁰⁶ Ibid.

⁴⁰⁷ Power, S. (2002) *A Problem from Hell: America and the Age of Genocide* (New York: Basic Books), p. 43.

⁴⁰⁸ Ibid., p.21.

⁴⁰⁹ Ibid., p.29.

⁴¹⁰ Ibid. p. 22.

⁴¹¹ Nerssessian, *supra* note 403, p.1.

4.11.2 Reparations for cultural and linguistic loss

The core principle on reparation under international law was formulated by the Permanent Court of International Justice (PCIJ) in the *Case Concerning the Factory at Chorzow*: “reparation must, as far as possible, wipe out all consequences of the illegal act and re-establish the situation which would, in all probability have existed if that act had not been committed.”⁴¹² Moreover, it is not only in doctrine, but also in practice, that a right to reparation is becoming firmly established. The International Court of Justice, for instance, continues to issue decisions on reparations. In the *Case Concerning Armed Activities on the Territory of the Congo*,⁴¹³ the Court illustrates the continued relevance of inter-State reparations by finding that Uganda has an obligation to provide reparations to the Democratic Republic of the Congo for, among other things, the invasion and occupation of Ituri. At the same time, it finds that the Democratic Republic of the Congo has an obligation to pay reparations to Uganda for, among other things, mistreating Ugandan diplomats at the Ugandan Embassy in Kinshasa as well as at Ndjili International Airport.

In its advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court finds that Israel has the obligation to make reparation for the damage caused to “all natural or legal persons having suffered any form of material damage as a result of the wall’s construction.”⁴¹⁴ Despite the rejection of the cultural elements of genocide during the negotiation of the Genocide Convention and any subsequent multilateral initiatives related to the criminalisation and prosecution of genocide, there have been initiatives

⁴¹² Case concerning the Factory at Chorzow (Merits), PCIJ, Series A, No. 17, 1928, p. 47. Cf. Amezcua-Noriega, O. (2011) *Reparation Principles under International Law and their Possible Application by the International Criminal Court: Some Reflections* p.2. available online at: http://www.essex.ac.uk/tjn/documents/paper_1_general_principles_large.pdf

⁴¹³ *Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment of 19 December 2005, I.C.J. Reports 2005.

⁴¹⁴ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, advisory opinion of 9 July 2004, I.C.J. Reports 2004, p. 136. Cf. *Rule of Law Tools for Post Conflict States: Reparations programmes*. pp.7-8. Available at: <http://www.ohchr.org/Documents/Publications/ReparationsProgrammes.pdf>

to define and prohibit what has become to be termed “ethnocide” or ‘cultural genocide’.⁴¹⁵ In 1981, a UNSECO Conference of experts was drawn together to consider the question of ‘ethnocide’ with specific reference to indigenous peoples of the Americas. The ensuing Declaration of San Jose defined ethnocide as where:

An ethnic group is denied the right to enjoy, develop and transmit its own culture and its own language, whether collectively or individually. This involves an extreme form of massive violation of human rights and, in particular, the right to ethnic groups to respect for their cultural identity as established by numerous declarations, covenants and agreements of the United Nations, and its Specialised Agencies.⁴¹⁶

Indigenous reparation claims for cultural loss, and arguably for all losses, do not solely arise from past wrongs. For indigenous peoples their colonial occupation and attendant dispossession remains incomplete and the independence gained by states did not extinguish their people’s right to self-determination.⁴¹⁷ The continuing denial or limitation on the exercise of the right to self-determination is clearly manifest in respect of enjoyment and development of culture. Moreover, while in most cases the formal apparatus of colonialism and assimilation have been dismantled, injuries and losses suffered by indigenous communities as a result of these policies and practices is ongoing and intergenerational.⁴¹⁸

In the case of *Mapiripán v. Colombia*, the State accepted responsibility for forty-nine “direct” violations of the right to life after a village-wide massacre. Since high compensation awards were unavoidable for the killings, the Court omitted community development measures entirely from the judgment (although several non-monetary remedies remained).⁴¹⁹

⁴¹⁵ Vrydoljak, A.F. (2007) Reparations for cultural loss. pp.198-199. Available at: https://www.researchgate.net/publication/228177022_Reparations_for_Cultural_Loss

⁴¹⁶ Declaration of San Jose, adopted on 11 December 1981, by the Conference of specialists on ethnocide and ethno development in Latin America, convened by UNESCO and Latin American School of Social Sciences.

⁴¹⁷ Vrydoljak, supra note 415, p.207.

⁴¹⁸ Ibid.

⁴¹⁹ *Mapiripán v. Colombia*, 2005 Inter-Am. Ct. H.R. (ser. C) No. 134(Sept. 15, 2005).

Claims for cultural loss specifically, and reparations generally, by indigenous peoples in settler states are bounded to the continuing violation of their right to self-determination and the ongoing impact of colonial occupation.⁴²⁰ Indigenous representatives argue that the reversal (or at least amelioration) of both can only be achieved through wide-scale structural and societal changes involving a renegotiation of political, economic, social changes involving a renegotiation of political, economic, social and cultural arrangements with states.⁴²¹

4.12 The relationship between language rights and the right to self-determination vis a vis secession

The right of self-determination is one of the most important and perhaps controversial rights enshrined in the African Charter on Human and Peoples Rights (ACHPR) and other international human rights instruments because it is the vehicle through which many African states achieved independence from colonialism⁴²². Even today, many ethnic groups continue to use self-determination to make claims for self-rule. These post-colonial claims of self-determination have put pressure on the Commission to define the scope of this right in Africa.⁴²³ The ACHPR is currently the only regional human rights instrument that permits the right of self-determination to be the subject matter of communications submitted by entities other than states.⁴²⁴

In *Sir Dawda K. Javari v The Gambia*,⁴²⁵ the Commission interpreted the word ‘peoples’ to mean the entire people of a country as a collective when it found a violation of Article 20(1)

⁴²⁰ Vrdoljak, A. F., Reparations for Cultural Loss, p.225, in Lenzerini, F.(ed) Reparations for Indigenous Peoples. International and Comparative Perspectives.

⁴²¹ Ibid.

⁴²² Mhango, M.O. (undated) Recognizing a Right to Autonomy for Ethnic Groups under the African Charter on Human and Peoples’ Rights: Katangese Peoples Congress v. Zaire. p.11. Available online at: <https://www.wcl.american.edu/hrbrief/14/2mhango.pdf>

⁴²³ Ibid.

⁴²⁴ Ibid.

⁴²⁵ *Sir Dawda K. Javari v The Gambia* (2000) AHRLR 107 (ACHPR) (13th Annual Activity Report) (Gambia Coup Case).

on the right to freely determine their political status, as a result of a military coup in The Gambia. It held that the military coup was a grave violation of the right of Gambian people to freely choose their government as entrenched in Article 20(1) of the Charter. Similarly, in *Democratic Republic of Congo (DRC) v. Burundi, Rwanda and Uganda*,⁴²⁶ the Commission made generous references to the right of the ‘people’ of Congo to self-determination, and to the disposal of their natural wealth and resources.

The Commission seemed to have dealt with this issue in the earlier case of *Katangese Peoples’ Congress v Zaire*.⁴²⁷ The complainant, the President of the Katangese Peoples’ Congress, requested the African Commission to recognize, among other things, the independence of Katanga by virtue of Article 20(1) of the African Charter. The Commission however found that the claimants had not shown that they had made efforts to exercise their right to self-determination in accordance with the constitutional options open to them such as confederation, regionalism, local government, or self-government. Moreover, since the Commission is obliged to uphold the territorial integrity and sovereignty of Zaire, now (Democratic Republic of Congo), it found that the exercise of the right to self-determination must be done within the boundaries of the state.

According to Hoppe⁴²⁸ secessionism increases ethnic, linguistic, religious, and cultural diversity, while in the course of centuries of centralisation hundreds of distinct cultures are stamped out. Self-determination, as a right, is expected to be exercised by the peoples within the framework of existing sovereign states and consistently with the maintenance of the

⁴²⁶ Communication 227/1999, (2003) 20th Annual Activity Report; contrast this general interpretation with the radical notion of ‘people’ in the Universal Declaration of the Rights of Peoples otherwise known as the ‘Algiers Declaration’ of 4 July 1976.

⁴²⁷ (2000) AHRLR 72, (ACHPR 1995) (8th Annual Activity Report) (Katangese Secession Case).

⁴²⁸ Hoppe, H. (1993) Nationalism and Secession.pp.1-3. Available online at: http://www.hanshoppe.com/wp-content/uploads/publications/nationalism_chronicles.pdf

territorial integrity of those states, as was noted by the Supreme Court in the Quebec case.⁴²⁹ At various points throughout Canadian history, the Quebecois have clamored for their independence from the rest of Canada. Their demands came to the forefront in the Canadian legal community when the Supreme Court of Canada addressed the issue in *In re Secession of Quebec*. The opinion examined Quebec's right to independence under Canadian and international law. While acknowledging the right to self-determination, the Court ultimately determined that Quebec does not have the right to unilaterally secede.⁴³⁰

Self-determination is capable of developing further so as to include the right of secession from existing states, although this is restrictive to the exceptions as to when such a right may arise, laid by the Canadian Supreme Court.⁴³¹ The effect of self-determination is that it provides the peoples of such territories with a degree of international personality, since it clearly applies within the context of decolonization of the European empires.⁴³² It has also been argued that self-determination may be violated where a State's act substantially compromises the economic activity of a peoples when that economic activity is required for the preservation of their identity.⁴³³ The purported breach will largely depend upon the nature of the economic activities of the group. Of importance is the reliance of the group on certain activities for their cultural or economic welfare and the way an economic activity has been compromised by a State's act.⁴³⁴ In addition, social and cultural rights may be breached if a State's act fundamentally

⁴²⁹ Hoppe, *Ibid.* See also Muwanguzi, P.K. (2007) Reconciling Uti Possidetis and Self Determination: The Concept of Interstate Boundary Disputes.

⁴³⁰ The Quebec case (1998) 161 DLR (4th) 385, 437-8.

⁴³¹ *Ibid.*

⁴³² *Ibid.*

⁴³³ McVay, K. (2012) Self-determination in New Contexts: The Self-determination of Refugees and Forced Migrants in International Law. *Merkourios - International and European Migration Law* - Vol. 28/75 p.48. Available online at: www.utrechtjournal.org/articles/10.5334/ujel.bf/galley/32/download/

⁴³⁴ *Ibid.*

undermines a peoples' ability to practice and preserve their culture.⁴³⁵ An example of such an act would be denying peoples' access to education in their own language.⁴³⁶

4.13 International law, language rights and the right to self-determination: a case study of Rehoboth Basters of Namibia

Namibia prides itself as a unitary state, founded on the principles of democracy and rule of law. It is an undeniable fact that the country is among the few success stories when it comes to relative peace and stability in a continent where warfare and other threats to human security are the norm. Upon independence, Namibia faced a situation where a minority ethnic demanded for internal self-determination-the Rehoboth Basters case. The Rehoboth Bastergemeente's aim was and to an extent to establish an autonomous region within Namibia.

4.13.1 The Rehoboth Basters

The members of the Rehoboth Baster Community are descendants of indigenous Khoi and Afrikaans settlers who originally lived in the Cape, but moved to their present territory around Rehoboth, south of Windhoek, between 1868 and 1872. After the "Great Trek" they "rapidly established their own institutions"⁴³⁷ and in 1872, adopted their *Vaderlike Wette*, or 'Paternal Laws', which provided for the election of a Captain and other public representatives.⁴³⁸ Their community consists of approximately 35,000 people, and they live in an area of approximately

⁴³⁵ First Optional Protocol to the International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171; S Joseph, J Schultz and M Castan, *The International Covenant on Civil and Political Rights: Cases, Materials, and Commentary* (OUP 2004) 9.

⁴³⁶ See *German Minority Schools in Polish Upper Silesia* (Advisory Opinion) [1924] PCIJ Rep, Series A/B No 40, 4; *Minority Schools in Albania* (Advisory Opinion) [1935] PCIJ Rep, Series A/B No 62, 5.

⁴³⁷ *Minority Rights Group* (ed.), *World Directory of Minorities* (1997), p. 504.

⁴³⁸ The Paternal Laws and other legislative acts are reprinted in Y. J. D. Peeters, "On the Discrimination of the Rehoboth Basters: An Indigenous People in the Republic of Namibia", fact file prepared for the 11th Session of the Working Group on Indigenous Populations and the 45th Session of the Subcommission on Prevention of Discrimination and Protection of Minorities of the UN Commission on Human Rights, July-August 1993, at <http://www.cwis.org/fwdp/Africa/rehoboth.txt>.

14 000 square kilometers.⁴³⁹ In this area the Basters developed their own society, culture, language and economy, with which they largely sustained their own institutions, such as schools and community centres.⁴⁴⁰ The Rehoboth Basters are Christian, and their language is Afrikaans.⁴⁴¹ Although the history of the Basters is much older, the living area of the Rehoboth Basters from 1870 until 1990 was called Rehoboth, which had an autonomous status. Currently, the area is divided into the Namibian administrative regions of Hardap and Khomas.⁴⁴²

4.13.2 Government's response to the call by the Baster's community's claim for the right to self-determination

Proponents of the Baster's claim to the right of self-determination argue among other things that the community have their own developed legislation which has been in use for more than 100 years. This guaranteed to them the right of self-determination throughout the colonial period. This right was recognized by the German Empire and the Government of the Union of South Africa. A 'Treaty of Protection and Friendship' was concluded between the Rehoboth Basters and the German Kaiser. In the treaty, the rights and freedom that the Basters had acquired were recognized by his Excellency the German Kaiser. During the colonial time, the Rehoboth Basters kept their rights to exercise self-determination.⁴⁴³ However, after the Government of the Union of South Africa superseded the German Colonial Government in

⁴³⁹ Submission by the Unrepresented Nations and Peoples Organisation (UNPO) to the UN Office of the High Commissioner for Human Rights for the consideration of the Universal Periodic Review of the Republic of Namibia during the 24th Session.p.3.

⁴⁴⁰ Morawa, A.H.E (2002) Minority Languages and Public Administration A Comment on Issues Raised in *Diergaardt et al. v. Namibia. European Centre for Minority Studies.* p. 2. Available online at: http://rehobothbasters.org/images/stories/Books_Reports/ecmi2002working_paper_16.pdf

⁴⁴¹ Afrikaans, also known as the Cape Dutch, belongs to the west Germanic branch of the Indo-European language family. It is the only Indo-European language that developed in Africa.

⁴⁴² Submission by the Unrepresented Nations and Peoples Organisation (UNPO) to the UN Office of the High Commissioner for Human Rights Supra note 804, p.3

⁴⁴³ The human rights situation of Rehoboth Basters. A submission by the UNPO to the Human Rights Council's Expert Mechanism on the Rights of Indigenous Peoples Rights of Indigenous Peoples. p.1. Available online at: <http://unpo.org/downloads/1281.pdf>

1915, the form of local self-government remained unchanged during the period of Military occupation of South-West Africa by Union forces (1915-1919). On the 17th of August 1923, two members of the Executive Council of the Basters and 7 members of the Council signed an agreement with the South-West Africa Administration.⁴⁴⁴

The agreement was rejected by a majority of the community as it limited their right to self-determination as cemented under the German regime. It led to division among the Baster community as two councils were then formed. The old council and an oppositional new council were formed. The S.W.A Administration reacted with the enactment of Proclamation 31 of 1924.⁴⁴⁵

Decades later the Basters received another form of Self-Government based on their Paternal Laws by means of an Act of the South African Parliament 'Act 56 of 1976' in 1979. The Paternal Laws were thereby the official legal code that enabled the Rehoboth Baster community to govern their land and provided the people the opportunity to develop their culture and economy from 1979 to 1989.⁴⁴⁶ Many Rehoboth citizens viewed the period from 1979 to 1989 as one where the Rehoboth "gebiet" (area) developed, grew and prospered on all levels.⁴⁴⁷

Analysing the provisions of the Rehoboth Self-Government Act one can deduce that the Baster community never abandoned their ideal of a self-governing Rehoboth "Gebied" and saw the Rehoboth Self-Governing Act as a means to achieve this goal. Buttressing this argument,

⁴⁴⁴ Stanley, C.S. (2007) Traditional Governance and Recognition: Why is it still eluding the Rehoboth Baster Seventeen Years after Independence? A Dissertation submitted in Partial Fulfilment of the Requirements for the Degree of Bachelor of Laws (LL. B) of the University of Namibia. p.17.

⁴⁴⁵ Ibid.

⁴⁴⁶ Ibid.

⁴⁴⁷ Ibid.

Amissah JP in *Attorney-General v Dow*⁴⁴⁸ 1994 (6) BCLR (Botswana) on the effect of preambles:

“The preamble is an optional feature in public general Act, though compulsory in private Acts. It states the reason for passing the Act. It may include a recital of the mischief to which the Act is directed. When present, it is thus a useful guide to the legislative intention.”⁴⁴⁹

According to Stanley⁴⁵⁰ an examination of the Preamble Act 56 of 1976 reveals the intention of the legislator and the reasons why the legislature passed the Act. It relates as follows:

To grant self-government in accordance with the Paternal Law of 1872 to the citizens of the Rehoboth Gebiet within the territory of South West Africa; for that purpose to provide for the establishment of a Captain Council and a Legislative Council for the said Gebiet; to determine the powers and function of the said Council; and to provide for matters connected therewith.

The Namibian government’s response to the Basters’ call for self-determination was summed up as follows by one senior government official:

The Rehoboth Baster Community cannot have self-determination because doing so is constitutionally illegal in Namibia, which is unitary State. The former Captain (Hans Diergaardt) also agreed that Namibia should be a unitary State. Self-determination will never work in Namibia. Here we talk about One Nation, One Namibia said Namoloh. Those pushing for self-determination in Namibia have a hidden agenda to serve their own interests.⁴⁵¹

4.13.3 The interface between the right to language and self-determination in the context of Rehoboth Basters

As stated earlier, Rehoboth Basters speak the Afrikaans language as their mother tongue. The language history of the Basters showcases multiple shifts in the relatively short 140 years of

⁴⁴⁸ *Attorney-General v Dow*⁴⁴⁸ 1994 (6) BCLR (Botswana).

⁴⁴⁹ Stanley, supra note 444. pp.15-20.

⁴⁵⁰ Stanley, *ibid.*

⁴⁵¹ Lugman Cloete. “Rehoboth Basters cannot go alone”. 26 September 2014.

their existence. Upon arrival in Namibia most Basters still spoke the Khoi of their maternal ancestors and the Dutch of their paternal ancestors. In Namibia the Basters came into contact with Nama (now officially called *Khoekhoegowab*) and in the German era (1885-1915) they were exposed to German, which many learnt in school and/or through marriage in Rehoboth. Dutch remained their religious language while “Rehoboth Afrikaans” became their spoken language.⁴⁵² After 1928 Cape Coloured teachers brought standardised Afrikaans to Rehoboth while many isolated elderly Basters on farms maintained a form of Dutch, which was transmitted to grandchildren. In time the Basters lost Khoi, Dutch and German.⁴⁵³

The political position of the Rehoboth Basters of Namibia as well as their mother tongue Afrikaans changed overnight when the country became independent on 21 March 1990. The Basters lost their right to (albeit limited) self-rule and Afrikaans lost its status as co-official language alongside English in the process. At the time Rehoboth had been a stronghold of the Rehoboth Basters for 130 years and of Afrikaans for almost a century.⁴⁵⁴

International treaties including the ICCPR, that are signed by Namibia contain several articles that prohibit discrimination on the basis of language, the Basters have been facing problems related to their “Afrikaans” language for decades.⁴⁵⁵ One of the problems that the Rehoboth Basters are encountering is that the Namibian government does not actually allow the use of Afrikaans in the official communication with the government.⁴⁵⁶

⁴⁵² Louw, A. M (2010) Language maintenance and shift among the Rehoboth Basters of Namibia ca. 1868-2008. A thesis presented in the fulfilment of the requirements of a PhD in Linguistics at the University of Cape Town. 2010. pp.2-3. Available online at: http://uctscholar.uct.ac.za/PDF/76427_Louw,%20A%20M_PhD.pdf

⁴⁵³ Britz, R.G. (1991). “Afrikaans: Invloed van die Rehoboth Basters sedert 1870.” *Monitor*, June: pp. 9-10.

⁴⁵⁴ *Ibid*, p.1

⁴⁵⁵ The human rights situation of Rehoboth Basters. A submission by the UNPO to the Human Rights Council’s Expert Mechanism on the Rights of Indigenous Peoples Rights of Indigenous Peoples. pp 1- 4.

⁴⁵⁶ *Ibid*.

The Rehoboth Baster's strong desire to use the Afrikaans language in their official communication with the central government was elucidated in the Submission to the UN Office of the High Commissioner for Human Rights by the Unrepresented Peoples Organisation (UNPO) for the consideration of the Universal Periodic Review of the Republic of Namibia during the 24th Session. An excerpt from the submission reads:

Although international treaties including the ICCPR, that are signed by Namibia contain several articles that prohibit discrimination on the basis of language, the Basters have been facing problems related to their 'Afrikaans' language for decades. One of the problems that the Basters are encountering is that the Namibian government does not actually allow the use of Afrikaans in the official communication with the government. Therefore, the Basters filed a complaint at the UNHRC on 17 November 1996. Although the UNHRC ruled in 2000 that this is in violation with the rights of the Rehoboth community, the decision did not improve the situation. According to Article 3(1) of the Constitution of the Republic of Namibia, the official language of the country is English. However, before English became the only official language of Namibia, Afrikaans was the lingua franca. The current language policy faces challenges, as only 8% of the Namibians are native English speakers. The remaining Namibians speak Afrikaans or their home language [there are up to 30 languages spoken in the country] in daily life.⁴⁵⁷

4.14 The relationship between self-determination and secessionism vis a vis language

Language has not only been used to define a "people" for the principle of self-determination. It has also been used to identify a "country" for the principle of the territorial integrity of a country, as outlined in principle 6 of the Colonial Independence Declaration, GA Res. 1514(XV).⁴⁵⁸ Language clearly does play an important functional role in uniting and dividing people. However, it does not appear to irrevocably shape human behaviour, nor does it inevitably translate into national ties.⁴⁵⁹

⁴⁵⁷ Submission to the UN Office of the High Commissioner for Human Rights by the Unrepresented Peoples Organisation (UNPO) for the consideration of the Universal Periodic Review of the Republic of Namibia. p.5.

⁴⁵⁸ Summers, J. (2004) *The Idea of the People, the Right of Self-determination, Nationalism and the Legitimacy of International Law*. Doctoral Dissertation, submitted with the permission of the Faculty of Law of the University of Helsinki.p.41. Available at: <http://ethesis.helsinki.fi/julkaisut/oik/julki/vk/summers/theidea.pdf>. See also Fishman, J. A (1960) "A Systematization of the Whorfian Hypothesis" 5 *Behavioural Science*.pp. 32339 at p. 337.

⁴⁵⁹ Summers, *ibid*, pp.60-62.

Different nations may share the same language, such as English, French or Spanish, and a single nation can speak different ones, like Scotland or Ireland.⁴⁶⁰

Many national languages are also extremely close: Czech and Slovak, Serb and Croat, Danish and Norwegian, Lithuanian and Latvian, Bulgarian and Macedonian. Whatever the differences between the Krajina Serbs and Croats, language was not one of them. The Serbs in Knin spoke the Croatian variant of Serbo/Croat and used, like the Croats, the Latin alphabet.⁴⁶¹ A crucial factor, therefore, may not simply be the functional role of language, but the value placed on it.⁴⁶²

Despite the increased number of new states and claims for self-determination, the connotation of *the principle of self-determination*, as a general right, remains uncertain; there is an existing right, *lex lata*, under international law, at the same time, that right appears to be *lex obscura*. Authoritative sources speak of the principle to its existence and numerous groups of peoples rely on it, as a basis for what they claim to be their right to respect or independence.⁴⁶³ Nevertheless governments of states in general contest the positions of the peoples or nations, especially if the question of secession arises. Consequently, we have the repeated assertion of the right of self-determination, at the same time the repeated denial of the same right.⁴⁶⁴

⁴⁶⁰ Summers, *ibid*, see also Chowdhury, S. R. (1977) "The Status and Norms of Self-Determination in Contemporary International Law" 24 *Netherlands International Law Review* pp. 7284 at p. 76.

⁴⁶¹ Summers, *supra* note 458; see also Glenny, M. (1992) *The Fall of Yugoslavia: The Third Balkan War* (Penguin Books, London,) at p. 3.

⁴⁶² Summers, *supra* note 458, see also Fishman, J. A. (1968) "Sociolinguistics and the Language Problems of Developing Countries" in J. A. Fishman, C. A. Ferguson, and J. Das Gupta eds., *Language Problems of Developing Nations* (John Wiley & Sons, New York) pp. 316 at pp. 67.

⁴⁶³ Zaric, S. (2013) *The principle of self-determination- and the case of Kosovo*. Thesis in Public international law, Stockholm University.p.4. Available online at: <http://www.diva-portal.se/smash/get/diva2:694349/FULLTEXT01.pdf>

⁴⁶⁴ See also Crawford J.S, *The Right of Self-Determination in International Law: Its Development and Future, in People's Rights*, Alston Philip (ed.), Academy of European Law, European University Institute, Oxford University Press, 2002, p. 26.

According to Van Dyke it must be emphasized, though, that the right of peoples to self-determination does not include a right to secession.⁴⁶⁵ Not even in instances where the powers that be act in breach of a minority's legitimate expectations.⁴⁶⁶ Van der vyver therefore posits that there are three compelling arguments are decisive in this regard:

1. The right to self-determination is almost invariably mentioned in conjunction with the territorial integrity of States,⁴⁶⁷ and reconciling the two principles in question necessarily means that self-determination must be taken to denote something less than secession.
2. The right to self-determination vests in a people, while a new State created through secession is essentially territorially defined “(it is a defined territory that secedes from an existing State and not a people).⁴⁶⁸
3. The right to self-determination is a collective group right (entitlements included in that right can be exercised by individual members of the concerned group, either individually or collectively) while a right to secede is an institutional group right (where permissible, the decision to secede must be taken by a representative organ of the territorially defined group on behalf of the group as a whole).

In the Western Sahara case⁴⁶⁹ the court stated that:

The validity of the principle of self-determination defined as the need to pay regard to the freely expressed will of peoples is not affected by the fact that in certain cases the General Assembly has dispensed with the requirement of consulting the inhabitants of a given territory.

⁴⁶⁵ Van Dyke, V. (1970). *Human Rights, the United States, and World Community*. New York: Oxford Univ. Press. p.86.

⁴⁶⁶ Van der vyver, J. D. (2004) *The right to self-determination and its enforcement*. *ILSA Journal of International & Comparative Law*. Vol. 10. pp. 421

⁴⁶⁷ See, e.g., *Final Act of the Conference on Security and Co-operation in Europe*

⁴⁶⁸ Dinstein, Y. (1976). *Collective Human Rights of Peoples and Minorities*, 25 *INT'L L. Q.* 102, 103

⁴⁶⁹ *ICJ Reports*, 1975, pp. 30, 50, 85, 138.

However, it should be noted that the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities excluded from the right to self-determination specific practices of an ethnic, religious or linguistic community that violate the national laws of a country and are contrary to international standards.⁴⁷⁰ It is submitted that the national-law limitation is to be conditioned by the international-standards criterion: it presupposes municipal regulation that remains within the confines of international standards and does not place undue restrictions upon the group interests of minorities.⁴⁷¹

4.15 Conclusion

Chapter 4 of the Dissertation gave a detailed overview of how linguistic vis a vis cultural rights are protected under various international law instruments. The chapter traced the history of minority languages protection from the 17th century to modern times. The chapter further discussed the challenges of defining what constitute a minority group. The Capotorti's definition of a minority group has found the widest recognition in theory and practice. This chapter further highlighted the right to reparation for linguistic and cultural loss under various human rights treaties by referring to existing international legal instruments. In this chapter, it can seem acceptable to conclude that claims for reparations for cultural loss tend to be controversial and, in most instances, lack adequate legal basis to succeed. The passage of time and lack of political will often contribute to limited successes in asserting claims for reparations for cultural and/or linguistic loss.

⁴⁷⁰ Article 4.2 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992).

⁴⁷¹ Van der vyver, *supra* note 465, p.13

Applying international law on the promotion and protection of minority languages is discussed in detail in the next chapter under the relationship between international law, language rights and the right to self-determination. This chapter further pointed out the often-controversial relationship between secessionism, language and the right to self-determination by referring to principles of international law on the subject matter. The Rehoboth community's desire for autonomy within the Republic of Namibia was also discussed. The Rehoboth case is a classic example of the quest for both territorial autonomy and linguistic nationalism. The Rehoboth Baster's quest for some form of "independence" or self-determination from the central government in Windhoek is a test case to Namibia's constitutional order.

CHAPTER 5: THE LANGUAGE SITUATION IN NAMIBIA: LEGAL AND POLICY FRAMEWORK

5.1 Introduction

As pointed out in the preceding chapters, Namibia is some multicultural vis a vis multilingual country with over 30 dialects spoken but only a few of this are accorded national status. This chapter aims to examine the legal and policy framework in place in the country that are aimed at protecting and protecting indigenous local languages in all spheres of governance. Moreover, in order to understand the legal and policy framework relating to cultural and linguistic rights in Namibia, it is imperative to discuss the political structure of governance in the country. Chapter 5 provides a detailed analysis on the pros and cons of mother tongue instructions in Namibian schools. On this premise, it further examines the relationship between the use of English as a medium of instruction and the high failure rates of grade 10 and 12 students in national examinations. The plight of Namibia's unrecognised languages is also discussed in this chapter.

5.2 How international legal instruments on linguistic and cultural rights bind on Namibia

By virtue of Article 144 of the Namibian Constitution, the Convention is part of the Namibian domestic laws. Namibia follows a monist approach to the reception of rules of public international law and international agreements in terms of Article 144 of the Namibian Constitution.⁴⁷² The effect of Article 144 is that the rights and freedoms provided in the international treaties that Namibia signed and ratified are enforceable within Namibia by the judiciary and quasi-judicial bodies.⁴⁷³

⁴⁷² See Article 144 of the Namibian Constitution.

⁴⁷³ Excerpted from Namibia's Convention against Torture (CAT) report 2015. pp. 5-6.

The Committee on Civil and Political Rights recommended to Namibia to enhance the use of indigenous languages in some aspects of governance. The Committee recommended as follows:

While the Committee notes the reason why the State party recognizes only one official language, it is concerned that those persons who do not speak the official language may be discriminated against in the administration of public affairs and in the administration of justice.⁴⁷⁴ The State party should take measures to ensure, to the extent possible, that persons who only speak non-official languages used widely by the population are not denied access to public service it should take measures to protect and promote the use of such languages.⁴⁷⁵

The Namibian Government responded as follows:

Article 3 (1) of the Namibian Constitution states that: Namibia's official language shall be English. However, Article 3(2) of the Namibian Constitution protects the right of a detainee to be addressed in a language which he or she understands. In Namibia people who do not speak the official language are not denied the use of their mother tongue in administration, justice, education and public service.

International law jurisprudence was introduced to the Namibian legal system gradually during the South African occupation. According to the Roman–Dutch law, treaties required legislation to be part of the national law of South West Africa. The position was confirmed in *Binga v Administrator-General, South West Africa & Others*,⁴⁷⁶ in which Justice Strydom said the following:

Obligations incurred by international treaty and resolutions by international organisations such as the United Nations stand on a different footing from customary law and generally speaking a court in South Africa, and for that matter a court in this country will only give effect thereto if such a treaty or resolution was incorporated by legislative act into the laws of the land.

⁴⁷⁴ Excerpted from Namibia's 2nd Periodic Report of the International Covenant on Civil and Political Rights 2013. p.20.

⁴⁷⁵ Ibid.

⁴⁷⁶ *Binga v Administrator-General, South West Africa & Others*, 1984 (3) SA 949 (SWA) at 968–969.

Customary international law was thus treated as part and parcel of the national law of South West Africa. This position was influenced by the South African position, where customary international law was directly and automatically applicable in the municipal law of South Africa. The position was authoritatively confirmed in *Nduli & Another v Minister of Justice & Another*⁴⁷⁷ in which Rumpff, CJ, noted the following:

It is too obvious that international law is to be regarded as part of our law, though the *fons et origo* of this proposition must be found in Roman–Dutch law ... Only such rules of international law are regarded as part of SA law as are either universally recognised or have received the assent of this country.⁴⁷⁸

Article 5 read with Article 25 (2) of the Namibian Constitution, gives a right to aggrieved persons who claim that their fundamental rights or freedoms guaranteed by the Namibian Constitution have been infringed, threatened or violated to approach a competent court for a remedy. In addition, Article 25(4) empowers the courts to deal with cases of human rights violations, and to award monetary compensation to the victim.⁴⁷⁹

In *Minister of Defence v. Mwandighi*⁴⁸⁰ the court had to discuss the implication of the doctrine of State Succession in international law as applicable in Namibia. In this case involved Mr M who was shot and seriously injured by members of the South African Defence Force. He sued them for damages prior to independence in 1990, but the matter was still ongoing after that date. Essentially, the appeal from the High Court to the Supreme Court was against the substitution of the South African Minister of Defence with his Namibian counterpart in light

⁴⁷⁷Nduli & Another v Minister of Justice & Another 1978 (1) SA 893 at 897.

⁴⁷⁸ Tshosha, O. (undated) The status of international law in Namibian national law: A critical appraisal of the constitutional strategy. pp.8-10. Available online at:

http://www.kas.de/upload/auslandshomepages/namibia/Namibia_Law_Journal/2010_1/NLJ_section_1.pdf

⁴⁷⁹ Ibid.

⁴⁸⁰ Minister of Defence v. Mwandighi 1993 NR 63 (SC).

of the provisions of Article 140(3) read with Article 140(1) of the Constitution.⁴⁸¹ In this regard, the Court held that:

The Namibian Constitution has a Declaration of Fundamental Human Rights and Freedoms which must be protected. These freedoms and rights are framed in a broad and ample style and are international in character. In their interpretation they call for the application of international human rights norms.⁴⁸²

In the case of *Cultura 2000 v. The Government of the Republic of Namibia*,⁴⁸³ the government on account of the provisions of Article 140(3) of the Constitution, enacted the State Repudiation (Cultura 2000) Act⁴⁸⁴ against the establishment and workings of Cultura 2000. In particular, and with this piece of legislation, government did not want to recognise or honour obligations that the previous administration had entered into with Cultura. The organisation was established to preserve and promote the cultural practices of Namibians of European descent, e.g. namely those with an Afrikaans, English, German or Portuguese background. In response to a submission from *Cultura 2000* and in support of declaring the activities of an apartheid South Africa as unwanted within the ambit of the principles of international law, the court expressed itself as follows:⁴⁸⁵

It is manifest from these and other provisions that the constitutional jurisprudence of a free and independent Namibia is premised on the values of the broad and universalist human rights culture which has begun to emerge in substantial areas of the world in recent times and that based on a total repudiation of the policies of apartheid which had for so long dominated law making and practice during the administration of Namibia by the Republic of South Africa.

The case of *Kausea v Minister of Home Affairs & Others*⁴⁸⁶ also dealt with the influence of international law on the Namibian legal system. The applicant, a police officer, had published

⁴⁸¹ Dausab, Y. (undated) International law vis-à-vis municipal law: An appraisal of Article 144. pp.270-280. Available online at: http://www.kas.de/upload/auslandshomepages/namibia/constitution_2010/dausab.pdf

⁴⁸² Ibid.

⁴⁸³ *Cultura 2000 v. The Government of the Republic of Namibia* 1993 NR 328 (SC).

⁴⁸⁴ The State Repudiation (Cultura 2000) Act No. 32 of 1991.

⁴⁸⁵ *Cultura 2000 v. The Government of the Republic of Namibia*, 1993 NR 328 (SC) at 333 H-I.

⁴⁸⁶ *Kausea v Minister of Home Affairs & Others* 1995 (1) SA 51 (Nm).

comments critical of the Namibian police. Proceedings were brought against him in terms of Police Regulation 58(32) which provided for an offence if a member of the force commented unfavourably on the force in public upon the administration of the force. Applicant applied for a declaratory order declaring the regulation to be invalid. The Namibian constitution in terms of Article 144 provides that unless otherwise provided in the constitution or Act of Parliament the general rules of public international law and international agreements binding upon Namibia shall form part of the law of Namibia. Accordingly, the African Charter became part of Namibian law. The Court found that it was questionable as to whether the 1982 Constitutional provisions and the Universal Declaration of Human Rights had become part of Namibian Law 'but their provisions should carry weight in the interpretation of the Namibian Constitution. This was especially the case where the Namibian constitution was equivocal or uncertain, relevant international agreements should be given considerable weight.

5.3 Legal, policy and institutional framework relating to language /cultural rights in Namibia

The Namibian Constitution is often regarded as among the most liberal in Africa. Chapter 3 of the said Constitution contains a Bill of Rights which entrenches linguistic and cultural rights. Chapter 1 of the Constitution stipulates as follows:

- (1) The official language of Namibia shall be English.
- (2) Nothing contained in this Constitution shall prohibit the use of any other language as a medium of instruction in private schools or in schools financed or subsidised by the State, subject to compliance with such requirements as may be imposed by law, to ensure proficiency in the official language, or for pedagogic reasons.

(3) Nothing contained in Sub-Article (1) hereof shall preclude legislation by Parliament which permits the use of a language other than English for legislative, administrative and judicial purposes in regions or areas where such other language or languages are spoken by a substantial component of the population.⁴⁸⁷

While Article 66 recognises both Customary and Common Law, it stipulates that:

(1) Both the customary law and the common law of Namibia in force on the date of Independence shall remain valid to the extent to which such customary or common law does not conflict with this Constitution or any other statutory law.

(2) Subject to the terms of this Constitution, any part of such common law or customary law may be repealed or modified by Act of Parliament, and the application thereof may be confined to particular parts of Namibia or to particular periods.⁴⁸⁸

Article 66 therefore recognises the fact that all customary and cultural practices of Namibia's indigenous peoples are entrenched in their respective languages. On the other hand, article 19 of the Constitution deals with the right to practice ones' culture, it states as follows:

Every person shall be entitled to enjoy, practise, profess, maintain and promote any culture, language, tradition or religion subject to the terms of this Constitution and further subject to the condition that the rights protected by this Article do not impinge upon the rights of others or the national interest.⁴⁸⁹

The Ministry of Basic Education Arts and Culture is mandated by the Namibian government to promote all the different cultures and languages of Namibia. The division of arts and culture in the Ministry promotes various Namibian cultures by holding annual cultural festivals. The said cultural festivals are meant to showcase Namibia's rich cultural and linguistic heritage and

⁴⁸⁷ See Article 3 (1) (2) and (3).

⁴⁸⁸ See Article 66 (1) and (2) of the Namibian Constitution.

⁴⁸⁹ See Article 19 of the Namibian Constitution.

to promote peace and harmony between various ethnic groups in the country.⁴⁹⁰ Article 20 of the Namibian Constitution provides for the establishment of private educational institutions at the expense of the persons wanting it. Language can be a criterion as long as the school does not discriminate on the grounds of race, colour or creed.⁴⁹¹ The freedom of association protected under article 21 of the same Constitution has many manifestations and may also apply to language and cultural groups.⁴⁹²

5.4 Legislation with expressed and implied provisions related to linguistic/cultural rights in Namibia.

Besides the Constitution, there are several laws which contains explicit and implied provisions that accords protection to linguistic/cultural rights. Below are some of them.

5.4.1 National Arts Fund of Namibia Act, Act No.1, 2005

This Act provide for the establishment of the National Arts Fund; to promote and develop the arts in Namibia; to establish a council to control and manage the Fund and to provide for related matters. Under this Act, the concept “Arts” "Arts" includes all forms and traditions of dance, drama, music, theatre, visual arts, crafts, design, written and oral literature, all of which serve as means for individual and collective creativity and expression through performance, execution, presentation, exhibition, transmission and study.

⁴⁹⁰ Erastus Kuutondokwa (personal interview). 12 July 2016.

⁴⁹¹ Quoted from The Practice of Constitutional Law, Human Rights and Practical Working of the State and Public Bodies booklet, p. 121.

⁴⁹² Ibid.

5.4.2 Namibian Broadcasting Act, Act No.9, 1991

This Act provide for the establishment of a broadcasting corporation for Namibia; its objectives, powers, duties and functions; and to provide for matters incidental thereto. The objectives of the Corporation shall be to carry on a broadcasting service in order to:

- (a) inform and entertain the public of Namibia;
- (b) to contribute to the education and unity of the nation, and to peace in Namibia;
- (c) to provide and disseminate information relevant to the socio-economic development of Namibia; and
- (d) to promote the use and understanding of the English language.

Although promoting the use of English is among its core objectives, the Act still impliedly recognizes the use of indigenous languages as a pillar of unity. The NBC radio services as stated later in this chapter allows for broadcasting in selected indigenous languages.

5.4.3 Copyright and Neighbouring Rights Protection Act, Act No.6 of 1994

This Act provides for the protection of copyright and performers' rights and incidental matters.

It defines “adaptation” in relation to:

- (a) a literary work, includes
 - (i) in the case of a non-dramatic work, a version of the work in which it is converted into a dramatic work;
 - (ii) in the case of a dramatic work, a version of the work in which it is converted into a nondramatic work;
 - (iii) a translation of the work; or

- (iv) a version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book or in a newspaper, magazine or similar periodical;
- (b) a musical work, includes an arrangement or transcription of the work, if such arrangement or transcription has an original creative character;
- (c) an artistic work, includes a transformation of the work in such a manner that the original or substantial features thereof remain recognisable;
- (d) a computer program, includes
 - (i) a version of the program in a programming language, code or notation different from that of the program; or
 - (ii) a fixation of the program in or on a medium different from the medium of fixation of the program.

5.4.4 Policy on Arts and Culture 2001

The aim of this policy was:

- To promote unity in diversity, give all Namibians a sense of identity and pride in their own creative talents, and to improve the quality of life.
- To uphold unity in diversity.
- To safeguard, extend and promote our physical, linguistic and spiritual heritage.
- To promote widespread cultural and artistic expression.

Under this policy, the Ministry of Basic Education, Arts and Culture have spent significant amounts of money in using culture as a vehicle for unity.

5.4.5 The National Heritage Council

The National Heritage Council (NHC) is a statutory organization responsible for the protection of Namibia's natural and cultural heritage, intended to reinforce the work of the Ministry of Youth, National Service, Sport and Culture in matters regarding heritage. The NHC was established under the National Heritage Act, No. 27 of 2004, replacing the former National Monuments Council. In addition to the work of the NHC, the National Museum of Namibia maintains extensive collections of objects related to Namibian natural history, cultures, history, and archaeology, as well as actively pursues research to improve the content and understanding of its collections.

5.5 Languages of Namibia

English is the official language, but Namibia's relatively small population is extraordinarily diverse in language and culture. More than 11 languages are indigenous to Namibia but with its cosmopolitan society, languages from around the world are spoken in Namibia. People commonly speak two or three languages and more than 49% of the population speaks Oshiwambo. Due to the country's colonial history Afrikaans, the language of the previous South African occupiers is still widely spoken and functions as the *lingua franca* in Namibia. Namibia has two small groups of nomadic groups; the Khoisan speaking people, known as the Bushmen or San and the Ovahimba people, figuratively known as the red people.⁴⁹³

Indigenous languages are included in the school syllabus at primary level. From secondary level English is the medium of instruction. Among European languages spoken in Namibia

⁴⁹³ Languages spoken in Namibia. Available online at: <http://www.gov.na/languages-spoken>

are German, Portuguese, Spanish and French. According to the 2011 census figures the main indigenous languages are:

- (a) Oshiwambo spoken by 49% of households
- (b) Nama/Damara spoken by 11% of households
- (c) Afrikaans spoken by 10% of households
- (d) Kavango spoken by 9% of households; and
- (e) Otjiherero spoken by 9% of households.⁴⁹⁴

5.6 Classification of Namibian languages

There are three (3) different language families present in Namibia.

5.6.1 Bantu languages

The first Bantu groups to live in Namibia (Ovambo and Kavango) arrived in the 14th Century, settling in the north along the border with Angola, where the rich and fertile soil suited their farming way of life.⁴⁹⁵ In Namibia, five different groups of Bantu-speaking peoples are generally recognised: the Owambos, the Ovaherero, the Kavangos, and the Caprivians.⁴⁹⁶ The Kavangos and the Caprivians includes several ethnic groups. This is reflected in the labels themselves, which derive from geographical areas, the Okavango River and the Caprivi Strip now Zambezi region respectively. The former group includes Vakwangali, the Vambundza, the Vashambyu, the Vagciriku and the Hambukushu, while the latter includes the Basubiya, the Bafwe, the Bayeyi, the Ba totela, the Malozi, the Mbalangwe among others.⁴⁹⁷

⁴⁹⁴ Ibid.

⁴⁹⁵ <http://www.frontier.ac.uk/CountryPDF/Download.aspx?name=Namibia>

⁴⁹⁶ The meaning of the term “Caprivan” is often controversial and at times derogatory depending on which part of that region one finds him/herself.

⁴⁹⁷ Maho, supra note 8, p. 27.

5.6.2 Khoisan languages

In describing the languages of the so-called “Bushmen” and the “Hotentot”, Jena⁴⁹⁸ coined a new term Khoisan, by compounding “Khoe”, the general term for “person” in the languages of the Central Khoisan branch and “Saan”, “hunter-gatherers, foragers” in Khoekhoegowab.⁴⁹⁹ A look at available distribution maps of Khoisan languages in southern Africa give the impression that the southern half of Namibia was almost exclusively the domain of Nama which belongs to the Khoekhoe branch of the Kxoe family (Central Khoisan).⁵⁰⁰ At the same time, the historical and ethnographic records tell us that this area was colonized relatively late (from the 17th century on) by the Nama pastoralists but that it hosted an indigenous San forager population. About its language(s) virtually nothing is known, and it is unlikely that this situation will ever change significantly.⁵⁰¹

5.6.3 Indo-European languages

Owing to its colonial past, Afrikaans, English and German are the main Indo-European languages found in Namibia.

5.6.3.1 German

German was the sole official language in Namibia between 1884 and 1915, the years in which it was a colony of the German Reich. It failed, however, to be the *lingua franca* in Namibia during this period, with Afrikaans instead having this role, as only a privileged white minority

⁴⁹⁸ Schultze, J. L. (1928) Zur Kenntnis des Korpes der Hottentotten und Buschmanner. Jena: Gustav Fischer.

⁴⁹⁹ Haacke, W.H.G. (2002) A Khokhoegowab evidence in the study of origins: The case of the Namibian Khoekhoe-speakers. (University of Namibia Inaugral Lecture Proceedings) Windhoek: University of Namibia.p?

⁵⁰⁰ Güldemann, T. (undated) The San languages of southern Namibia: a linguistic appraisal with special reference to Krönlein's N|uusaa manuscript, pp. 2-4. Available at:

<http://email.eva.mpg.de/~gueldema/pdf/NuusaaKroenlein.pdf>.

⁵⁰¹ Ibid.

and a few blacks spoke the German language.⁵⁰² The German speaking community in Namibia has held on to its culture and language with several schools offering German medium education. The brutal Germany colonisation of the then German South West Africa still often causes political tensions with the central government. Many a times the German community has accused the government of destroying monuments that symbolise local Germany culture and identity in Namibia. In 2013, the Namibian government amid strong protests from the German community removed a colonial era statute known as the *Reinkerndal* which according to government celebrates the victory of Germans over black Namibians during the 1904-09 genocidal war and thus it has lost its significance.⁵⁰³

Some German speaking Namibians have been consistently accused of being sympathetic to Nazism and its related ideologies. For example, in *State v Smith & Others*,⁵⁰⁴ the constitutionality of the Racial Discrimination Prohibition Act, 1991, was tested. The case emanated from an advertisement in a Windhoek newspaper congratulating the Nazi Rudolph Hess on his birthday.⁵⁰⁵

Section 11 of the said Act therein reads as follows:

- (1) No person shall publicly use any language or publish or distribute any written or display any article or do any act or thing with intent to
 - (a) Threaten, ridicule or insult any person or group of persons on the ground that such person belongs, or such persons belong to a particular racial group; or
 - (b) Cause, encourage or incite disharmony or feelings of hostility, hatred or ill-will between different racial groups or persons belonging to different racial groups; or

⁵⁰² Shah, S. (2007) German in a contact situation: The case of Namibian German. p.20. Available online at: http://www.sagv.org.za/edusa/edusa_2-07-2/sha_2007_2.pdf

⁵⁰³ Staff reporter. "Reiterdenkmal disappears overnight". The Namibian Sun. 26-12-2013.

⁵⁰⁴ *State v Smith & Others 1996 NR 367 (HC)*.

⁵⁰⁵ Horn, N.J. (2014) Human Rights in the Private Sphere. In Namibia Law Journal. Volume 6 Issue 2 December 2014, pp. 21-25. Available online at: http://www.kas.de/wf/doc/kas_42241-1522-1-30.pdf?150812210302

(c) Disseminate ideas based on racial superiority.

5.6.3.2 Afrikaans and English

As stated in the preceding chapters, Afrikaans is said to have been the first Indo-European language to arrive and establish itself in Namibia, followed by a brief period of the German language. English is currently the sole official language of the land and came to Namibia as a result of the then liberation movement turned political party SWAPO's own language policy for Namibia.⁵⁰⁶

5.7 The call for a single African national language in Namibia debate

Taking cognisance of the language situation in neighbouring Botswana and historical ally Tanzania, there have been growing calls by academics and ordinary citizens of Namibia to introduce a national language that will forge the country's national identity. The choice of a national language as engendered much debate as the choice of an official language decades earlier.

Well known Namibian academic, Joseph Diescho, proposed the Otjiherero language as the single common national language for the country.⁵⁰⁷ He reasons as follows:

1. Otjiherero is a real Bantu language which at the moment not a language of the majority tribe or ethnic group in the country and thus does not suffer the stigma of language of domination;⁵⁰⁸

⁵⁰⁶ My own emphasis.

⁵⁰⁷ Joseph Diescho. 'Towards an Afrikan National Language'. New Era. 29 April 2014.

⁵⁰⁸ Ibid.

2. In the Namibian history as such, the word Herero resonates beyond our borders and it carries with itself the power of recognition outside of the country;⁵⁰⁹
3. Otjiherero has a traditional dress code to accompany it which, in spite of the controversy, one cannot mistake to be a Namibian expression of identity with a history attached to it;⁵¹⁰
4. Otjiherero, as one of the languages spoken by the first revolutionaries who faced the mighty German colonial military onslaught is likely to repose some of the first expressions of Namibia's national resistance and by evoking and invoking such oral history that could be fashion a stronger One Namibia, One Nation;⁵¹¹
5. Otjiherero is easier to learn than other languages in the country as it accommodates many words and syntaxes from Oshiwambo, Rukavango, Silozi and even Kiswahili;⁵¹²
6. It can be argued that out of ten Namibians from any of the Thirteen Plus One Regions, at least four would follow a conversation in Otjiherero, because either the language is closer to their own, or they have been exposed to it through labour or studies mobility;⁵¹³
7. Because Otjiherero is currently not the language of a dominant group, developing it follows the post-independence Namibian leadership's logic and wisdom of choosing English as the official language, the reasoning for which was that the new language would cause us all to suffer growing pains, but allow us to enter a new world from which all of us would gain;
8. Otjiherero has enough written and published literature upon which we can build and expand;⁵¹⁴

⁵⁰⁹ Ibid.

⁵¹⁰ Ibid.

⁵¹¹ Ibid.

⁵¹² Ibid.

⁵¹³ Ibid.

⁵¹⁴ Ibid.

9. Otjiherero is more accessible to most Namibians of all groups in the active public and private sectors since it is widely spoken in the capital and in the wider expanding industries;⁵¹⁵
10. Otjiherero has the highest quota of African intellectuals in the country, that is those who speak it effortlessly and who would consequently serve as the most direct carriers of the language in the streets and elsewhere, not to mention that Otjiherero first language speakers are the most cohesive social group in independent Namibia who are not as divided by political enclaves as other groups in the country are;⁵¹⁶
11. Otjiherero has a leg up already in as far as the reality is that for a language to grow, it needs champions and eloquent users. Otjiherero has that, and one of them is the Founding President who can speak it in a manner that a young Namibian would like to emulate;⁵¹⁷ and
12. Otjiherero, more than any other of our languages, has the potential to blur the existing tribal dialects, lower the linguistic barriers that exist and allow white/coloured Namibians to start appreciating how much they are part of the African family in Namibia's Zebra Nation that can speak of itself in one medium of OSHINAMIBIA.⁵¹⁸

Notwithstanding Namibia's covert ethnic tensions, chances are that electing a single indigenous Namibian language as official will not be widely accepted in the country. Moreover, Otjiherero being a Bantu language is likely to be rejected by speakers of Khoisan languages who for decades have been complaining about being marginalized by other Bantu groups such as Owambos.⁵¹⁹

⁵¹⁵ Ibid.

⁵¹⁶ Ibid.

⁵¹⁷ Ibid.

⁵¹⁸ Ibid.

⁵¹⁹ B. Weidlich, "DTA Warns of Tribal Domination", *The Namibian*, 13th October 2008.

5.8 The plight of other minority languages not yet recognised by the state

As alluded to in the preceding chapters, the Namibian government only recognises about 8 languages as national languages out of dozens spoken in the country. In recent years minority ethnic groups have been calling on government to recognise their languages and allow those languages to be taught at school. In the country's two Kavango regions, the Vanyemba ethnic group have been pressuring both the regional and central government to recognise their tribe in order to maintain their privileges, language, norms, values and culture. The Vanyemba are also requesting government for their language to be broadcast on NBCs Rukavango radio.⁵²⁰

While in neighbouring Zambezi region there have also been calls by an increasing number of people in the region to promote and use other indigenous languages other than the official language English and the regional lingua franca Silozi. These calls emanate mainly from the Subia and Yeyi speaking tribes of the Region.⁵²¹ The Masubia people are the largest tribe in the Region. The Mayeyis are the minority in the region but a significant minority in Botswana. Siyeyi orthography was recently developed in Botswana. Subia orthography is also currently being developed unofficially by Subia linguists and historians.⁵²² When asked why Silozi continues to dominate the affairs of the Zambezi region at the expense of other languages, a prominent educationalist and indigenous language author had this to say:

It is too costly for the state to develop orthographies for other indigenous languages coupled with a lack of teachers to teach those languages. After all Silozi is not necessary a bad language as it is used as a common lingua franca for all the ethnic groups of the region thus minimising inter-ethnic conflicts.⁵²³

⁵²⁰ Olavi Haikera. "Vanyemba Tribe And Language Dominate Talk Radio". Lela Mobile. 22 May 2015. Available online at: <http://www.leramobile.com/content/51271/Vanyemba-Tribe-And-Language-Dominate-Talk-Radio/>.

⁵²¹ Harris, C. (2016) The linguistic Dilemma in Namibia's Zambezi Region. Paper presented at the National Research Symposium of the National Commission on Research Science and Technology.

⁵²² Ibid.

⁵²³ Namasiku Ntelamo. (Personal interview). 07 July 2017.

5.9 The language policies in Namibian schools

Upon Namibia's independence from South Africa in 1990, the newly established Ministry of Education, Youth, Culture and Sport, eager to throw off the vestiges of colonial education known as "Bantu Education" introduced national language policy for Namibian schools. After intense and lengthy deliberations, the agreed policy was issued in the document entitled "Education and Culture in Namibia: The Way Forward to 1996 in 1991."⁵²⁴ The criteria below were taken into consideration when the said policy was being developed and are still valid today:

1. The expectation that a language policy should facilitate the realisation of the substantive goals of education;
2. The equality of all national languages regardless of the number of speakers or the level of development of a particular language;
3. The cost of implementing the policy;
4. The fact that language is a means of transmitting culture and cultural identity;
5. The fact that for pedagogical reasons it is ideal for learners to study through their mother tongue, particularly in the early years of schooling when basic skills of reading, writing and concept formation are acquired;
6. The need for learners to be proficient enough in English, the official language, at the end of the seven-year primary school cycle in order to gain access to further education as to a language of wider communication.

According to Chavez⁵²⁵ the African Charter on the Rights and Welfare of the Child under article 11 states that every child has the right to an education directed towards "the promotion and

⁵²⁴ The Language Policy for Schools in Namibia. Discussion Document. January 2003 by the Ministry of Basic Education, Sport and Culture. Available at: http://www.moe.gov.na/files/downloads/ec9_Language_Policy%20for%20schools_discussion%20document%202003.pdf.pdf.

⁵²⁵ Chavez, A. (2016) Rights in Education and Self-Identity: Education and Language of Instruction in Namibia. *International Education Studies*; Vol. 9, No. 3, pp. 1-8.

development of the child's personality, talents and mental and physical abilities to their fullest potential" and "the preservation and strengthening of positive African morals, traditional values and cultures". In order for students to experience the full development of their personality, education must provide opportunities for them to dream of a better future and acquire the knowledge and skills that they need to pursue it. Education ought to help students develop their human capabilities and empower them to stand up for their human rights. Therefore, students in Namibia should have the right to become everything that they are capable of being, which comes in part by having a strong cultural identity and taking pride in being African. Education can be a powerful tool in promoting these values, but this has not been the case in recent years in Namibia.⁵²⁶

The choice of language of instruction in multilingual regions of Namibia continues to hamper the aims of the National Language Policy for Schools. There have been cases of alleged imposition of one indigenous language over non-native speakers of that "imposed language" in ethnically diverse regions as Kunene in north western Namibia. The Kunene Region comprises mainly *Otjiherero* and *Damara* speaking groups, who are culturally and politically different from one another.⁵²⁷ In some other parts of the country, schools continue to experience a critical shortage of qualified Khoekhoegowab/Damara>Nama language teachers. There are unqualified teachers teaching other subjects, but the situation is not as bad as it is with Khoekhoegowab. Unqualified teachers are thus inducted in order to fit into the system. But that in itself is not enough as they need years of training to become professional teachers. The teachers have to re-apply each year and the school has to look for replacements for those who do not reapply.⁵²⁸

⁵²⁶ Ibid.

⁵²⁷ Staff Reporter. "Tribalism and language dispute racks school". The Namibian Sun. 07 June 2011. Available online at: <http://www.namibiansun.com/node/11164>

⁵²⁸ Staff Reporter. "Namibia: No Qualified Khoekhoegowab Teachers at Otjivero". New Era newspaper. 08 October 2015.

5.10 Is the English language the reason for the high failure rate of grade 10 and 12 students in Namibia?

In terms of the Namibian experience, it illustrates that English has extremely contributed to the high failure rate in Namibian schools (because in Namibia you need to pass English to be considered fit for tertiary education). Over 60% of pupils in Namibia fail to attain B symbols in national exams. The Namibian education system has since independence favoured English over indigenous languages.⁵²⁹ According to Harris after the reform of the education system in 1993 when the apartheid era Bantu Education was phased out, the results of the first public examinations for Grade 10 were devastating. The examination was administered by the University of Cambridge Local Examinations Syndicate and written in English. Only 15% of learners who sat for the Cambridge O Levels (Grade 10) examinations passed during that year (1993).⁵³⁰ Harris further submits that following these poor results so soon after independence, literacy and numeracy skills levels were tested among Grade 8 learners in Windhoek; it was found that 22.4% of learners were not functionally literate in English and only marginally skilled at Grade 6 level. Further, 49.2% of learners had numeracy skills lower than Grade 7 level. She further argues that it is a fact is that learners who did not achieve the required literacy or numeracy level for Grade 8 came from schools where English and not the home language was chosen as the medium of instruction.⁵³¹

Namibia continues to see high failure rates in both its junior and grade 12 end of year qualifying exams. Namibia' Junior Secondary Certificate results have remained consistently poor for many years, with thousands of full-time students either ending up on the streets or enrolling

⁵²⁹ Kaundu Alloys. "A Language that Alienates". Namibian Newspaper. 23 March 2017.

⁵³⁰ Harris, P.G. (2011) *Language in Schools in Namibia. The Missing Link in Educational Achievement? The Urban Trust of Namibia Monograph No 1* Windhoek, Namibia. Solitaire Press, p. 12.

⁵³¹ Ibid, see also Jones, G.M. (1996) *Bilingual education and syllabus design: Towards a workable blueprint*. *Journal of multilingual and multicultural development* 17 (2-4); 280-290.

with the Namibian College of Open Learning (NAMCOL), while a handful are allowed to repeat full-time at Namibian schools. In 2015, more than 17 000 grade 10 students failed their end of year exams.⁵³² Reasons for such failure are multifaceted, however, some experts argue that the poor command of the English language by learners plays a significant role in this regard. Proponents of indigenous languages question the use English as the only medium of instruction in higher learning. They argue:

After independence in 1990, English was made an official language based on certain criteria such as pan-Africanism, science and technology, United Nations, wider communication, [...] it is taught as a subject from Grades 0-3 and it is a medium of instruction from Grade 4 upwards. In other words, it is a compulsory subject in all grades. It is time to change some of those old policies and adopt new ones. I do not see the point of making English a compulsory subject from Grade 0-12 and as a requirement at tertiary institutions if we are all aware that most of our children are not doing well in the language. Since we are promoting our indigenous languages a compulsory requirement if one wants to get admission to local universities. Furthermore, there is inequality in our education system. English should be taught for communication purposes and not as an obstruction for one to further his/her studies. If this remains the case then I do not see the future for most Namibian children and of course they will not be part of this so-called Namibian house. This issue should be dealt with as soon as possible because it is spoiling our children's lives.⁵³³

This is compounded by the fact that 98% of Namibian teachers in public schools are not fluent in English. The worrying percentage is as a result of the findings from the English Language Proficiency Test which teachers wrote and based on the 1999 English Language Teacher Development Project (ELTDP) developed by external consultants from the University of Warwick, United Kingdom.⁵³⁴ The damning report from the Ministry of Education found that more than 70 percent of teachers in the senior secondary phase cannot read and write basic

⁵³² Staff reporter "More than 17 000 full-time learners fail Grade 10". 17 December 2015. The Namibian Sun. available online at: <http://www.namibiansun.com/education/more-17-000-full-time-learners-fail-grade-10.89849>

⁵³³ Erasy Kleopas. "Why is English Compulsory in Universities? The Namibian Newspaper. 06-05-2016.

⁵³⁴ Steven Mvula. "English Proficiency test for teachers ill-conceived". The Economist. 18 November 2011.

English, while 63 per cent in the junior secondary phase are not sufficiently proficient in English.⁵³⁵ Moreover, the same report indicates that there is strong evidence that this low performance of teachers and other educators overall has a negative impact on learners performance in English and all other subjects.⁵³⁶

5.11 Benefits of mother tongue education in relation to Namibia

Globally, there are 50-75 million ‘marginalized’ children who are not enrolled in school. Children whose primary language is not the language of instruction in school are more likely to drop out of school or fail in early grades.⁵³⁷ Research has shown that children’s first language is the optimal language for literacy and learning throughout primary school.⁵³⁸ In spite of growing evidence and parent demand, many educational systems around the world insist on exclusive use of one or sometimes several privileged languages.⁵³⁹ This means excluding other languages and with them the children who speak them.⁵⁴⁰

According to the national curriculum for education, updated in 2010, 55.6% of the hours to be dedicated to languages in the first two years of secondary school is to be dedicated to the teaching of the official national language- English. The remaining 44.4% of the time is to be dedicated to the teaching of local and regional languages.⁵⁴¹ Although, the fact that 0% of the required national curriculum is dedicated to additional international languages, such as French or German, these results still indicate that the national curriculum is designed to promote

⁵³⁵ Denver Kisting. “98% of teachers not fluent in English”. The Namibian newspaper. 09-11-2011.

⁵³⁶ Ibid.

⁵³⁷ Children Learn Better in Their Mother Tongue: Advancing research on mother tongue-based multilingual education. Available online at: <http://www.globalpartnership.org/blog/children-learn-better-their-mother-tongue>

⁵³⁸ UNESCO (2008a). *Mother Tongue Matters: Local Language as a Key to Effective Learning*. Paris: UNESCO.

⁵³⁹ Supra note 537.

⁵⁴⁰ Arnold, C., Bartlett, K., Gowani, S., & Merali, R. (2006). *Is everybody ready? Readiness, transition and continuity: Reflections and moving forward*. Background paper for EFA Global Monitoring Report 2007.

⁵⁴¹ UNESCO. Diversity of cultural diversity. Available online at: <https://en.unesco.org/creativity/cdis/profiles/namibia>

linguistic diversity in Namibia, particularly regarding the promotion of local languages and mother tongues. It should be noted that learners have the option of taking additional international languages such as French or German as one of the prevocational subjects of their choosing.⁵⁴²

Diescho takes a balancing view on the use of mother tongue instructions in Namibian schools.

He posits:

Our colonial experience taught us that white people assume that their home languages are the ones in which their children must be taught at school. History has been kind to them not to have to fight about this as African language speakers have to. Few white families would dream of putting their children in schools that offer education through anything but their languages, or something close to their language in what they rather consider an international environment. Here the child still has the fulltime access to his/her home language. At school they are taught in another language. This is the origin of bilingual education.⁵⁴³

Similarly, Prah⁵⁴⁴ points out that, in the heyday of Bantu education in South Africa in 1976, African students' pass rate reached its highest point when mother-tongue instruction was phased in as the primary language of learning for eight years of schooling. Less than a decade after instruction in the mother-tongue had been reduced to four years of primary school, pass rates for African language-speaking students dropped below 50 per cent.

According to Emenanjo⁵⁴⁵ three dimensions form part of the benefits or prospects of using mother tongue instruction in education. These are:

⁵⁴² Ibid.

⁵⁴³ Joseph Diescho. "Diescho's Dictum: Whither mother tongue instruction in Namibian schools? New Era Newspaper. 09 December 2014.

⁵⁴⁴ Prah, K.K 'Languages of Instruction for Education, Development and African Emancipation', in Languages of Instruction for African Emancipation: Focus on Postcolonial Contexts and Considerations, ed. B. Brock-Utne and R. Hopson (Cape Town/Dar es Salaam: The Centre for Advanced Studies of African Society/Mkuki na Nyota, 2005), 1–22.

⁵⁴⁵ Emenanjo, E.N. (ed.) (1990). Multilingualism, Minority Languages and Language Policy in Nigeria. Agbor: Central Books Ltd.

1. Linguistically any mother tongue language used, will, to some extent, satisfy the three dimensions of measuring language, the mother tongue language will grow and be enriched, it will be enhanced, and a higher status will be accorded to such a language;
2. Educationally, learning is better facilitated. Easier and better understanding leading to higher retention rates occur when mother tongue language is used in learning and teaching. Other benefits include a heightened confidence and interests of the learner as learning in school is seen as a continuum of some of the home activities. Psychologically, both teacher and students are satisfied. Emotional problems are minimal as concepts and illustrations drawn from or close to one's experiences. The retention rate is higher because the learning situation is more natural, and education is seen and accepted as a part of growth and of the culture;⁵⁴⁶
3. Socio-Cultural prospects. Among the reasons raised on the importance of mother tongue education is the reduction to zero level of alienation from one's culture. It has been argued that many people educated through the English medium know little or nothing of their own culture. Using mother tongue language in formal education will help people identify much more easily with their culture. Their culture will be better preserved, secrecy and cultural heritage promoted.⁵⁴⁷

Public education services must be provided to the appropriate degree in a minority language where there is a sufficiently high numerical demand, broadly following a proportional approach. This includes all levels of public education, from kindergarten to university. If demand, concentration of speakers or other factors make this not feasible, as far as practicable

⁵⁴⁶ Ibid.

⁵⁴⁷ Ibid.

state authorities are to at least teach a minority language. All children must have the opportunity to learn the official language(s).⁵⁴⁸

Namibia recently development the new Education Act,⁵⁴⁹ that will replace the 2001 Education Act. Hanse-Himarwa, the Minister of Education then explained the rationale behind the new bill and the implementation of the new mother tongue policy as follows:

With the new Act, the language policy in public schools will allow for each learner to be taught in a language of their choice, where it is reasonably possible. English will still remain part of the curriculum, and that the new provision will just make sure that no learner will be forced to be taught in a language they do not agree with. It is up to the parent and the pupil. No language will be imposed on any pupil. What we are saying is that the learner will have the option to be taught in a language of their choice.⁵⁵⁰

The Ministry of Education's stance on the use of local indigenous languages as medium of instructions in primary schools did not go unchallenged in some sectors of society. On this score, an anonymous author argues:

According to an article in The Namibian, the minister of education suggests that schools can decide on the language of instruction. I personally, as a teacher, don't agree with that because it will take us back to where we were before independence – Damara, Oshivambo, Otjiherero, Afrikaans, Kavango, Nama schools, etc... Let the medium of instruction remain English.⁵⁵¹

On the same score, another teacher argues along similar lines as above:

I'm also a teacher and agree on English as the medium of instruction countrywide. Simple reason: parents move from, for example, the far North to central towns and pupils don't understand anything in any

⁵⁴⁸ Quoted from Language Rights of Linguistic Minorities: A Practical Guide for Implementation. p. 12 Available online at: www.ohchr.org/.../LMinorities/LanguageRightsLinguisticMinoritiesHandbook.docx

⁵⁴⁹ Basic Education Act, Act No. 3 of 2020

⁵⁵⁰ Ndapewoshali Shapwanale. "Schools to decide language of instruction". The Namibian Newspaper. 15 September 2016.

⁵⁵¹ Anonymous. (Namibian Newspaper SMS section). The Namibian Newspaper. 20 September 2016.

subject due to Oshiwambo being the medium of instruction. Result: failure or dropout and feeling discouraged. Use indigenous languages as a second language choice.⁵⁵²

In the same vein, Wolfaardt⁵⁵³ noted that rural communities preferred the mother tongue as medium of instruction, while urban communities preferred English. However, Liswani disagrees with Wolfaardt's assertions. According to Simasiku, this is contrary to what he saw happening in classrooms while conducting his research on the subject matter. He However argues that this finding could only be attributed to the belief that rural teachers become suspicious when they were visited, fearing that their English proficiency might be questioned should they use the learners' mother tongue to explain difficult concepts in the presence of a stranger.⁵⁵⁴

Building on Simasiku observations, Sakati in her thesis points out that a shift is needed in the attitudes of parents and teachers in order to develop and promote teaching in mother tongue languages at schools in Africa. This includes parent perceptions that their children are given higher status if admitted to study at schools where the medium of instruction (MOI) is English.⁵⁵⁵ Limited resources and skilled teachers to teach mother tongue languages, poor attitudes among teachers who believe teaching mother tongue languages would lead to institutional racism; School Governing Bodies taking unilateral decision for English being the

⁵⁵² Anonymous. (Namibian Newspaper SMS section). The Namibian Newspaper. 22 September 2016.

⁵⁵³ Wolfaardt, D. (2001). *Namibia: A Case for a Gradual Transitional Bilingual Language Programme*. Windhoek: Ministry of Basic Education, Sport and Culture: Namibia.

⁵⁵⁴ Simasiku, L. (2013) An investigation of the perceptions of Grade 10 English Second Language teachers about the effects of Code Switching in their classrooms in the Caprivi Education Region of Namibia. PhD Thesis submitted at the University of Namibia, pp. 205-206.

⁵⁵⁵ Sakati, P.P. (2016) Exploring the use of Mother Tongue as the Medium of Instruction in Grade 4: A Case Study of Four Schools in The East London Education District. A. Dissertation submitted in fulfilment of the requirements for the degree of Master of Education in the Faculty of Education at the University of Fort Hare. pp.3-4. Available online at: <http://libdspace.ufh.ac.za/bitstream/handle/20.500.11837/531/Phelisa%20Sakati.pdf?sequence=1> accessed on 23 09 2017.

MOI in schools, and school principals encouraging parents to promote English as the language of learning and teaching to increase learner enrolment are major factors that contribute towards the flight from mother-tongue teaching.⁵⁵⁶

5.12 Indigenous Education and International Criminality: Genocide

From the preceding chapters, one can deduce that almost all African countries including Namibia have largely marginalised the use of indigenous African languages in favour of those of their former colonial oppressors. Does neglecting African languages in education amount to the crime of genocide? The analysis below may provide an answer to this delicate question.

According to The United Nation's 2004 Human Development Report⁵⁵⁷ which linked cultural liberty to language rights and human development argued that:

There is no more powerful means of 'encouraging' individuals to assimilate to a dominant culture than having the economic, social and political returns stacked against their mother tongue. Such assimilation is not freely chosen if the choice is between one's mother tongue and one's future.⁵⁵⁸

Transmission of languages from the parent generation to children is *the* most vital factor for the maintenance of both oral and sign languages. When more children gain access to formal education, much of their more formal language learning, which earlier occurred in the community, takes place in schools.⁵⁵⁹ If an alien language is used in schools, i.e. if children do not have the right to learn and use their language in schools (and, of course, later in their working life), the language is not going to survive. Thus, educational LHRs, especially an unconditional right to mother tongue medium (MTM) education, are central for the maintenance of languages and for the prevention of linguistic and cultural genocide.⁵⁶⁰

⁵⁵⁶ Ibid.

⁵⁵⁷ Human Development Report. 2004. Available online at: <http://hdr.undp.org/reports/global/2004/>

⁵⁵⁸ Skutnabb-Kangas, T. in Human Rights and Language Policy in Education In *Language policy and political issues in education*, Volume 1 of *Encyclopedia of Language and Education*, 2nd edition, ed. Stephen May and Nancy Hornberger. New York: Springer, 2008, 107-119.

⁵⁵⁹ Ibid, p. 2.

⁵⁶⁰ Ibid.

It is argued that “modernisation” has accelerated the death of languages, which without formal education had survived for centuries or millennia.⁵⁶¹ It is clear, though, that neither LHRs nor schools alone can in any way guarantee the maintenance and further development of languages – they are both necessary but not sufficient for this purpose.⁵⁶² However, in the Namibian context, it has been argued that the diversity of languages creates considerable problems for the Ministry of Education, Arts and Culture. The Ministry of Education’s language policy discussion document (2003) recognises the following languages at first language level: Jul’hoansi, Khoekhoegowab, Oshikwanyama, Oshindonga, Otjiherero, Rukwangali, Rumanyo, Setswana, Silozi, Thimbukushu, Portuguese, Afrikaans, English and German. In regions where there are significant minority language communities, access to mother tongue medium of instruction and provision of sufficient numbers of educators able to teach in those languages was mentioned as an important reason for learners not performing at school and consequently dropping out of school.⁵⁶³

5.13 The role of the corporate world in promoting and protecting indigenous languages in Namibia

The responsibility to promote and protect indigenous languages does not solely lie with the state, rather it is a multi-pronged strategy that involves key players including the corporate world. Major corporations in Namibia have realised the value attached to using indigenous languages as key instruments in their marketing strategies. For example, Bank Windhoek, often described as the country’s indigenous bank has in recent years embraced indigenous languages in marketing their products. In 2017 the bank introduced Oshiwambo, Otjiherero and German

⁵⁶¹ Ibid.

⁵⁶² Ibid.

⁵⁶³ Quoted from School drop-out and out of school children in Namibia: A national Review. December 2015, p. 63.

on its ATMs as a result it became the first financial institution in Namibia to do so. The Bank's representative remarked on the rationale behind this development:

Our local identity and ethos will continue to signify our commitment and the value we add to our clients, which has been reaffirmed by the introduction of three additional language options. As we serve a diverse nation, further languages will be introduced and gradually implemented going forward.⁵⁶⁴

5.14 Civil Society and institutions of higher learning

It is not only the responsibility of government to revitalize and preserve indigenous languages, civil society organisations and other institutions should meet the state halfway in this regard. To this effect, several private and public institutions have taken it upon themselves to invest time and energy in the development of local languages.

5.14.1 The Namibian Bible Society

As discussed in chapter 8 of the dissertation, one way of preserving languages is through religious rituals and the translation of religious texts in local dialects. In Namibia, which is a predominantly Christian nation, the Namibian Bible Society has over the years translated the Bible in several local languages. The Bible Society has made a difference in translating the Bible in minority Khoisan languages. In 2017 and after almost 14 years and an estimated N\$10 million later, the Bible Society of Namibia (BSN) has completed the translation of the Bible into Khoekhoegowab.⁵⁶⁵

⁵⁶⁴Bank Windhoek introduces three additional languages on ATM with new look. Available online at: <http://www.bankwindhoek.com.na/News/Pages/Bank-Windhoek-introduces-three-additional-languages-on-ATM-with-new-look.aspx>.

⁵⁶⁵ Bible Society of Namibia completes the translation of Khoekhoegowab. Available online at: <http://www.nbc.na/news/bible-society-namibia-completes-khoekhoegowab-bible.12757>

5.14.2 Universities

Universities play a pivotal role in developing indigenous African languages. Both institutions of higher learning in Namibia that is, the University of Namibia and the Namibian University of Science and Technology have a language center that caters for both local and foreign languages. However, this researcher observed that even local languages are not adequately represented and supported at these institutions. When asked why Universities tend to put more emphasis on teaching European instead of African languages at local universities, Professor Krishnamurthy, a notable linguist at NUST posits:

It will be good if all indigenous languages of Namibia are taught and developed from lower primary before they can be used at University. I understand the complexity involved in the development of African languages. Developing a single language alone will require manpower and financial resources and at this moment these two critical items are often lacking in this regard. Currently we only offer Oshiwambo, Otjiherero and Damara>Nama at our language centre. Compounding this situation is the fact that many local languages have no orthographies and the cost of codifying a language is too high and any attempt to do so will require strong political will.⁵⁶⁶

On a positive note the Namibian University of Science and Technology with funding from the European Union has embarked on a seemingly four (4) year ambitious project to protect, preserve and promote indigenous culture and languages. The specific areas of the Project are:

1. To collect cultural expressions in Oshiwambo, Otjiherero and Namibia Khoe Khoe;
2. To preserve cultural expressions by setting up a repository at the NUST library with open access for researchers and interested stakeholders;
3. To co-design contemporary cultural products that are based on inclusive processes that draw on many perspectives, people, experts, disciplines and sectors;

⁵⁶⁶ Sarala Krishnamurthy. (Personal interview). 14 March 2019.

4. To raise awareness through dissemination of information and advocacy about indigenous cultures with a view to promoting cultural unity in diversity in Namibia.

The University of Namibia is principally tasked with the duty of ensuring that local indigenous languages are protected and promoted. The University's endeavour in carrying out this mandate has produced mixed results. The University includes in their Bachelor of Education curriculum the following indigenous languages taught at various campuses across the country: Damara>Nama (Windhoek main campus), Otjiherero (Windhoek main campus), Rukavango (Rundu campus, North eastern Namibia), Oshiwambo (Windhoek main campus, Northern campus) Setswana (Windhoek main campus) and Silozi (Katima Mulilo campus, North eastern Namibia).

In 2016 the University of Namibia introduced a Bachelor of English course instead of a qualification specialising in any of the nation's indigenous languages. For example, a course such as Bachelors in Silozi would have been appropriate in my opinion. However, all is not lost as the University has also embarked on a number of initiatives geared towards promoting indigenous African languages in the country. In 2014 The Namibia Institute of Public Administration (NIPAM) and the Department of Language and Literature Studies at the University of Namibia (UNAM) on 4 December joined forces in the launch of what is dubbed the NIPAM-UNAM Indigenous Languages Initiative.

This languages Initiative came into being at the behest of the Ministry responsible for Information and Technology, after it realized that media personnel had big challenges when it came to communicating news from English to Indigenous Languages and vice versa. The University of Namibia was then tasked by the University of Namibia, through its Department

of Language and Literatures Studies, to develop Indigenous Languages in order to facilitate translations and dissemination of information through the print and electronic media. The minister also bemoaned the lack of technological terminologies in Indigenous Languages in Namibia. UNAM and NIPAM began collaborating on this project soon after the Ministry's request for UNAM to redress the Indigenous Languages' situation in the country.⁵⁶⁷

The aim of this initiative is to create a platform to assist those who communicate to citizens in their indigenous languages and strengthen capacity of indigenous language translators for purposes of building one Namibia, one Nation; and do it with pride. Words common to the English language, such as democracy, transparency, fairness, whistle-blower, land-rights or dispute, amongst others, do not exist in all indigenous languages. The initiative will seek to find or develop terms that adequately describe these and other concepts in the various indigenous languages and thereby assist local people to understand the discourse correctly.⁵⁶⁸

In 2016 the University of Namibia launched a journal specifically aimed at studying and promoting local and international languages. The journal is entitled "Journal of the University of Namibia Language Centre" (JULACE). It aims to be the leading academic journal that presents research outcomes and discusses modern, national and international languages. Through a rigorous peer reviewing process that ensures no plagiarism, JULACE strives to assist dedicated researchers and lecturers of languages and other related fields (including literature, film and music) to skillfully write and submit quality original papers.⁵⁶⁹

⁵⁶⁷ Staff Reporter. 'Indigenous Languages Initiative for the Media'. 05-12-2014.

⁵⁶⁸ Ibid.

⁵⁶⁹ JULACE: Journal of the University of Namibia Language Centre. Available online at: <http://repository.unam.edu.na/handle/11070/1911>

5.15 The linguistic nature of Namibia's political parties

Namibian politics is characterised by tribal or linguistic loyalty, with all the political parties of the land founded upon ethnicity of some sort. It has been stated by many scholars that Namibian politics and political party groupings has long been among the most “ethnically based” in Africa. The majority, if not all of the country’s political parties, businesses, and other establishments, have their origins in one or the other tribe or ethnicity. The total outlook at national development is primarily shaped by and premised on the benefits of the country’s tribes or ethnic groups.⁵⁷⁰ Politicians have become used to seek support from their ethnic or sub-ethnic groups with the promises to divide the “national cake” among the constituent ethnic groups equally. Most leaders are elected and embraced, first and foremost on the basis of their tribes. The merits and proven track records of national leaders are usually not considered.

The root of tribalism is bare and does not need telescopes or intellectual sophistry to see it. It is promoted by the most educated and powerful among us, embraced by the young and the old, passed from generation, and of late has now crept into Namibia’s election campaigns.⁵⁷¹ Upon President Hage Geingob’s ascendancy to the echelons of the ruling SWAPO party’s politics in 2012, he was poised to become the first non-Oshiwambo politician to head the party and subsequently he became the party’s presidential candidate. This made him potentially to be the first non-Oshiwambo president to become Namibia’s 3rd post-independence president. President Hage is a Damara speaker. However, not long before his candidacy was announced as the ruling party’s presidential candidate, a tribal storm began brewing with the leader of the

⁵⁷⁰ Dr. Charles Mubita. “Political tribalism and ethnicity”. The Namibian Sun newspaper. 17 October 2013.

⁵⁷¹ Ibid.

rival opposition party, Justus Garaob, ⁵⁷² calling for all Damara speakers to vote for Geingob in the national elections because like them he is their fellow Damara. ⁵⁷³

The following political parties are represented in the country's national assembly and are represented or received most of their support from one of the country's major and to an extent minority ethnic group:

1. The ruling South West Africa Peoples Organisation (SWAPO): the party derives most of its support from the *Aawambo* language group. The Oshiwambo speakers constitute the country's largest ethnic group. Despite being the most ethnically represented political party in the country, critics of the ruling party have often characterised the Namibian government as "Aawambo Government" because of the apparent dominance of the said group in many state agencies, particularly the security apparatus. Paramount Chief Vekuii Rukoro sums up the feeling:

"Government has gone too far. This current Ovambo government is putting their finger in the Herero's backside. It is a deliberate attempt to provoke us," Rukoro charged. "We are willing to die for what is ours."⁵⁷⁴

Intra-party rivalry based on ethnic identity is often a common feature among the party's cadres. Calls for a non-Oshiwambo president of the party and country gained traction towards the end of President Pohamba⁵⁷⁵'s tenure as president of the country. The most vocal proponent for a non-Oshiwambo president was a leading SWAPO stalwart Kazenambo Kazenambo.⁵⁷⁶

⁵⁷² Justus Garaob was among the founding members of the Damara Council which later transitioned into a political party for mainly Damara speakers. He is also regarded as a "King" of the Damara ethnic group.

⁵⁷³ Staff reporter. "UDF urges Damaras to vote for Geingob". The Namibian Sun newspaper. 14 October 2014.

⁵⁷⁴Theresia Tjihenuna. "Rukoro declares war on Shaningwa". The Namibian Newspaper. 24 August 2016.

⁵⁷⁵ President Hifikepunye Lucas Pohamba was Namibia's second President. He took over from the Founding President, Sam Nujoma in 2005. He is among the few African leaders to have won the Mo Ibrahim price for good governance.

⁵⁷⁶ Anonymous. "Kazenambo says Mulongeni should keep his nonsense". Informante newspaper. 25 February 2010.

2. The Rally for Democracy and Progress (RDP): this is a breakaway party from the ruling SWAPO party. Despite denial from its founders, the party is seen to derive most of its support from the *Oukwanyama* ethnic group. The Oukwanyaamas are a sub tribe of the larger *Aawambo* ethnic group;⁵⁷⁷
3. The Democratic Turnhalle Alliance; The D.T.A derives most of its support from ethnic Hereros. A tribe which historically has had deep animosity towards the ethnic *Oshiwambo* group. The DTA party is often labelled by its detractors as a creation by the then Apartheid regime to prevent Namibia's independence.
4. The Republikein Party: the RP is often described by its detractors as a right-wing party whose party membership is mostly whites of German and Afrikaaner descent. The Republikein party also pulled out of the D.T.A alliance following disagreements with the party's leadership.
5. The United Peoples Movement: The UPM is a newly established political party that caters mostly for the Baster community of Rehoboth.
6. The United Democratic Front: The UDF derives its support from largely the Damara>Nama ethnic group.
7. The National Union Democratic Organisation: NUDO is a breakaway political party from the D.T.A of Namibia. Like the D.T.A of Namibia, NUDO draws its membership from the Herero ethnic. It was led by the late Kuaima Riruako, the paramount chief of the OvaHerero tribe.⁵⁷⁸
8. The All Peoples Party: The APP is the sole political party formation whose leaders hail from Namibia's two Kavango regions. It derives its support from speakers of different dialects of

⁵⁷⁷ Staff Reporter. "RDP not a Kwanyama party: Hamutenya". The Namibian Sun newspaper. 29 December 2013. Available online at: <http://www.namibiansun.com/politics/rdp-not-kwanyama-party-hamutenya.60818>

⁵⁷⁸Christof Malestsky. "Namibia: Riruako to Register Nudo as Separate Party". The Namibian Newspaper. 15 October 2003. Available online at: <http://allafrica.com/stories/200310150353.html>

the two regions. Its leaders were once members of the ruling SWAPO party. The party broke away from the Congress of Democrats, itself, an offshoot of the ruling SWAPO party.

9. The National Democratic Party. One of the weakest political groupings in an already overcrowded political landscape in the country. Its limited political base is in the country's Zambezi Region. It is led by a controversial former soldier and who has often been accused of sympathising with the Caprivi secessionist movement.

10. LPM. The Landless Peoples Movement is a political party led by the former Minister of Land Reform Bernadus Swartbooi. Its stronghold is in the south of the country where Nama tribe to which he belongs is the dominant ethnic group.

5.16 Possible causes of Namibia's apparent linguistic and political divisions

In Namibia, like elsewhere in Africa, there is widespread expectation that people in positions of power will favour members of their own ethnic groups with access to jobs, development funds, and other state resources has important implications for the way politics is conducted in Africa.⁵⁷⁹

First, it makes voters inclined to support politicians from their own ethnic groups over others. Because politicians know that voters will do this, it creates incentives for politicians to couch their electoral appeals and frame their coalition-building strategies in ethnic terms.⁵⁸⁰

Ethnicity thus emerges as a feature of a country's politics, not, as many commentators on Africa assume, because of the passions it inspires or the traditions it embodies but because of the information it conveys about the expected behaviours of other political actors. For voters, ethnicity provides insight into how candidates will distribute patronage if they are elected. It

⁵⁷⁹ Posner, D.N. (2005) *Institutions and Ethnic Politics in Africa*. Cambridge University Press, p. 104.

⁵⁸⁰ *Ibid.*

helps them determine the utility they will derive from having one candidate win the election of another.⁵⁸¹

Ethnically divided societies seem to produce ethnic voters and ethnic parties. Horowitz defines *ethnic voting* as:

“Voting for the party identified with the voters’ own ethnic group, no matter who the individual candidates happen to be.”

According to Mattes and Gouws,⁵⁸² ethnic parties are those that derive an “overwhelming” proportion of their support from members of one ethnic group or cluster of groups, to the exclusion of others. According to Horowitz, ethnic parties exist where “party boundaries stop at group boundaries ... regardless of whether any group is represented by more than one party”.⁵⁸³ Ethnic parties are seldom “pure”: instead, they commonly feel the need to preserve a façade of multi-ethnicity. The inclusion of “others” in ethnic parties’ leadership structures and on their candidate, lists serves purposes other than those of creating truly multi-ethnic enterprises.⁵⁸⁴ In this line of argument, then, the true nature of a political party (ethnic or multi-ethnic) is to be found in its support base, not its leaders or candidates.⁵⁸⁵

Considering the above, numerically inferior ethnic groups such as the San have no major political representation in the country. They rely on major groups such as the Aawambo for political patronage.

⁵⁸¹ Ibid.

⁵⁸² Mattes, R & A Gouws. 1998. “Race, ethnicity and voting behaviour: Lessons from South Africa”. In Sisk, TD & A Reynolds (Eds.). Elections and conflict resolution in Africa. Washington, DC: United States Institute of Peace, p. 1.

⁵⁸³ Horowitz, D. 1985. Ethnic groups in conflict. Berkeley: University of California Press, pp. 298-.320.

⁵⁸⁴ Ibid.

⁵⁸⁵ Ibid.

5.16.1 The establishment of the Police Zone in the country

Police Zone, southern two-thirds of South West Africa (now Namibia) in which the German and later South African colonial administrations were able to establish effective European-style police control beginning in the early 20th century. The name of the area and its original boundary were adopted in 1919 by the South Africans from a 1911 German map of the territory on which the area was marked *Polizei-Zone*.⁵⁸⁶

5.16.2 The Oodendal Plan

The Oodendaal Plan referred to proposals for the future political, economic, and social development of Namibia contained in the report issued in December 1963⁵⁸⁷ and named after the South African chairman of the Commission of Enquiry which drafted it.⁵⁸⁸ The Oodendaal Plan came after an increase in domestic and international opposition to South Africa's continued occupation of South West Africa throughout the 1950s.⁵⁸⁹ In its report the commission conceded that the South African government, contrary to the mandate to 'promote to the utmost the material and moral wellbeing and the social progress of the inhabitants of the territory', had felt that the necessary means for the development of a mandated territory should be obtained primarily from the territory itself.⁵⁹⁰

The creation of so-called homelands for each ethnic group was proposed, not because it was believed that it would provide a better way of promoting development, but because it was

⁵⁸⁶ The Police Zone in pre-independence Namibia. available online at: <http://www.britannica.com/place/Police-Zone#ref253131> Accessed on 14 January 2017.

⁵⁸⁷ Report of the Commission for the Socio-Economic Development of the Bantu Areas within the Union of South Africa (Pretoria, Govt Printer, 1955) U.G. 61/1955).

⁵⁸⁸ Quoted from Namibia: A Direct United Nations Responsibility. (1987) Published by the United Nations Institute for Namibia, p. 118.

⁵⁸⁹ Memorable moments from Namibia's Past. (2015) 6th edition. Published by Gondwana Travel Centre.

⁵⁹⁰ Ibid.

argued that a unitary Namibia would lead to constant conflict caused by ethnic rivalry. Critics argued that this blueprint would merely reproduce white domination and splinter development projects. However, to understand why the Odendaal plan failed to achieve its objectives, one should look beyond the ethnic argument.⁵⁹¹ The plan failed to bring development due to its inadequate investment in human resources and the fact that its primary aim was clearly political manipulation, rather than economic development. The plan did have some positive outcomes. A lot of money was made available for capital projects in Namibia. For the first time piped water was channeled to communities in Owamboland. Significant concessions in land were also granted to African communities to expand the former communal reserves.⁵⁹² In the former Damaraland alone, 223 white farms were purchased to be included in the new homeland. Botha further argues that in purely statistical terms, the land made available to black Namibians in terms of the Odendaal plan substantially exceeds that which has been made available by the Namibian government since independence.⁵⁹³

5.16.3 Political parties' stance on indigenous language use in Namibia

Many of the leading political parties in Namibia have not fully pronounced themselves on the importance of using indigenous languages in most aspects of governance. In the same vein, many Namibian politicians are often accused as being the worst speakers of the official English language. As stated by one newspaper columnist and satirist:

The Kunene region's so-called state of the region address by Governor Angelika Muharukua a few weeks ago dished up a stinker of note. A right royal oratory clanger for the ages. The governor, handpicked by the president (only he knows why), talked for quite some time but completely failed to

⁵⁹¹ Botha, C. (undated) The Odendaal Plan: "Development" for colonial Namibia, pp. 1-2. Available online at: <http://www.namibweb.com/oden.htm>

⁵⁹² Ibid.

⁵⁹³ Ibid.

say anything. This is a verbatim excerpt from her speech: “To tell the truth I not even sleep because when I even when I saw governor say something I want to say something. Even I heard that because where I saw the governor of the Kavango West selling with a ice cream I said oh why I put our money to the garden we suppose to put in a ice cream?”⁵⁹⁴

However, there is no law that prohibits Political debates in both houses of parliament to be conducted in any of the country’s indigenous languages. In fact, there are legal provisions to that effect. To improve the quality of debates in Parliament, the speaker of Parliament announced that arrangements can be made for MPs to speak in their vernaculars provided such a request is forwarded to the Speaker in good time. According to the speaker the official language of the Assembly shall be English, but at the same time Rule 120 (2) states the Speaker may authorise the use of another language, provided that adequate provision is made for translation.”⁵⁹⁵

5.16.4 Practical use of indigenous languages in official business of government in

Namibia

The Namibian National Language Policy is in place and calls for the promotion of all local languages in Namibia. As an extension to this policy the Government in collaboration with stakeholders continues to translate all essential Government services in the local languages in order to enhance service delivery.⁵⁹⁶

⁵⁹⁴ The Rambler. “Public Speaking for Dummies”. The Namibian Newspaper. 29 July 2016.

⁵⁹⁵ Kuzeeko Tjitemisa. ‘MPs allowed using vernaculars in Parliament –Katjavivi’ New Era. 13 March 2019.

⁵⁹⁶ Report of the Republic of Namibia submitted to the Office of the UN High Commissioner for Human Rights for the Universal Periodic Review, 2nd circle.

All children at lower primary schools are taught in their vernacular with special focus on marginalized groups such as the San and *OvaHimba*. It is in this light, that all national and regional education authorities are to ensure that the policy on local languages is implemented. Teaching materials are currently being developed in various languages.⁵⁹⁷

In court sessions, defendants who are not fluent in the official language are provided with trained interpreters. The National State Broadcaster (Namibian Broadcasting Corporation) has Television and Radio programmes daily in eight (8) local languages.⁵⁹⁸

Several daily and weekly newspapers have sections or are wholly in indigenous languages. For example, New Era newspaper, which is government owned has sections for all recognized indigenous languages in the country. *Kundana* is also state owned and is wholly published in the *Oshiwambo* language.

5.17 Private media and indigenous languages

The responsibility to preserve and promote indigenous African languages should not only be limited to state owned media and its related entities, private media plays a pivotal role in this endeavor also. Below are some of the local media outlets that have wholly or partially contains sections in indigenous languages.

5.17.1 Caprivi Vision

The Caprivi Vision is a bi-monthly newspaper whose news content is both in English and Silozi.⁵⁹⁹

⁵⁹⁷ Ibid.

⁵⁹⁸ Ibid.

⁵⁹⁹ Reagan Malumo. "Muyongo's Message Stirs Up Confusion". New Era Newspaper. 25 February 2008.

5.17.2 Namibian Sun

The Namibian Sun is largely an English language newspaper with a section for the indigenous Oshiwambo language.

5.17.3 The Namibian

The Namibian is arguably the country's largest and trusted newspaper in circulation. It is an English daily newspaper with an Oshiwambo component.

5.18 Language and freedom of expression in Namibia

The right to freedom of speech and expression is recognized by the constitution and largely respected by the state. Article 21: (1) "All persons shall have the right to:

a. freedom of speech and expression, which shall include freedom of the press and other media." This right extends to the right to freedom of speech and expression in one's native language.

Namibia ranks high in terms of recognizing this right on the African continent. However, there have been some instances in which this right was curtailed by the state. In 2009, call in programs which were deemed to be critical of government were banned by the public broadcaster-the Namibian Broadcasting Corporation (NBC).⁶⁰⁰ Worryingly, as part of the public broadcaster's cost cutting measures all local and other indigenous language news bulletins were terminated.⁶⁰¹ Despite this setback to the right of freedom of speech and expression in indigenous languages, the public broadcaster has various popular radio stations in local dialects. These are: NBC Nwanyi service (Silozi language), NBC Oshiwambo service,

⁶⁰⁰ Christof Malesky. "NBC chat show banned." The Namibian. 04 March 2009.

⁶⁰¹ Ndanki Kahiurika "NBC in panic over job cuts". The Namibian. 11 September 2019.

NBC Tirelo ya Setswana (Setswana), NBC Otjiherero service, NBC Rukavango service and NBC Damara>Nama service. Some of these indigenous Radio stations have call in programs such as Silozi service's "Purogramu ya maikuto" and Oshiwambo service's "('Ewi Lya Manguluka').

There have been several cases in Namibia in which the right of freedom of speech was affirmed. In the case of *Director-General of the Namibian Central Intelligence Service Another v Haufiku & Others*.⁶⁰² The case concerned the Namibian Central Intelligence Services' (NCIS) appeal against the High Court's refusal to grant an urgent interdict. The interdict was against a journalist who wanted to publish information relating to the alleged corrupt use of State resources to procure and use property. The NCIS claimed that the publication of the allegedly sensitive information would compromise the secrecy of the intelligence services operations and national security generally. To make this argument, the NCIS relied on the Protection of Information Act 84 of 1982 (the PIA) read together with the provisions of the Namibia Central Intelligence Service Act 10 of 1997.

The respondents in the case argued that the publication was protected under the provisions of the Namibian Constitution, particularly Article 21(1)(a), which protected freedom of speech and the press. Further, they argued that the information they intended to publish was lawfully obtained and was not sensitive information with the potential of compromising national security. Moreover, the respondents argued that the media had a legal obligation to expose corrupt activities, including that by the NCIS. The Supreme Court refused to grant an interdict

⁶⁰² Director-General of the Namibian Central Intelligence Service and Another v. Haufiku: Mathias and Anaother (SA 33/2018) (2019) NASC 7. (12 April 2019); see also Haraseb, K. (2019) Namibian Supreme Court finds that National Security Concerns do not Automatically Trump Free Speech. Oxford Human Rights hub. A global perspective on human rights. Available online: <https://ohrh.law.ox.ac.uk/namibian-supreme-court-finds-that-national-security-concerns-do-not-automatically-trump-free-speech/>

as the NCIS had failed to place before the Court the precise nature and ambit of the security concerns they raised.

The right to freedom of speech and expression in one's native language has also been recognized by foreign courts. In *Ford v. Quebec (A.G.)*, the Supreme Court of Canada considered the constitutionality of Article 58 of the *Charte de la langue française* which, in most cases made French the exclusive language of outdoor commercial signs. In this regard, the court stated:

Language is so intimately related to the form and content of expression that there cannot be true freedom of expression by means of language if one is prohibited from using the language of one's choice. Language is not merely a means or medium of expression; it colours the content and meaning of expression.⁶⁰³

Moreover, the Court arrived at a similar conclusion in *Devine v. Quebec (A.G.)*,⁶⁰⁴ a suit dealing with the constitutionality of Articles 52 and 57 of the *Chartre de la langue française* which required the use of French jointly with any other languages on certain commercial and financial documents. The Supreme Court of Canada ruled that the freedom of expression in using one's language does not include the right to use exclusively one's language choice.

5.19 Indigenous languages and access to justice in Namibia

In Namibia the official language of the judiciary and the wider legal system is English. It is a generally accepted norm in Namibian law that all parties to a trial should be treated fairly.

Article 12 of the Namibian Constitution outlines all mechanisms to be followed in all stages of

⁶⁰³ *Ford v. Quebec (A.G.)* 1988 S.C.R. 712 (Can.)

⁶⁰⁴ *Devine v. Quebec (A.G.)*, 1988. S.C.R. 790 (Can.)

litigation, civil and criminal, including an appeal.⁶⁰⁵ Article 11 of the same Constitution which prohibits arbitrary arrest and detention and enshrines the writ of habeas corpus in that all arrested or detained persons must be brought before a magistrate or judicial officer within forty-eight hours of their arrest or detention where possible, failing which a person must be released. In addition, such arrested persons must be informed promptly in a language which they understand of the grounds for the arrest.⁶⁰⁶

Considering the above, linguistic assistance involves both interpreters and translators. The importance of interpretation in linguistics is self-evident from the fact that court interactions are at a significantly higher level of difficulty than conversational language and also require a familiarity with legal terminology and procedures and with the cultural context impacting the parties in the court proceedings.⁶⁰⁷

According to Treschel, the right to assistance of an interpreter at the expense of the State is a necessary auxiliary of the defence and is conceived as a fundamental right for the accused to be heard, which is an essential element of the right to a fair trial, rather than for all others involved in criminal proceedings who do not understand the local language. It must be noted that this does not exclude the possibility of using an interpreter for taking the statement of, amongst others, a victim as such or as witness.⁶⁰⁸

⁶⁰⁵ Article 12 (Fair trial) of the Namibian Constitution states that: (1) (a) In the determination of their civil rights and obligations or any criminal charges against them, all persons shall be entitled to a fair and public hearing by an independent, impartial and competent Court or Tribunal established by law: provided that such Court or Tribunal may exclude the press and/or the public from all or any part of the trial for reasons of morals, the public order or national security as is necessary in a democratic society.

⁶⁰⁶ Ibid, p. 41.

⁶⁰⁷ See “White Paper on Court Interpretation: Fundamental to Access to Justice”. 2007. Available online at: <https://cosca.ncsc.org/~media/Microsites/Files/COSCA/Policy%20Papers/CourtInterpretation-FundamentalToAccessToJustice.ashx> see also Mapaura, C, Ndeunyama N.I, Masaka, P.H, Weyulu, F, Shaparara, L.A. (2014) The Law of Pre-Trial Criminal Procedure in Namibia. UNAM Press, pp. 412-413.

⁶⁰⁸ Treschel, S. (2005) Human Rights in Criminal Proceedings. Oxford University Press, p. 328.

Article 5 of the Namibian Constitution provides that the Constitution's fundamental rights and freedoms are enforceable by the Courts. More specifically, Article 25(2) provides that "aggrieved persons who claim that a fundamental right or freedom guaranteed by this Constitution has been infringed or threatened shall be entitled to approach a competent Court to enforce or protect such a right or freedom". Similarly, Article 18 provides that that "persons aggrieved" by the acts and decisions of administrative bodies and officials "have the right to seek redress before a competent Court or Tribunal".⁶⁰⁹

These articles must be read together with Article 10 of the Namibian Constitution, which provides that all persons "shall be equal before the law". A legal system that effectively excludes significant portions of the population on the basis of their financial status arguably contradicts this promise of equality before the law; rich people can use the courts and thus the law to protect and enforce their rights, while poorer people cannot.⁶¹⁰

Article 80(2) of the Constitution grants the High Court original jurisdiction "to hear and adjudicate upon all civil disputes" – "including cases which involve the interpretation, implementation and upholding of this Constitution and the fundamental rights and freedoms guaranteed thereunder."⁶¹¹

The importance attached to the right to a fair trial in Namibia is also demonstrated in that it is entrenched as a non-derogable (non-suspendable) right whether or not the country is experiencing peace, war or is in a state of emergency.⁶¹² The baseline study report on human rights in Namibia found that 9% of the respondents reported that they find the judicial

⁶⁰⁹ Hinson, Z and Hubbard, D. (2012) Access to justice in Namibia: proposals for including public access to courts. Paper by the Legal Assistance Centre, pp. 5-8. Available online at: http://www.lac.org.na/projects/grap/Pdf/access2justice1_human_right.pdf

⁶¹⁰ Ibid.

⁶¹¹ Ibid.

⁶¹² Nakuta, J, (ed) (2013) Baseline Study Report on Human Rights in Namibia. p. 114.

proceedings too complicated. Some of the other barriers impacting judicial performance reported by the respondents were language barrier at 2.5%.⁶¹³

The National Human Rights Action Plan proposed as part of its intervention to strengthen justice service provision in Namibia that the Ministry of Justice should explore the possibility of filing appeal documents in local languages.⁶¹⁴ However, this proposal was shot down by senior members of the High and Supreme Court of Namibia. They claimed this is too costly and time consuming as the courts are already facing a backlog of cases. In the South African case of *S v. Ngubane*⁶¹⁵, the accused based his argument on a provision in the interim Bill of Rights. Setting aside the proceedings on review because the court interpreter used a language the accused did not understand, the court held that:

This provision is to be construed as meaning that the interpretation should take place simultaneously with the testimony being given by the witness; it also presupposes and provides that the interpretation will be in a language which the accused fully understands and not into a language which he understands partially as was the case in the court a quo.⁶¹⁶

In yet another South African case of *S v Mafu*,⁶¹⁷ the appellant, an accused, who did not understand Afrikaans complained to the Prosecutor about the manner in which the unofficial court interpreter was interpreting the evidence, and the regional magistrate made strong comments on the way the interpreter was interpreting, in that he was not interpreting the words precisely. It was clear from the magistrate's remarks that the interpreter was not a competent interpreter, and a reading of the record confirmed out the magistrates' opinion. Because she was aggrieved by the situation, the appellant gave no evidence. In an appeal against her

⁶¹³ Ibid, p. 124.

⁶¹⁴ Extracted from the National Human Rights Action Plan of the Republic of Namibia, p. 33.

⁶¹⁵ *S v. Ngubane* 1995 (3) BCLR 374 (D).

⁶¹⁶ See also Roland Routh. "Bail hearing today in N\$3,5 billion case". New era. 04 January 2017.

⁶¹⁷ *S v Mafu* 1978 (1) SA 454 (C).

conviction, the court held that the failure to provide a competent interpreter amounted to a gross irregularity. In a similar fashion, the Supreme Court of Canada in *Reference re Manitoba Language Rights*⁶¹⁸ stated that:

The importance of language rights is grounded in the essential role that language plays in human existence, development and dignity. It is through language that we are able to form concepts; to structure and order the world around us. Language bridges the gap between isolation and community, allowing humans to delineate the rights and duties they hold in respect of one another and thus to live in society.⁶¹⁹

The right to fair trial is found in many international instruments on human rights. Article 14 of the ICCPR provides:

In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.⁶²⁰

Article 14 (3) (a) further stipulates that:

In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

- (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him.....

However, in *Harward v Norway*⁶²¹ the UNHRC held that an essential element of the concept of a fair trial under Article 1 is to have adequate time and facilities to prepare a defence. However, this does not entail that an accused who does not understand the language used in

⁶¹⁸ Supreme Court of Canada (1985) 1 SCR 721.

⁶¹⁹ Ibid, pp. 744.

⁶²⁰ See Article 14 of the International Covenant on Civil and Political Rights (ICCPR).

⁶²¹ Communication 451/1991 *Harward v Norway* UNHR Committee (16 August 1994), UN Doc CCPR/C/51/D/451/(1991).

court, has the right to be furnished with translations of all relevant documents in a criminal investigation, provided that the relevant documents are made available to his counsel.

The African Charter on the Rights and Welfare of the Child (African Children's Charter) guarantees, in relation to juvenile justice, the right to special treatment for a child accused or found guilty of infringing any penal law⁶²². It commands its state parties to ensure that no child who is detained or imprisoned or otherwise deprived of liberty is subjected to torture or inhuman or degrading treatment or punishment.⁶²³ It guarantees the rights to presumption of innocence, notice, interpreter, legal and other appropriate assistance in the preparation of defence, to be tried speedily by an impartial tribunal, to appeal, and not to be compelled to give testimony or confess guilt. It prohibits the press and the public in trials involving juveniles.⁶²⁴

Trial proceedings in more than one language have generated debate primarily on the impact of multilingualism on fair trial. The dynamic social factor of language that has powerful influences even upon a monolingual legal process is multidimensional in a multilingual trial.⁶²⁵ Such a trial entails additional variable which have far reaching effects on the truth finding process. These variables include multicultural dynamics, translation and interpretation, high

⁶²² Udombana, N. J. (2006) The African Commission on Human and Peoples' Right and the development of fair trial norms in Africa. 2006) 2 *AHRLJ* 298-332. p.302. Available online at: http://www.ahrlj.up.ac.za/images/ahrlj/2006/ahrlj_vol6_no2_2006_nsongurua_j_udombana.pdf See also African Charter on the Rights and Welfare of the Child adopted 11 July 1990 entry into force 28 November 1999 OAU Doc CAB/LEG/TSG/Rev 1.

⁶²³ Ibid.

⁶²⁴ Ibid.

⁶²⁵ Namakula, C. S. (2013) The Impact of Language Diversity on The Right to Fair Trial in International Criminal Proceedings: With Reference to the International Crimes Division of the High Court of Uganda. A PhD thesis submitted to Oliver Schreiner School of Law, University of the Witwatersrand, Johannesburg, in fulfilment of the requirements for the Degree of Doctor of Philosophy, p. 1. Available online at: <http://wiredspace.wits.ac.za/handle/10539/12809> Cf, JN Levi & AG Walker (eds) *Language in the Judicial Process* (1990) 2.

resource demands of time, human power, and money. These factors constitute the cutting-edge issues of the language debate in international criminal justice.⁶²⁶

The enforcement of language fair trial rights by ICTs is particularly contentious. Although there is an unequivocal recognition of linguistic trial rights, the components of practice which propel the fulfilment of these rights have been selectively implemented. In *Radoslav Brdanin & anor*,⁶²⁷ the accused complained that the tribunal did not provide him with sufficient resources properly and legally to prepare his defence, and that it had caused unnecessary delay by failing to provide sufficient translation services to the office of the prosecutor. These failures were in violation of his right to be tried without undue delay. Trial chamber II avoided the human rights wording advanced by the accused and agreed to the contention of the prosecution that it was a resource issue which could be addressed by the registry under the directives. Realistically, finding the required balance warranties compromise among the various rights of the accused, and language fair trial rights have been undermined.⁶²⁸

Interpretations do not always work well, however.⁶²⁹ Ailola and Montsi⁶³⁰ argue that even when translation facilities are available fatal mistakes can occur because there are certain expressions which are, at best, incapable of an exact interpretation. Others simply cannot be translated. While most Bantu languages have a term for “killing”, they have no equivalent for “murder”. Thus, according to a story which was told them by a Zambian legal practitioner, a client of his

⁶²⁶ Ibid.

⁶²⁷ In *Prosecutor v Radoslav Brdanin & Momir Talić* Decision on Second Motion by Brdanin to Dismiss the Indictment IT-99-36-PT (16 May 2001).

⁶²⁸ Ibid.

⁶²⁹ Brock-Utne, B. (undated) The Language Question in Africa in The Light of Globalisation, Social Justice and Democracy. International Journal of Peace Studies. Available online at: http://www.gmu.edu/programs/icar/ijps/vol8_2/Brock.htm

⁶³⁰ Ailola, D.A. and F.L. Montsi. (1999). “Language, Law and Power in South Africa: The Alienation of the Majority from the Legal System” in Kwesi Kwaa Prah, ed., *Knowledge in Black and White. The Impact of Apartheid on the Production and Reproduction of Knowledge*, pp.133-143, CASA BOOK SERIES, No.2. Cape Town: CASAS (The Centre for Advanced Studies of African Society).

nearly incriminated himself in a crime of murder on account of an improper translation of the term. In that case the accused had been asked in the Tonga vernacular whether he admitted to killing the deceased. He replied in the affirmative. Thereupon the translator turned to the bench and reported a confession of murder. Had it not been for the defence lawyer's alertness in spotting the difference between "murder" and "killing", the matter would have ended there and then a conviction would have ensued. The accused could possibly have been hanged for the offence. In reality what the accused meant to say was that he killed the deceased, but there were extenuating reasons for his deed. Killing per se without the requisite unlawful intent or malice aforethought is not tantamount to "murder".⁶³¹

The calls for the translation of national laws into local Namibian languages is now gradually receiving political backing. As proffered by one Stanley Simataa, senior government official/Minister on the matter:

We need to do a lot in terms of translating and raising awareness in communities on the importance of access to information. There is a growing need for the country's laws to be translated into indigenous languages for the masses to access information easily.⁶³²

Buttressing Simataa's assertions, the current Minister of Justice at an event where a book was launched to commemorate the 25th anniversary of the Law Reform and Development Commission (LRDC) urged all the institutions of higher learning and other stakeholders to translate all national laws into the country's indigenous languages so they are fully understood by the majority of the people.⁶³³

⁶³¹ Ibid.

⁶³² Theresia Tjihenua, Ndapewoshali Shapwanale. 'Translate laws into local languages-Simataa'. The Namibian newspaper. 19 September 2016.

⁶³³ Quoted from the speech delivered by the Minister of Justice of the Republic of Namibia, Dr. Albert Kawana at any event where a book was launched to commemorate the 25th anniversary of the Law Reform and Development Commission (LRDC).

5.20 Conclusion

Chapter 5 of this paper gave a detailed overview of the intricacies surrounding the issue of language in Namibia. Like elsewhere in Africa the promotion and protection of indigenous languages have largely been ignored by the political elites. The sad state of affairs is compounded by the fact that Namibia's National Language Policy which was formulated prior to independence by the then liberation movement SWAPO is outdated and requires review. There exists anecdotal evidence that the high failure rates among the country's grade 10 and 12 students is partially attributed to the use of English as a medium of instructions in most public schools. Namibia's political landscape is also largely shaped by language and/or ethnic affiliations. Almost all political party formations in the country derive a substantial number of their support from their respective tribal groupings, including the ruling SWAPO party. Linguistic genocide is real and is happening across the globe. This chapter established a link between the denial of mother tongue education with cultural genocide. The domination of English in all schooling years in the Namibian school curriculum may amount to linguistic genocide.

The chapter also highlighted the plight of Namibia's other indigenous languages not sponsored or officially recognised by the state despite calls from local chiefs for government to do so. In the Zambezi region, Silozi language is used by the state for local administration purposes despite the existence of six other languages. Silozi is the only language taught in government schools in the Zambezi region despite being the second or third language for most inhabitants of the region.

CHAPTER 6: THE ROLE OF LANGUAGE IN ENHANCING THE SOCIO-ECONOMIC DEVELOPMENT OF A COUNTRY: A NAMIBIAN AND AFRICAN PERSPECTIVE

6.1 Introduction

As it has been discussed in the preceding chapters, there is a close relationship between language and development and meaningful development cannot take place where linguistic barriers exist. The failure of many states in Africa, to come out with a clear transformational language policy appears to be a major handicap in their experiences of nation-building.⁶³⁴ Despite the fact that language is a powerful tool of society, if its potential is fully recognised and exploited for development, ironically to-date European languages dominate in most African states in all the formal and technical domains, such as government, business administration, science and technology, trade commerce, international relations and education.⁶³⁵

6.2. Defining Development

According to the Business Dictionary development is loosely defined as “the process of economic and social transformation that is based on complex cultural and environmental factors and their interactions.”⁶³⁶ In giving credence to the definition above, Simire states:

In order to achieve rapid political, economic and sociocultural change in the country, all academic and specialized institutions and corporate organisations in the local and federal governments, should

⁶³⁴ Kanana, F. E. (2013) Examining African Languages as Tools for National Development: The Case of Kiswahili. *The Journal of Pan African Studies*, vol.6, no.6. Available online at: <http://www.ku.ac.ke/schools/humanities/images/stories/docs/Research/Examining-African-Languages-as-Tools%20for-national-development.pdf>

⁶³⁵Ibid.

⁶³⁶What is development? Available online at: <http://www.businessdictionary.com/definition/development.html>

mobilise, inform and educate the old and the young, illiterate and literate, male and female, lowly and highly placed individuals across the diversified ethno linguistic groups in their respective code.⁶³⁷

Weighing his thoughts on what constitutes development, Rodney submits that development in human society is a many-sided process. At the level of the individual, it implies increased skill and capacity, greater freedom, creativity, self-discipline, responsibility, and material well-being.⁶³⁸ He elaborates that some of these are virtually moral categories and are difficult to evaluate depending as they do on the age in which one lives, one's class origins, and one's personal code of what is wrong. Rodney further argues that what is indisputable is that the achievement of any of those aspects of personal development is very much tied in with the state of the society as a whole. The relations which develop within any given social group are crucial to an understanding of the society as a whole.⁶³⁹

In today's understanding, the word "development" is conveniently used to refer to the advancement of human societies in an economic sense. In this light, Rodney posits that a society develops economically as its members increase jointly their capacity for dealing with the environment. This capacity for dealing with the environment is dependent on the extent to which they understand the laws of nature (science), on the extent to which they put that understanding into practice by devising tools (technology), and on the manner in which work is organized.⁶⁴⁰

⁶³⁷ Simire, G. O. (2004). Developing and promoting multilingualism in public life and society in Nigeria. In *New language bearings in Africa: A fresh quest*, eds. Margaret, Jepkirui Muthwii, and Angelina, Nduku Kioko, 135-147. Clevedon/Buffalo/Toronto: Multilingual Matters Ltd.

⁶³⁸ Rodney, W. (1981) *How Europe Underdeveloped Africa*. Pambazuka Press, p. 3.

⁶³⁹ Ibid.

⁶⁴⁰ Ibid.

6.3 Language as an economic resource

It has been argued that language is also a vital economic resource that can lead a country to prosperity. Jernudd and Das Gupta submit that the concept of "language as a resource" has been popularised in the "planning" model of language planning in which language choices are made on strictly economic grounds in much the same way as any other resources in the nation's economy are planned and consumed.⁶⁴¹

It follows from this concept that language, like any other commodity, is supposed to be subject to cost-benefit analysis in which the cost of a language selected for a particular purpose can be measured in terms of what could have been gained by the choice of another language for the same purpose. Such a cost can be calculated in macro terms for the entire community or in micro terms for an individual language user.⁶⁴² Barker contends that there is evidence which suggests that knowing more than one language is a resource. Developing bilingualism and biliteracy leads to higher achievement across all curriculum and is a better use of human resources in a country's economy.⁶⁴³

6.4 Language vs development

Wa Thiongo has the following to say about the current status of African languages on the continent:

The biggest weapon wielded and actually daily unleashed by imperialism against the collective defiance is the cultural bomb. The effect of a bomb is to annihilate a people's belief in their names, in their languages, in their environment, in their heritage of struggle, in their unity, in their capacities and ultimately in themselves. It makes them see their past as one wasteland of non-achievement and it makes

⁶⁴¹ Jernudd, B and J. Das Gupta (1971) "Towards a Theory of Language Planning" In. J. Rubin and B. Jernudd (eds.) (1971), pp. 195-215.

⁶⁴² Thorburn, T. "Cost-benefit Analysis in Language Planning" In. J. Rubin and B. Jernudd (eds.) (1971), pp. 253-262.

⁶⁴³ Baker, C. (2011). Foundations of bilingual education and bilingualism. Bristol, UK: Multilingual Matters.

them want to distance themselves from that wasteland. It makes them want to identify with that is furthest removed from themselves; for instance, with other peoples languages rather than their own.⁶⁴⁴

In the same light, Diescho argues that there should be objective, subjective and conjunctive reasoning in every day African languages.⁶⁴⁵ According to him this reality compounds Africa's problem with modernization. It would appear that African languages are good only when discussing birth and death in the family, tribe and nation, and issues pertaining to ancestral land. There is little evidence that they can be a real means to generate knowledge about the future, which remains uncertain and non-tribal? It would appear that Africa stands out of other civilisations on our planet as the place where objectivity is absent in everyday conversations of people.⁶⁴⁶

Breton submits that another factor contributing to the marginalisation of African languages is the general African reliance on external verdicts on their economic situation, which are conditional for any international aid-either from the former colonial powers or from international organisations requiring structural adjustments. This does not always favour cultural considerations.⁶⁴⁷ He further argues that the grouping of states into blocs according to politico linguistic areas, the inclusion of many of them inside international or even planetary feudal client systems, tied to far away strategies and dependencies, does not pay much attention to the plea of field researchers, Africanists, linguists or UNESCO in favour of a future for

⁶⁴⁴ Wa Thiong'o, N. (1986) *Decolonising the Mind: The Politics of Language in African Literature*. London: James Currey, pp.2-3

⁶⁴⁵ Joseph Diescho. "The Absence of Objective Language Leads to Afrikan Peril:." *New Era Newspaper*. 18 March 2016.

⁶⁴⁶ *Ibid.*

⁶⁴⁷ Breton, R. "Sub-Saharan Africa" in Maurais, J and Morris, M.A. *Languages in a Globalising World*. Cambridge.

Africa in harmony with its traditions. The linguistics non-development of Black Africa is not directly to its economic semi-development, but the negative dynamics of both are the same.⁶⁴⁸

On the relationship between development and language, Kanana postulates that development is a process which involves the entire spectrum of the society, with each individual contribution. A communication channel is, therefore, imperative in order to mobilise the whole society in the process of social change. It is an essential tool in ensuring the full participation of the masses in the political, socio-economic and cultural development. In other words, institutions, organisations and even governments cannot perform clearly and effectively to expectations unless they can understand and be understood by every citizen of a particular nation.⁶⁴⁹ Prah⁶⁵⁰ has further argued that:

The real and only basis for sustained and realisable socially emancipating development for Africans, hinges on the usage of African languages, as the instrumental premise of African scientific and technological development.

Again Prah⁶⁵¹ explains that the performance of students and their ability to employ their expertise meaningfully to the problems of development in Africa will be greatly enhanced when, and if, they operate in languages which are close to the mainsprings of their thinking processes and close to the wider society in which they are directing their attention and solutions. Unless the generation of knowledge, discourse and knowledge transfer is effected in the

⁶⁴⁸ Ibid.

⁶⁴⁹ Kanana, F.E. (2013) Examining African Languages as Tools for National Development: The Case of Kiswahili. *The Journal of Pan African Studies*, vol.6, no.6. pp. 46. Available online at: <http://www.ku.ac.ke/schools/humanities/images/stories/docs/Research/Examining-African-Languages-as-Tools%20for-national-development.pdf>

⁶⁵⁰ Prah, K. (1993). Mother-Tongue for Scientific and Technological Development in Africa. German Foundation of International Development.

⁶⁵¹ Prah, K.K. (1995) African Languages for the Mass Education of Africans. Bonn: German Foundation for International Development, p. 15.

language of the masses the conditions of the masses cannot be transformed. As rightly argued by the South African Minister of Education, the slow development of African languages in higher education institutions and other domains is a cause for concern.⁶⁵² The development of African languages is tied to social justice, which was an indispensable element of nation-building. Nzimande goes further by stating:

It stands to reason that we cannot effectively preserve and promote the cultures and histories of our people if we do not pay special attention to the development of their languages, “In other words, the best route to preserve peoples’ cultures is to start with their languages. Developing languages needed a concerted effort.”⁶⁵³

6.5 Language, class and economic development in Namibia

According to the Namibia Household Income and Expenditure Survey (NHIES) of 2009/2010 20.1% of Khoisan speakers in Namibia rely on pensions as their main source of income, which is nearly double the national average of 11.1% (Namibia Statistics Agency (NSA) 2012: 57).⁶⁵⁴ The situation above had not changed much as according to the National Statistics Agency report in 2012, only 6,9% of people who speak Afrikaans are poor while 68% of people who speak Khoisan are poor. It was not surprising when it was disclosed in 2011 that the richest 5% of the population, mainly whites, controls 71% of the GDP while the poorest 55% accounts for 3% of the GDP.⁶⁵⁵

The San use the Old Age Pension money to cover the costs of basic items such as food, clothing and school-related necessities. However, the financial support provided by a pension recipient to a San household is often eroded by an ongoing crippling debt burden; in fact, most of the

⁶⁵³ Blade Nzimande. “African language development slow.” News24. 22 November 2012. Available online at: <http://www.news24.com/SouthAfrica/News/African-language-development-slow-20121122>

⁶⁵⁴ Kiaka, R, Dieckemann, U, Dirkx, E. (undated) Livelihoods, food security and poverty.p.466. Available online at: http://www.lac.org.na/projects/lead/Pdf/scraping_three_chap14.pdf Accessed on 13 February 2016.

⁶⁵⁵ Job Amupanda. “State Capture: White Monopoly Capital”. The Namibian newspaper. 17 February 2017.

pension money is spent on settling household debts on the day of the pension pay-out, leaving very little to survive on for the next month – and resulting, of course, in new debt commitments.⁶⁵⁶

6.6 The interface between language and development in Namibia

There is a link between development and language. It is not a far-fetched theory to suggest that Namibia's underdevelopment is partially influenced by the prominence of the English language over indigenous ones. Below are some of the developmental plans adopted by the government in recent years and none specifically addresses the issue of language and development.

6.6.1 Vision 2030 and language development

In 2004, Namibia adopted Vision 2030, a document that clearly spells out the country's development programmes and strategies to achieve its national objectives. Vision 2030 focuses on eight themes to realize the country's long-term vision.⁶⁵⁷ These are:

1. Inequality and Social Welfare
2. Human Resources Development and Institutional Capacity Building;
3. Macro-economic issues;
4. Population, Health and Development;
5. Population, Health and Development;
6. Namibia's Natural Resources Sector;
7. Knowledge, Information and Technology;
8. Factors of the External Environment

⁶⁵⁶ Kiaka and Dieckemann, supra note 654.p.1

⁶⁵⁷Vision 2030 overview. Available online at: <http://www.gov.na/vision-2030> Accessed on 07 October 2017

Although, the National Development Plan 3 (2007-2012) recognized that “language is an essential carrier of culture” and that the biggest challenge post-independence was to heal the wounds of inequality and racism and recognize the wealth of Namibia’s multiculturalism, however, no implied or expressed provision in the envisaged vision 2030 project talks about the promotion and protecting of Namibian indigenous languages as a catalyst for development. This is notwithstanding the fact that there is a strong link between language and development.

There is a close relationship between language and development and meaningful development cannot take place where linguistic barriers exist. The failure of many states in Africa, to come out with a clear transformational language policy appears to be a major handicap in their experiences of nation-building.⁶⁵⁸ Despite the fact that language is a powerful tool of society, if its potential is fully recognised and exploited for development, ironically to-date European languages dominate in most African states in all the formal and technical domains, such as government, business administration, science and technology, trade commerce, international relations and education. Indigenous languages in Africa have been restricted to a few domains of use and the less formal ones such as intra-community communication, interpretational roles in local courts, use by politicians in local political rallies to name a few.⁶⁵⁹

6.6.2 Harambee prosperity of Plan 2016/2017 and 2017/2018

The Harambee Plan for Prosperity [HPP] has been developed to complement the National Development Plans and Vision 2030. The HPP is a focused and targeted approach to achieve

⁶⁵⁸ Kanana, F. E. (2013) “Examining African Languages as Tools for National Development: The Case of Kiswahili”. *The Journal of Pan African Studies*, vol.6, no.6. pp. 41-42. Available online at: <http://www.ku.ac.ke/schools/humanities/images/stories/docs/Research/Examining-African-Languages-as-Tools%20for-national-development.pdf>

⁶⁵⁹ Ibid.

high impact in defined priority areas. One of the agreed upon features of planning is that it must be flexible. While the government's Vision remains unchanged, it remains agile in its approach to achieving those targets. The surrounding world is dynamic, where externalities outside of our control have the ability to directly impact and throw us off balance, from time to time. This calls for flexibility in our approach to achieving set goals and targets, without losing sight of the end Vision. The HPP provides for that additional flexibility in planning.⁶⁶⁰

Like the much-vaunted Vision 2030, the Harambee Plan for Prosperity is silent on the role indigenous African languages can play in alleviating the scourge of poverty it intends to root out. It is common practice globally, that views expressed in a vernacular language have the greatest persuasion effect.

In many African countries, including Namibia, the presence of many languages is equated with economic backwardness while the existence of one language for the whole nation is associated with economic prosperity and political stability.⁶⁶¹ Suffice to note that it is very hard to appreciate the rationality of an argument against multilingualism in the name of economic prosperity because there is no direct connection between economic success and unilingualism.⁶⁶²

The above national development plans can only be well understood, and their goals achieved if they are either translated or articulated in the country's vernacular languages.

Shuukwanyama puts it as follows:

⁶⁶⁰ The Harambee Plan for Prosperity [HPP]. Available online at:

<http://www.gov.na/documents/10181/264466/HPP+page+70-71.pdf/bc958f46-8f06-4c48-9307-773f242c9338>

⁶⁶¹ Ndhlovu, F. (2008) Language and African Development: Theoretical Reflections on the Place of Languages in African Studies. *Nordic Journal of African Studies* 17(2), pp. 137–151. Available online at: <http://www.njas.helsinki.fi/pdf-files/vol17num2/ndhlovu.pdf> Accessed on 09 April 2017.

⁶⁶² Ibid.

It is common practice globally, that views expressed in a vernacular language have the greatest persuasion effect on the users of that language. There are critical issues expressed more persuasively in indigenous languages than in English-which is a second language to many Namibians. Without doubt, mother languages are endowed with spatial thinking, critical thinking, creativity, effective communication skills, and problem-solving abilities for users of those languages.⁶⁶³

6.7 Socio-economic benefits of developing African languages

As rightly stated by Nakuta, an assessment of the human rights situation in Namibia would be incomplete without reflecting on the prevailing socio-economic conditions in the country.⁶⁶⁴

Research has shown that poverty is still widespread in rural communities, where nearly half the households spend more than 60% of their income on food.⁶⁶⁵ Namibia is thus one of the

most unequal societies in the world. According to Jauch⁶⁶⁶ Namibia has a gini co-efficient of 0.70. Many Namibian households (41,8%) rely on wages and salaries as their main source of income. In urban areas, this figure was as high as 68.8%, compared to 23.2% in rural areas, where 37.3% of households depend on subsistence farming as the main source of income.⁶⁶⁷

These figures indicate the critical importance that wages, and salaries have for the survival of Namibian households. This is further emphasised by the fact that a 72.4% of Namibian households lack a secondary source of income. In rural areas, 85.9% of households have no secondary source of income compared to 63.2% in rural areas.⁶⁶⁸

⁶⁶³ Konstantinus Shuukwanyama. "Dynamism of Indigenous Languages" The Namibian Newspaper. 20 July 2017.

⁶⁶⁴ Nakuta, J. (undated) The justiciability of social, economic and cultural rights in Namibia and the role of the non-governmental organisations, p. 90. Available online at: https://www.kas.de/c/document_library/get_file?uuid=21592709-3d71-5a57-aa24-c0c1010a175e&groupId=252038

⁶⁶⁵ Harris, A. (2007). Spotlight on Development – Towards the Millennium Development Goal. Windhoek: The NANGOF Trust, p. 4.

⁶⁶⁶ Jauch, H. (2012), "Poverty, Unemployment and Inequality in Namibia TEMTI Series of Economic Perspectives on Global Sustainability, EP 02-2013, TEMTI –CEESP / IUCN. Available at: http://www.iucn.org/about/union/commissions/ceesp/what_we_do/wg/temti.cfm

⁶⁶⁷ Ibid, pp. 5-6.

⁶⁶⁸ Ibid, pp. 5-6.

Socio-economic rights under the existing constitutional order are not justiciable in Namibia. A very pressing socio-economic need that afflicts many Namibians is that the large segment of the population is the inability to afford a decent house.

According to Gabone⁶⁶⁹ about 74 percent of Namibian households cannot afford conventional housing as access to credit remains difficult. The “Getting Credit” section of the World Bank’s Doing Business 2016 report ranks Namibia at 60 out of 189 countries. Low incomes and high costs for servicing of land have excluded many poor people from acquiring land and constructing their own houses. This is evident in that towards the end of 2015 the average price per square meter was N\$472 (about US\$33.30) for new property coming into the market.⁶⁷⁰

Several court cases have been decided by the courts in relation to the housing crisis in Namibia. *In Likuwa v City of Windhoek*⁶⁷¹ Ms. Likuwa and fourteen other applicants had set up corrugated iron shacks as homes on land at Agste Laan informal settlement, which is owned by the City. They were removed by the City’s Police at 4 a.m. on the morning of 28 March 2017. With the assistance of a land activism movement, they approached the High Court on an urgent basis seeking two-fold relief. First, that the City be interdicted from unlawfully evicting, demolishing or removing their building materials from the land, that the City be order to restore possession of building materials it seized, and that the City restore their demolished homes. The second aspect of the application was to review and set aside the decision of the City to evict them and demolish their homes without an eviction order.

⁶⁶⁹ Gabone, D.D. (2017) An Assessment Study on the Provision of Affordable Housing in Namibia: the Case Study of Windhoek A Thesis Submitted in Partial Fulfilment of the Requirements for the Degree of Master of Business Administration (Finance) of the University of Namibia, p. 13.

⁶⁷⁰ Ibid

⁶⁷¹ *Likuwa v City of Windhoek* 2017 NAHCMD. 113.

The judgement addressed the first aspect only as the second aspect is to be argued before the Court on 28 April 2017. The Court dismissed the interdict application as the applicants had not, through evidence they adduced, met the requirements of the *mandament van spoilie* remedy (a common law remedy used by a person who has been dispossessed of goods without following due legal procedure). Specifically, they had no *prima facie* right based on a “peaceful and undisturbed occupation” of the land at the time that the City demolished their homes. This was primarily because Ms. Likuwa’s assertions that she (together with her three minor children) had been in occupation of the land for three years was not accepted by the Court. The application was therefore dismissed with an order that the applicants vacate the land by 28 April 2017.

However, the decision of the court has been criticised in some quarters. According to Ndeunyema⁶⁷² the Court, in arriving at its decision, does not give any weight to the material fact that the Ms. Likuwa is a mother of and resided with three minor children, including a three-month old baby. The Namibian Constitution and various binding international treaties require that, as the most vulnerable members of society, children’s best interests be considered and safeguarded, particularly in evictions, through measures such as the provision of alternative accommodation. The Court lost an opportunity to incrementally develop this crucial aspect of the law in *Likuwa*.

Considering Namibia’s myriad of socio-economic challenges, one is tempted to beg the question: does investing in African languages contribute to the development of the country? Or is it a lost cause? In answering these questions, Bamgbose tells us that there is indeed a link

⁶⁷² Ndeunyema, N. (2017) *Likuwa v City of Windhoek: Namibian Court Misses an Opportunity to Develop Land Occupation Laws*. Oxford Human Rights hub. A global perspective on human rights. pp. 1-2. Available online at: <https://ohrh.law.ox.ac.uk/unlawful-occupations-and-land-evictions-in-namibia/>

between literacy and development.⁶⁷³ He argues that the world's poorest countries are also the countries with the highest rates of illiteracy. Since literacy liberates untapped human potential and leads to increased productivity and better living conditions, it is not surprising that countries with the highest rates of literacy are also the most economically advanced.⁶⁷⁴

Similarly, Pattanayak⁶⁷⁵ points out that language has been the object of intense passions, prejudice and patronage, but seldom has it been a concern for those working in the area of development planning. And yet as a factor providing or withholding access to education and therefore to human resource development, as a key to knowledge, information and communication, as an indicator of appropriateness of technology, as a major element in elite formation and alienation, as a barrier to or equalizer of social, political and economic opportunities, language plays a central role in the modernisation and development of the country.⁶⁷⁶

Akinwale expounds on how the language barrier hampers development in Africa. He explains how the imposition of several foreign languages in Africa has contributed to the division of the continent into different zones: Anglophone Africa, Francophone Africa, Lusophone Africa, and Arabic Africa.⁶⁷⁷ He further posits that as indicated by several crises across African sub-regions, endeavors to promote socio-economic development in Africa have not yielded desired results since the colonial era. The West appears to overpower Africa through their ability to

⁶⁷³Bamgbose, A. "Pride and prejudice in multilingualism and development", in Fardon, R. and Furniss, G. (eds). *African Languages, Development and the State*. Routledge. London and New York. 1994, pp. 33-42.

⁶⁷⁴ Ibid.

⁶⁷⁵ Pattanayak, D.P. (1986) "Educational Use of the Mother Tongue". In Spolsky, B. (ed), 1986: 5-15; see also Robinson, C.D.W. (1996) *Language Use in Rural Development: An African Perspective*. Mouton de Gruyter. New York, p. 16.

⁶⁷⁶ Ibid.

⁶⁷⁷ Akinwale, A.A. (2011) *Language Barrier as the Bane of Development in Africa*. *Africana Journal*, vol. 15, No. 2. Available online at: <http://africanajournal.org/wp-content/uploads/Language-Barrier-as-the-Bane-of-Development-in-Africa-AFRICANA-Vol5-No2.pdf>

control the production of knowledge. The fact that knowledge is derived and transmitted from language lends credence to the main focus of this study, especially the consequences of language barrier for development or underdevelopment as the case may be in Africa.⁶⁷⁸

In the era of mass communication, the undoubted advantages that can be achieved through a greater flow of information necessarily call for the intensification of the use of African languages in the media.⁶⁷⁹ Bamgbose concludes that foreign ideas, concepts and technology will undoubtedly be imported in a foreign language, but such concepts must be transmitted to the masses in a language that they can understand.⁶⁸⁰ They opine that the economic miracle achieved by countries such as Japan is not based on a widespread dissemination of English, rather it is a result of the domestication of foreign technology in Japanese, and the translation of the productive processes into terms that the ordinary factory hand can understand.⁶⁸¹

Djité⁶⁸² demonstrates how in economically more developed countries, the informal sector constitutes a set of niche markets in which, necessarily, local languages are essential for lubricating the economic processes. Edwards also points to the fact that these niche markets are often rapidly occupied by the products of multinational firms. In so doing, she gives one more indication that the “dual economy” is no more than an abstraction. Both of them also insist that the economic benefits of multilingualism should be transferred to the central economies. In respect of Africa, Djité concludes with unerring logic that communication facilitated in the local languages will remove the inefficiencies introduced by the selection and

⁶⁷⁸ Ibid.

⁶⁷⁹ Bamgbose, supra note 673 at pp. 36-42.

⁶⁸⁰ Ibid.

⁶⁸¹ Ibid.

⁶⁸² Djité, P. (2005). Multilingualism and the economy. Unpub. mimeo. See also Edwards, V. (2005). *Multilingualism in the English-speaking World*. Oxford: Blackwell

promotion of the official language, and policies that promote growth with equity are necessary to achieve socio-economic inclusion for all.⁶⁸³

6.7.1 African languages and health

Like many African countries Namibia is besieged by a host of pandemics. Chief among them are Malaria, Tuberculosis and the HIV/AIDS pandemic. However, due to the multilingual nature of the country, the English language is usually the only language used in public health facilities in major town and cities. Although there is nothing prohibiting the use of other languages by medical practitioners when seeing patients, this becomes a challenge when such a practitioner and a patient speak different dialects. In this regard, English and in some cases, Afrikaans may be used to facilitate communication. The irony here is that most Namibians are not well versed in medical lingo of these languages. The failure by authorities to provide interpreters and in some instances to patients who lack English conversation skills may amount to discrimination in both local and international human rights instruments.

Non-discrimination and equality are fundamental human rights principles and critical components of the right to health.⁶⁸⁴ The International Covenant on Economic, Social and Cultural Rights (art. 2 (2)) and the Convention on the Rights of the Child (art. 2 (1)) identify the following non-exhaustive grounds of discrimination: race, colour, sex, language, religion, political or other opinion, national or social origin, property, disability, birth or other status. According to the Committee on Economic, Social and Cultural Rights, “other status” may include health status (e.g., HIV/AIDS) or sexual orientation. States have an obligation to prohibit and eliminate discrimination on all grounds and ensure equality to all in relation to

⁶⁸³ Ibid, p. 22.

⁶⁸⁴ The Right to Health. Available online at: <https://www.ohchr.org/Documents/Publications/Factsheet31.pdf>

access to health care and the underlying determinants of health. The International Convention on the Elimination of All Forms of Racial Discrimination (art. 5) also stresses that States must prohibit and eliminate racial discrimination and guarantee the right of everyone to public health and medical care.⁶⁸⁵ Namibia is a state to all the above mentioned international human rights instruments and as a result the country is expected to fulfil her obligations under the said treaty.

Performing arts in indigenous languages can be used to improve health in African populations. Genres of art that can be used to great advantage in improving health include drama, storytelling, dramatized and recited poetry, and puppetry.⁶⁸⁶ These art forms can be used to educate people on illnesses such as HIV/Aids and other sexually transmitted diseases, polio, kwashiorkor, cholera and tuberculosis. Furthermore, performing arts can also be used to educate rural women on the importance of delivering in hospitals and health centres so as to benefit from the institutions' clean environment and the knowhow of the nurses. Moreover, artistic performances can demonstrate the wisdom of post-natal visits to hospitals and health centres to secure babies' good health.⁶⁸⁷

6.7.2 African languages and the promotion of democracy and good governance

There is no agreed and universal definition of what is meant by democracy. Democracy means different things to different people, societies and even states. The word 'democracy' is so vague and democracies are so varied, that there is little chance of substantial agreement.⁶⁸⁸ The Charter of Paris defines democracy as follows:

⁶⁸⁵ Ibid.

⁶⁸⁶ Wa Mberia, K. (2015) The Place of Indigenous Languages in African Development. *International Journal of Language and Linguistics*. Vol. 2, No. 5, p. 54.

⁶⁸⁷ Ibid.

⁶⁸⁸ Mulgan, R.G. (2016) Defining 'Democracy'. SAGE Journals, p.3

Democratic government is based on the will of the people, expressed regularly through free and fair elections. Democracy has its foundation on respect for the human person and the rule of law. Democracy is the best safeguard of freedom of expression of all groups of society, and equality of opportunity for each person.⁶⁸⁹

Mazrui and Mazrui argue that the democratic path in Africa reveals a certain interplay, sometimes conflicting, sometimes complementary, between Western languages, African lingua francas and the more localised ethnic languages.⁶⁹⁰ One of the most important contributions of Western languages is at the cultural level of democratic foundations. The notional dimension of liberal democratic culture, on the one hand, and the technological orientation necessary for efficient capitalist economic production, on the other, have been introduced to the African elite mainly through the instrumentality of Western languages.⁶⁹¹

However, Mazrui and Mazrui concede that ethnic African languages are not only the vehicles of members of various ethnic groups. They are also *ipso facto* the languages of the masses. It is through these languages that notional aspects of the culture of democracy can be paraphrased and passed on to the people.⁶⁹² It is also through these languages that labour can be mobilised at the local level, and the people can gain knowledge of new and relevant technologies of production and reproduction whose understanding may be important to economic development and integration. In the absence of local lingua francas, therefore, the ethnically-bounded languages may make an important contribution to the consolidation of both the cultural and economic foundations of democracy.⁶⁹³

⁶⁸⁹ See Charter of Paris (1990).

⁶⁹⁰ Mazrui, A and Mazrui, A. (1998) *The Power of Babel: Language and Governance in the African Experience*. James Currey. Oxford, p. 105.

⁶⁹¹ *Ibid.*

⁶⁹² *Ibid.*, p. 106.

⁶⁹³ *Ibid.*

The language question is about power. The choice of language of instruction in Africa is a political choice, a choice that may redistribute power in a global context as well as within an African country between the elites and the masses. African political writers concerned with reaching the masses will often write in African languages.⁶⁹⁴ The Kenyan scholar, Ngugi wa Thiong'o found that when he started writing plays in Gikuyu, they really reached the masses. But then he also became a threat to the government and was imprisoned for a year. His radical writings in English did not provoke such repercussions from government. Choosing an indigenous language as the language of instruction, a language people speak, are familiar with and which is part of their cultural heritage would redistribute power from the privileged few to the masses.⁶⁹⁵ Marginalisation and exclusion extend to other domains of life as the African population is impeded from participating meaningfully in discourses concerning the state, the economy, and human rights, due to the over-reliance on European languages by post-independence African governments.⁶⁹⁶ It stands to reason, therefore, that without an effort to develop African languages for the purposes of education and wider communication, the hard earned democracy will remain a pipedream.⁶⁹⁷

6.7.3 Self-worth and belief

Finally, another advantage to be reaped from the choice of language policies that are friendly to local languages is the opportunity it presents to re-examine black people's self-worth and

⁶⁹⁴ Brock-utne, B. (2002) Language, Democracy and Education in Africa. University Printers, pp. 14-15. Available online at: mercury.ethz.ch/serviceengine/Files/ISN/102631/ipublicationdocument.../15.pdf

⁶⁹⁵ Ibid.

⁶⁹⁶ Ndimande-Hlongwa, N, Kamwendo, G, and Mkhize, N. (2014) Editorial: African Languages in South Africa's Dispensation of Freedom and Democracy, pp.2-4. Available online at: https://www.researchgate.net/publication/277139756_Editorial_African_Languages_in_South_Africa's_Dispenation_of_Freedom_and_Democracy see also Wolf, H.E. (2010) Multilingualism and Language Policies in Anglophone and Francophone Africa from a Sociolinguistic Macro-Perspective, with reference to Language in Education Issues. Paper prepared for the 5th International Expert Workshop for Alumni of Ganna, Dakar, Senegal.

⁶⁹⁷ Ibid.

belief. Having been socialised to erroneously believe that most things local and African are inferior, including African cultures and languages, more prominent use of indigenous African languages will contribute to a type of reawakening.⁶⁹⁸ Unfortunately, this mental state of self-hatred affects even the so-called ‘educated Africans’. As pointed out by Woodson:

The “educated Negroes” have the attitude of contempt toward their own people because in their own as well as in their mixed schools Negroes are taught to admire the Hebrew, the Greek, the Latin and the Teuton and to despise the African. The thought of the inferiority of the Negro is drilled into him in almost every class he enters and in almost every book he studies. If he happens to leave school after he masters the fundamentals, before he finishes high school or reaches college, he will naturally escape some of this bias and may recover in time to be of service to his people.⁶⁹⁹

Many will grow up with higher self-esteem and self-belief, which will mostly likely mean more confidence to face life’s challenges.

The psychological impact of European colonialism has had a lasting effect on the psyche of many Africans and the other formerly colonised peoples of the world. As Freire’s succinctly puts it:

The colonizers penetrated the cultural context of the indigenous people, by disrespecting their potentialities to lead and practise their culture. The invaders imposed their own view of the world upon those they invaded and inhibited their creativity. The invaded lose their originality as the invaders become masters in the process. The invaders choose; those they invade follow that choice. The invaded respond to the values, the standards and the goals of the invaders. For cultural invasion to succeed, the invaded must feel more inferior than the invaders. The invaded are alienated from the spirit of their culture and from themselves and want to be like the invaders and hence walk like them, dress like them and talk like them. The conqueror imposes his objectives on the vanquished and makes of them his possession.⁷⁰⁰

⁶⁹⁸ Mohochi, S. Turning to Indigenous Languages for Increased Citizen Participation in Politics and the African Development Process. In Daniel Ochieng Orwenjo and John Obiero Ogone, p. 101.

⁶⁹⁹ Woodson, G.C. (1933) *The Mis-Education of the Negro*. Dover Publications, p. 1.

⁷⁰⁰ Freire, P. (1972) *Pedagogy of the Oppressed* London: Sheed and Ward.

6.8 Conclusion

This chapter explored the relationship between language and development in the African context. Despite irrefutable evidence that African languages can play a pivotal role in the socio-economic and political development of societies on the continent, only few governments have realised this potential. The role of African languages in promoting and nurturing democracy is critical as it will curtail government excesses and promote good governance.

Democratic ideals, rule of law and constitutionalism form an integral part of many successful governments in the world. Understanding these concepts will not only allow ordinary people to participate in the affairs of government, but it will also stabilise African governments. However, to fully understand the said concepts, it is prudent that they be understood in local languages. Therefore, there is a need to robustly develop African languages by equipping them with unique terminology on democracy and governance. Tanzania is a prime example in this regard. Kiswahili is among the only few African nations with sophisticated terminology that is used in government administration and the national parliament. The full-scale impact of globalisation on the socio-cultural, political and economic development of Africa is gradually being felt on the continent. The rise of the English language continues to pose a threat to the development of African languages and only robust national policies on language can preserve and protect Africa's linguistic heritage from outside influences.

CHAPTER 7. THE INTRICACIES OF LANGUAGE PLANNING AND POLICY IN NAMIBIA AND AFRICA IN GENERAL

7.1 Introduction

Chapter 7 deals with the intricacies involved in language planning and policies in Namibia and Africa in general. The preceding chapters highlighted how poorly designed African language policies are and how this is contributing to the neglect or marginalisation of indigenous languages. This chapter therefore investigates the rationale behind language planning and policy and also seeks to uncover factors which reduce the efficacy of these policies and legislation backing them. Several African case studies are given to elucidate the challenges of implementing language policies in Africa.

7.2 Legal status of languages in Namibia

How languages are accorded legal status varies from country to country. Some languages are accorded official or national language status via their national constitutions and others through pieces of legislation and other mechanisms. As mentioned in earlier chapters, Namibia has only one official language English. Eight other languages are accorded national languages status.

7.2.1 Official language

As stated in chapter 5 of this dissertation, English is the sole official language of the state in the country. This is even though less than 3 percent of Namibians speak it as a first language.⁷⁰¹ Officialising language is a kind of speech act that is dispersed among large numbers of people and takes place over a long period of time. It is both discourse planning and discursive planning.

⁷⁰¹ At least 49% of Namibians speak Oshiwambo as a native language.

It requires extensive textual instantiation.⁷⁰² It depends on and utilises continual reiteration. A myriad of minor conventionalised speech acts recurs to progressively convert the aim of the policy into a cultural assumption. Its execution requires endless re-playing of its tropes, metaphors, themes and arguments.⁷⁰³

The creation of the linguistic officiality status in the different states is strongly linked to this identity assumption. Political communities must reassert identity elements on which they intend to build and by means of which they aspire more or less explicitly to make their citizens uniform.⁷⁰⁴ In this sense, to make a language official implies a kind of public recognition of what its linguistic identity element is. But, at the same time, the idea of monolingual nation-states is a threat to the linguistic plurality existing on our planet.⁷⁰⁵

The problem is that the granting of official language status is in some cases only symbolic and does not guarantee the use of the language by authorities. In other words, the use of a language by state authorities does not necessarily correspond to its official status. The use of official languages in administration, public education, public health, media, courts, business and other government activities depends on the provisions of the individual country's constitution, legislation, policies and jurisprudence.⁷⁰⁶ This ranges from the language being symbolic, to defined limited use of language, to undefined use of language to unlimited use of an official

⁷⁰² Blanco, J. L. (2001) *Officialising Language: A Discourse Study of Language Politics in the United States*. A Thesis submitted for the degree of Doctor of Philosophy of The Australian National University. pp.250-256. Available online at: <https://digitalcollections.anu.edu.au/bitstream/1885/47661/6/02whole.pdf>

⁷⁰³ Ibid.

⁷⁰⁴ Vieyetz, E.J.R. (2004) *Official Languages and Minority Languages: Issues about Their Legal Status through Comparative Law. II Mercator International Symposium: Europe 2004: A new framework for all languages?* p.2. available online at: <http://81.184.1.14/mercator/pdf/simp-vieyetz-ang.pdf>. Accessed on 16 May 2016. Cf. Kontra, M. (1999), "Some Reflections on the Nature of Language and its Regulation. In PACKER, J. (ed.), *Special Issue on the Linguistic Rights of National Minorities, International Journal on Minority and Group Rights*, vol. 6, no. 3, p. 281-288.

⁷⁰⁵ Ibid.

⁷⁰⁶ *Diergaardt v Namibia*, Communication No. 760/1997, U.N. Doc. CCPR/C/69/D/760/1997 (2000).

language. The bottom line though is that declaring a language official does not guarantee its use unless there is national legislation defining the extent of use.⁷⁰⁷

For example, in *Société des Acadiens du Nouveau-Brunswick v Association of Parents for Fairness in Education*,⁷⁰⁸ the Supreme Court of Canada held that the recognition of the status of official languages for French and English at the federal level under Article 16 of the Canadian Constitution did not guarantee as such a right to any type of service or use in either official language.

Similarly in *Diergaardt v Namibia*,⁷⁰⁹ the UNHRC did not spell out the criteria used to afford official status to a language. Instead, the Committee took the view that whatever official languages a state freely chooses, it cannot use such a choice in a way which would violate international human rights law such as freedom of expression.

In the African context, and as alluded to in preceding chapters, the official languages are generally the native tongues of the ex-colonial masters. Thus, there is French, English and Portuguese. The choice to use European languages can be seen as both useful and questionable in Africa. It is questionable because the languages used are not spoken by the majority and uneducated people of most African countries concerned. This generally makes the provision of

⁷⁰⁷ Maja, I. (2016). A Human Rights Framework Towards the Protection of Minority Languages and Linguistic Minorities in Africa: Case Studies of South Africa and Zimbabwe. p. 40. A Thesis submitted in fulfillment of the requirements for the Degree Doctor Legum (LLD). Available online at: https://repository.up.ac.za/bitstream/handle/2263/58730/Maja_Human_2016.pdf?sequence=1&isAllowed=y

⁷⁰⁸ *Société des Acadiens du Nouveau-Brunswick v Association of Parents for Fairness in Education* (1986) 1 S.C.R. 549 (Canada) para 59.

⁷⁰⁹ *Diergaardt*, supra note 706.

service by governing authorities and regional integration institutions inaccessible to most Africans; and, it fails to foster a sense of African identity.⁷¹⁰

In summing up the argument on what makes a language an ‘official language’, Maja posits that international law and foreign comparative law highlight that the declaration of official language status is a political process left to the discretion and prerogative of each state.⁷¹¹ To this end, he cites the case of *Podkolzina v Latvia*,⁷¹² which the European Court of Human Rights held that:

[...] the Court is not required to adopt a position on the choice of a national parliament’s working language. That decision, which is determined by historical and political considerations specific to each country, is in principle one which the State alone has the power to make.

7.2.2 Regional official language

This is a language recognised as either an official or national language of a given geographical area. For example, Igbo in Nigeria, Marathi in Maharashtra, India.).

Grenoble and Whaley opine that typically, the national language is the language of higher education, law, and the government, while a regional language is used in commerce and lower levels of education, and the local language is used for informal social interactions, as well as unique cultural practices such as religious rites, ceremonies, traditional holidays, and so on.⁷¹³

In the Namibian context, these languages can be considered as regional official languages:

⁷¹⁰ Metondji, D.M.A (2015) Language and regional integration in ECOWAS: challenges and prospects. The Dissertation is submitted to the University of Ghana, Legon, in partial fulfilment of the requirements for the award of the Master of Arts Degree in International Affairs, pp.3-4. Available online at: <http://ugspace.ug.edu.gh/bitstream/handle/123456789/8472/David%20Morgan%20Assogba%20Metondji%20-%20Dissertation.pdf?sequence=1>

⁷¹¹ Maja, I. (2017) Language Rights in Section 6 of the Zimbabwean Constitution: linguistic diversity affirmed and accommodated? Zimbabwe Rule of Law Journal. Volume 1, pp. 5-37.

⁷¹² Podkolzina v Latvia 2002 ECHR 34.

⁷¹³ Grenoble, L and Whaley, L.J. (2006) Saving languages: An introduction to language revitalization. Cambridge University Press, p. 43.

Oshiwambo (Oshana, Oshikoto, Ohangwena and Omusati region), Silozi (Zambezi region), Rukwangali (Kavango East and West), Otjiherero (Otjozondjupa, Kunene, Omaheke, Erongo), Afrikaans (Central and southern Namibia) Nama (Southern Namibia).

7.2.3 National language

A national language enjoys some form of government recognition, the government is not required to operate in that language.⁷¹⁴ When a government declares a language to be national, it usually makes a commitment to protect and promote it so that citizens can use it more readily.⁷¹⁵ In Namibia the languages Oshiwambo, Otjiherero, Rukavango, Silozi, Setswana, Damara/Nama, Afrikaans and German have been declared national languages of the nation.

7.3 Language planning versus language policy

Language planning is defined as the planning of deliberate changes in the form or use of a language or language variety.⁷¹⁶ Weinstein's on the other spectrum, defines language planning as a government-authorised, long-term, sustained and conscious effort to alter a language's function in a society for the purpose of solving communication problems'.⁷¹⁷ According to Fishman, language planning, like economic planning, "can be more or less centralised, more or less all-encompassing, more or less coordinated, and more or less implemented by the authorities of the general power structure."⁷¹⁸

⁷¹⁴ Comte, L. (2015) Official Languages or National Languages? Canada's Decision. Library of Parliament. pp.1-3; see also Linda Cardinal, "Les sources de legitime des droits linguistiques au Canada", 11th Annual Michel Bastarache Conference, Ottawa, 21 March 2014.

⁷¹⁵ Ibid.

⁷¹⁶ Kennedy, C. (1982) "Language Planning." p.1. Available online at: <http://files.eric.ed.gov/fulltext/ED233562.pdf>

⁷¹⁷ Weinstein, B. (1980). Language planning in francophone Africa. LPLP, 4, 1, pp. 55-77.

⁷¹⁸ Fishman, J. (1974) "Language Modernisation and Planning in Comparison with Other Types of National Modernisation and Planning." in Advances in Language Planning, ed. J. A. Fishman. The Hague: Mouton, pp. 79-102.

A language policy is a body of ideas, laws, regulations, rules and practices intended to achieve the planned language change in the society, group or system.⁷¹⁹ Language policy may be realized at a number of levels, from very formal language planning documents and pronouncements to informal statements of intent (i.e., the discourse of language, politics and society) that may not at first glance seem like language policies at all.⁷²⁰

Broadly speaking, the arguments for engaging in language policy can be either pragmatically or ideologically founded. Underlying these two types of language policy are two different views of language: in the case of pragmatic interventionism, language is considered as a mere instrument of communication, whereas in the case of ideological language policy, language is considered the symbol of values external to language itself: symbolic of a particular ideology.⁷²¹

Ruiz proposed three orientations towards language planning. These are: language as a problem, a resource or a right.⁷²² He believes that ‘basic orientations toward language and its role in society influence the nature of language planning efforts in any particular context.’⁷²³ He defines orientations as a ‘complex of dispositions toward language and its role – which are related to language attitudes in that they constitute the framework in which attitudes are formed.’⁷²⁴ Orientations are largely at the subconscious level but could be inferred from existing

⁷¹⁹ Kaplan, R. (2013) *Language Planning*. pp. 1-2. Available online at:

http://uijs.ui.ac.ir/are/files/site1/user_files_98f129/vparvareh-A-10-68-1-69ff2a.pdf

⁷²⁰ Ibid.

⁷²¹ Brulard, In's 1997. The loi Toubon: linguistic interventionism and Human Rights. In: Perry, Sheila and Cross, M. ire (eds.). *Voices of France - Social, political and cultural identity*. London: Pinter, pp. 36-46.

⁷²² Ruiz, R. (1984) Orientations in language planning. *Journal of the National Association for Bilingual Education* 8 (2), 15-34.).

⁷²³ Ibid, p. 15.

⁷²⁴ Ibid, p. 16.

policies and practices. How language planners view language determines the strategies they employ to address language problems:⁷²⁵

1. When language planners view language diversity as a problem, they adopt the assimilation model. In status planning their goal would be to eradicate minority languages and corpus planning activities would be characterised by the development of the national language only and neglect of minority languages. Under the influence of this orientation, acquisition planning activities would involve teaching and developing materials in the national language only.⁷²⁶
2. When planners or policymakers view language as a right, their status planning activities would include the recognition of minority languages and give overt permission to speakers of those languages to use them. In corpus planning, efforts would be made to develop and standardise minority languages to facilitate acquisition planning. Children speaking minority languages would be allowed to learn in their mother tongue.⁷²⁷
3. When linguistic diversity is viewed as a resource, policy statements in status planning would be geared towards the development, preservation and use of as many languages as possible. More languages would be given functions within the life of the nation, such as for use in churches, voting, the media and many other social domains, as is the case in South Africa. Corpus planners would then develop written forms of as many languages as possible. Acquisition planning process would produce teaching materials to facilitate learning of these various languages.⁷²⁸

⁷²⁵ Nyati-Ramahobo, L. (2000) *The Language Situation in Botswana*. Routledge. Taylor and Francis Group. pp. 251-253. Cf. Ruiz, R. (1984) Orientations in language planning. *Journal of the National Association for Bilingual Education* 8 (2), 15-34.).

⁷²⁶ Ibid.

⁷²⁷ Ibid.

⁷²⁸ Ibid.

7.4 Why language planning?

Language policy and planning decisions arise in response to sociopolitical needs. Language planning decisions may be required, for example, where a number of linguistic groups compete for access to the mechanisms of day-to-day life, or where a particular linguistic minority is denied access to such mechanisms.⁷²⁹ Language planning process must include not only the selection of languages and their possible areas of function, but also the planning of a stable relation to other functional languages and to the cultural elements represented by these languages.⁷³⁰

7.4.1 Stages of language planning

Language planning undergoes several stages before implemented. The said stages are outlined below.

7.4.2 Status planning

The term ‘status planning’ refers to any language planning activity that focuses on changing the external functions and perceptions of a certain language.⁷³¹ Common subcategories through which status planning interventions operate are political status, economic uses, and cultural functions. This kind of language planning does not immediately change the number of people using that particular language but changes the environment in which the language may be used in an effort to encourage or discourage language use.⁷³²

⁷²⁹ Robinson, D. (1988) Language Policy and Planning. p.1. Available online at: <http://www.ericdigests.org/pre-9210/planning.htm>

⁷³⁰ Hartig, M. (1985) The Language Situation and Language Policy in Belgium. p.72. in Beer, W.J, and Jacob,J.E. Language Policy and National Unity. Rowman and Allanheld Publishers,p?

⁷³¹ Milligan, L. (2007) A Systems Model of Language Planning, pp. 192-198. Available online at: http://www.ling.cam.ac.uk/camling/Manuscripts/camling2007_milligan.pdf

⁷³² Ibid.

7.4.3 Corpus planning

Corpus planning deals with languages themselves, as it entails involvement with the form or structure of languages and literacies.⁷³³ In particular, standardization, which aims to codify a language's form, has at its core the notion of being "shared" by a community of speakers in terms of expectations and understanding.⁷³⁴ According to Bamgbose,⁷³⁵ the following corpus planning activities are necessary for language planning to produce tangible results.

1. Design of orthography or reform of the existing spelling system
2. Standardization/harmonization of spelling/word forms
3. Determination of word pronunciation;
4. Choice of script;
5. Terminology, vocabulary expansion;
6. Change in grammatical structure (such as the introduction of the decimal system);
7. Creation of simplified registers for special purposes;
8. Dialect levelling;
9. Cultivation and counselling in respect of different styles and genres;
10. Production of primers, readers, manuals in connection with literacy training/schooling;
11. Translations of various kinds, of the Bible, for example; dictionaries, grammars; fiction and other creative arts, including language;
12. Other forms of production of written and oral texts in the broad sense; and
13. Creation of institutions dealing with language questions only (such as language commissions).

⁷³³Rodà-Bencells, M. (2009). Language planning and policy and multilingual education in Catalonia. *Working Papers in Educational Linguistics*, 24(2), 57-78. Available online at: <http://www.gse.upenn.edu/wpel/>, p.62. Cf. Hornberger, N. H. (2006). Frameworks and models in language policy and planning. In T. Ricento (Ed.), *An introduction to language policy: Theory and method* (pp. 24-41). New York: Blackwell Publishing, p?

⁷³⁴ Cooper, R. L. (1989). *Language planning and social change*. Cambridge: Cambridge University Press, p. 132.

⁷³⁵ Bamgbose, A. (1991). *Language and the nation. The language question in Sub-Saharan Africa*. Edinburgh: Edinburgh University Press, p. 110.

7.4.4 Acquisition planning

The term ‘acquisition planning’ refers to Language Planning (LP) activity that focuses on the transmission of a language to non-users and to non-fluent users. This acquisition may occur inter-generationally or socially.⁷³⁶ Literacy development initiatives, like the creation of educational materials, as well as issues of provision, like teacher training and classroom housing, are all concerns of acquisition planning.⁷³⁷ Acquisition has a clear and immediate impact on the vitality of minority languages like Naro in Namibia because it supports the learning of the language, but this area may also have an influence on the status of the language as it can alter the visibility of the language.⁷³⁸

7.5 Prestige Planning

Prestige Planning entails raising the status of any given language so that members of the target speech community develop a positive attitude toward it.⁷³⁹ The high prestige which Hebrew commanded as the traditional religious language made explicit prestige planning unnecessary. Prestige planning, however, is vital when the promoted language has previously been limited to low-culture functions (as in the case of diglossia). In order to make the promoted status changes socially acceptable, it is necessary to improve the prestige of the respective language. Thus, prestige planning often becomes a prerequisite for status planning.⁷⁴⁰

⁷³⁶ Milligan, supra note 731, p. 194.

⁷³⁷ Ibid.

⁷³⁸ Ibid.

⁷³⁹ Haarmann, H. (1990). Language planning in the light of a general theory of language: A methodological framework. *International Journal of the Sociology of Language*, 86, 103-26.

⁷⁴⁰ Deumer, A. (undated) Language Planning and Policy. p.3. Available online at: <http://www.msu.ac.zw/elearning/material/1395667862models%20of%20language%20planning.pdf>

7.6 The rationale for Namibia's choice of English as the sole official language of the state

After a bitter 25-year war of national emancipation, Namibia became an independent state on 21 March 1990.⁷⁴¹ About thirty languages according to some estimates are spoken in Namibia.⁷⁴² Under apartheid, it was generally assumed that none of these indigenous languages were not spoken or understood widely enough to be viable options for consideration as national or official languages.⁷⁴³

7.6.1 The National (“SWAPO”) language Policy

The ruling SWAPO party identified Afrikaans as the language of oppression and English as the language of liberation and the population was mobilised to switch to English. Language thus became an integral part of the struggle against the South African rule in Namibia.⁷⁴⁴

SWAPO had proposed English as the choice of official language during the 1970s, but the language policy was not formally established until 1981, when SWAPO and UNIN published a document called *Toward a language policy for Namibia: English as the official language*. The choice of English was substantiated by means of eight (8) criteria, which SWAPO and UNIN felt a chosen official language must meet.⁷⁴⁵ The statement below was made by the then first Prime Minister of Namibia now President and head of state in supporting the choice for English as the sole official language of the state:

When SWAPO decided during its struggle for independence to make English the Official Language of Namibia, and when the framers of the Constitution decided to choose English as the Official Language, it

⁷⁴¹ Cluver, A.D. (1992) Language Planning in Namibia. The selection of an Official language, in Robert K. Herbert (eds) 1992, *Language and Society in Africa: The Theory and Practice of Sociolinguistics*, pp.115-117.

⁷⁴² These languages include indigenous African languages and Indo-European languages such as Afrikaans, English and German.

⁷⁴³ Cluver, supra note 741, p. 115.

⁷⁴⁴ Ibid, p. 125.

⁷⁴⁵ Maho, supra note 8, p.186.

was not an ad hoc decision. It was a considered decision. We live in a world where distances have shrunk, and the global village is a reality. For Namibia, therefore, we had to choose a language that would remove the isolation imposed by the colonisers, which restricted our capacity to communicate with the outside world, restricted our capacity to produce our own literature, our own men of letters. Language in Namibia was taught to the majority with only one objective - to give them instructions at the work-place. Isolation imposed on us, by denying most Namibians education in a global language, seems to have been durable. On Independence, therefore, we had to choose a language that would open up the world to us. English was the obvious choice. After all, English is the most widely spoken language, spoken by some six hundred million people. There is no corner of the globe where you could not get by if you knew English. You could also get by in many countries if you knew French; but we cannot say that about most other languages.⁷⁴⁶

7.6.2 Advantages of using English as official language in Namibia: 8 chosen criteria.

1. Unity: the language had to “neutralize any competitive or disruptive sociolinguistic inequalities.”⁷⁴⁷
2. Acceptability: the language had to be “a language with positive rather than negative associations for the people”,⁷⁴⁸ Afrikaans, for example, was at the time the main medium of instruction in Namibia.⁷⁴⁹ Afrikaans was also associated with the language of the colonisers.
3. Familiarity: the country had to have some kind of familiarity with the language, preferably with some experience in Education.⁷⁵⁰

⁷⁴⁶ Murray, C. (2007) Reflections on the question of mother tongue instruction in Namibia. NAWA Journal of Language and Communication. pp.70-71. Available online at: <http://ir.polytechnic.edu.na/bitstream/handle/10628/120/Murray.%20Reflections%20on%20the%20question%20of....pdf;jsessionid=054C750FD8C4DC119B7DA2FBE8D0BF3F?sequence=1> see also Chamberlain, R. “Language in the Process of Globalisation: Access, Equity and Opportunity”. Guardian of the Word: Literature, Language and Politics in SADC Countries. Eds. Harlech-Jones, B., I. Mbise and H. Vale. Windhoek: Gamsberg Macmillan, 1998;

⁷⁴⁷ (UNIN 1981: 37).

⁷⁴⁸ Bid, 37

⁷⁴⁹ Wolfaardt, D. (2001). Facilitating learning: An investigation of the language policy of Namibian schools. University of Western Cape, p. 33.

⁷⁵⁰ (UNIN 1981: 38).

4. Feasibility: the implementation had to be considered feasible in terms of costs, efforts, available resources, etc.⁷⁵¹
5. Science and technology: the language had to be a language of wide communication to facilitate training and research programmes inside and outside the country;⁷⁵²
6. Pan Africanism: a common language would facilitate the wish for pan-Africanism since many African countries have chosen English as an official language when they have become independent.⁷⁵³
7. Wider Communication: internalisation.⁷⁵⁴
8. United Nations: the struggle for independence was intimately linked with the United Nations (UN), so if no indigenous language would be the official language, it would be reasonable that the principal language of the UN would become the official one.⁷⁵⁵

7.6.3 Criticisms of the choice of English as Official language in Namibia

1. Despite being widely accepted by the country's citizens as the sole official languages, there is mounting criticisms regarding the role of English in all aspects of governance. Critics of English as official language in Namibia content that the language is for the elite. As a nation, Namibians have a responsibility to build a 'treasure trove of books' in the country's mother tongues reflecting indigenous knowledge systems and peculiar cultural strides, while at the same time accessing other relevant knowledge and information from the 'treasure troves of books', internet and computers, and interactive learning technology' through the second languages that we learn. Moreover, Africans should create knowledge in all of its languages and not always prepare itself to devour

⁷⁵¹ Ibid.

⁷⁵² Ibid.

⁷⁵³(UNIN 1981: 38).

⁷⁵⁴ (UNIN 1981: 38).

⁷⁵⁵ Ibid.

knowledge which others have created in their languages. Economic growth has evaded Africa because it failed to develop an indigenous science and technology that will provide the commodities that its citizens need. This can be attributed to discarding the knowledge systems the continent has in its mother tongues.⁷⁵⁶

2. Haacke Characterises SWAPO and UNIN document as follows: the overall recommendations of this document are commendable-they avoided language hegemony by choosing a supra-ethnic language as official language, and they recognised the importance of mother tongue education for cognitive and cultural purposes.⁷⁵⁷ However, the impression cannot be avoided that the document largely served to present pre-determined party ideologue'. He further argues that "the truly crucial criteria are unity and acceptability, and SWAPO had as part of its political mobilisation already identified English as the language of liberation and Afrikaans as the language of oppression".⁷⁵⁸
3. Critics have conceded that as an extra-ethnic, linguistically and politically neutral language, English could be useful in facilitating trans-ethnic or national communication, which could in turn result in national following of a single leader and a sense of national unity. They maintain, however, that the success of English for this role is conditional upon the number of people and groups for whom English becomes an accessible language and useful means of communication.⁷⁵⁹

It has been demonstrated over the last two decades that for the rural as well as uneducated populations in Namibia, in which exposure to and opportunity to use English is minimal, English has not become a useful means of communication. English

⁷⁵⁶ Nathanael Kaunomuino Mbaeva. "English favours the rich". The Namibian Newspaper .07 August 2015. Available online at: <http://www.namibian.com.na/index.php?id=140376&page=archive-read>

⁷⁵⁷ Haacke, W.H.G. (1994) "Language Policy and Planning in Namibia." Annual Review of applied linguistics, vol. 14, pp. 240-253.

⁷⁵⁸ Ibid.

⁷⁵⁹ Frydman, supra note 7, pp. 84-90.

has therefore become the property of only some of Namibia's population, and as such it is difficult to imagine how it could play a significant role in uniting the Namibian population into one nation.⁷⁶⁰

4. The second criterion for Namibia's official language was acceptability. For a language to meet this criterion it was to have positive rather than negative associations for the people, and therefore not be associated with oppression or injustice. As such, Afrikaans, which had been considered the "language of oppression," and German, which was used to rule Namibia and therefore also associated with oppression and injustice, failed to meet this criterion. All of the other languages, on the other hand, which included the indigenous languages, French, and English, were deemed satisfactory in meeting the acceptability criterion.⁷⁶¹
5. The third criterion to be met by the official language was familiarity. In order to satisfy this requirement, the language under consideration had to be one that Namibians both in and out of the country were familiar with and it was preferable that the language had some prior experience in the country. Finally, English was deemed "pre-eminently suitable" for this criterion, on the grounds that it was already one of Namibia's official languages and that although it education system. The only language under consideration that did not satisfy this requirement was French. This criterion was, however, easily satisfied by the indigenous local languages as well as Afrikaans, which in addition to being a local language also served as Namibia's lingua franca. German was also considered satisfactory with regard to the familiarity criterion, though given that less than 1% of the population spoke German as a first language and it had never really spread as a second language, this is a questionable claim. English was not taught "for actual use of

⁷⁶⁰ Ibid.

⁷⁶¹ Ibid.

its features,” it was taught as a subject in schools. Given the small population of first and second language speakers of English (0.8% and 4%) as indicated by the 1991 census, however, in addition to the fact that English was not taught in schools for actual use, the claim that English was a “familiar language” is also quite questionable.⁷⁶² This view is buttressed by the research conducted by the Urban Trust of Namibia to ascertain what impact teaching in English had on Namibian students and whether it was contributing to the poor results.⁷⁶³ According to the findings of the research, the literature review suggested that the longer a child learns in his or her home language the more successful she or he will be at school. Further, the field research showed that a high proportion of learners are confused by the second language (English) in particular but do not understand their subjects well enough because of the problems of language.⁷⁶⁴

7.7 Elite closure

Another criticism often labelled against the Namibian government’s marginalisation of local languages in favour English relates to the notion of elite closure. *Elite closure* refers to “linguistic divergence created as a result of using a language which is only known to or preferred by the elite, in this case English. This divergence may be purposeful, as a measure of control”.⁷⁶⁵

⁷⁶² Maho, supra note 8.

⁷⁶³ Lee, R. (2012) Should Namibia stop teaching in English?. p.1. Available online at: <http://www.osisa.org/education/namibia/should-namibia-stop-teaching-english>

⁷⁶⁴ Ibid.

⁷⁶⁵ Scotton, C. (1990) Elite closure as boundary maintenance: the evidence from Africa. In Brian Weinstein (ed.), *Language Policy and Political Development*, pp. 25-41. Norwood NJ: Ablex. See also Mwaniki, M.M. (2004) Language Planning in South Africa: Towards A Language Management Approach. A Thesis submitted to the Department of Afro – Asiatic Studies, Sign Language and Language Practice, Faculty of the Humanities of the University of the Free State in fulfilment of the requirements for the award of the degree of Doctor of Philosophy in Linguistics. Available online at: <http://scholar.ufs.ac.za:8080/xmlui/bitstream/handle/11660/1685/MWANIKIMM.pdf?sequence=1&isAllowed=y>

Similarly, Laitin observes that the elite use the preferred language for intra-elite communication and a different lingua franca for communication with the masses.⁷⁶⁶ According to Myers-Scotton⁷⁶⁷ because different people control different varieties, because the same variety is not appropriate for all situations, and because varieties are differentially evaluated, for all of these reasons elite closure is available as a powerful language strategy. The elite is set off from others in the following ways:

1. If the elites are fluent in varieties different from those that others know; this fluency is an identifying feature of elites.⁷⁶⁸
2. If elites use, especially in public situations, a variety different from the one that others use, then their use patterns are a means of identifying members of the elite. This is so because their fluency and their use patterns have clear utilitarian value.⁷⁶⁹
3. If the way elites speak is judged positively and therefore has psychological value, there is an obvious incentive for elites to retain this evaluation for themselves by ensuring that their linguistic abilities and use patterns remain distinctive.⁷⁷⁰

Ferguson⁷⁷¹ also referred to the vested interest of the elites in policy on medium of instruction and stated that:

⁷⁶⁶Laitin, D. (1992), *Language Repertoires and State Construction in Africa*, Cambridge: Cambridge University Press, p. 92.

⁷⁶⁷ Myers-Scotton, C. (1993) Elite closure as a powerful language strategy: the African case. *Int'l. J. Soc. Lang.* 103, pp. 149-163.

⁷⁶⁸ Ibid.

⁷⁶⁹ Ibid.

⁷⁷⁰ Ibid.

⁷⁷¹ Ferguson, G. (2013). "English, Development and Education: Charting the Tensions." pp. 21-44 in *English and Development: Policy, Pedagogy and Globalization*, edited by E. J. Erling and P. Seargeant. Ontario: Multilingual Matters.

The vested interest argument... proposes that the retention of English-medium education helps elites maintain their privileged status by excluding the mass of the population, who have less easy access to the language and hence the opportunities it offers. They are thus better able to reproduce their privilege in the succeeding generation.

Despite the Namibian government's ambivalent attitudes towards indigenous languages, this does not necessarily mean that they do not see the purpose of local dialects. As observed by Kamwangamalu,⁷⁷² in Africa, the linguistic behaviour of the elite is characterised by an almost exclusive use of the preferred language, English or any other European language, irrespective of whether they interact among themselves or with the masses who have little or no knowledge of the language. This does not mean that the elite make no effort to converge. However, such effort is often stage-managed and purposeful, Kamwangamalu laments. At election time, for instance, the elite tend to use code switching involving English and local languages when addressing the masses; but rarely do so at any other times. In order to preserve the privileges associated with knowledge of the preferred language, the elite tend to resist any language planning efforts which seek to promote the languages of the masses.⁷⁷³

7.8 Challenges facing the development of Namibian languages

Fredericks⁷⁷⁴ summarizes specific challenges contributing to the slow pace in the development of local Namibian languages:

1. The modern constitution of Namibia has no attended programmes that can ensure that languages are developed and empowered to intervene to intervene in modern communication domains and this to uplift the socio-developmental status of the

⁷⁷² Kamwangamalu, N. M. (2001). The language planning situation in South Africa. *Current Issues in Language Planning*. 2 (4), 361 – 445; see also Bamgbose, A. 1999. African language development and language planning. In N. Alexander (Ed.). *Language and development in Africa*. Social Dynamics Series. Vol. 25 (1). Cape Town: University of Cape Town Document Management Services, 13 – 30; Schiffman, H. F. 1996. *Linguistic culture and language policy*. London: Routledge.

⁷⁷³ Ibid.

⁷⁷⁴ Fredericks, N. (2007) Challenges facing the development of Namibian Languages, pp. 1-11.

speakers. These languages still continue in the limited social domains which were defined by colonialism, and their orthographies are still characterized by competing preferences of missionary societies.⁷⁷⁵

2. Although the Namibian government has instituted a supportive language policy that promotes all indigenous languages to national status, the policy has not materially affected the maintenance of these languages as it is seen as merely symbolic. No measure has been implemented to give such languages the utilitarian value that might be expected.⁷⁷⁶
3. The work of non-governmental organization has been associated with the advocacy for San Communities. The Working Group on Indigenous Minorities in Southern Africa has been actively leading the development and promotion of these neglected languages. Lack of appropriate linguistic work means that such groups are limited in their language development interventions. Without subject officers at the Namibian Institute of Educational Development (NIED) who could work with them, it also means that their advocacy cannot meaningfully engage any educational development for these communities.⁷⁷⁷
4. The multiplicity of languages in the country without appropriate policy to cater for their development makes it difficult for any kind of constitutional provision implementation to be undertaken because of the major challenges such as lack of expertise and other resources.

Summing up the real challenges facing the development of Namibian and African languages, Kamwanyah explains:

⁷⁷⁵ Ibid.

⁷⁷⁶ Fredericks, *ibid.*, p. 4.

⁷⁷⁷ Ibid.

The real reasons why Namibia opted for a language of the British colonial empire are subconscious self-hate and self-doubt that we have witnessed in most of black Africa. That much is even clear in the seventeenth century British parliamentary protocol we copied; the education system we introduced; the names we give our children; the clothes we wear, the God we worship and religion we practice. That self-hate is even worse to our northern neighbours who call themselves Portuguese, therefore killing Angola's beautiful indigenous languages and culture. When a language dies, not only a wealth of culture and history is lost but also knowledge about fauna, flora, medicine, food production, and so forth. Other reasons could have to do with lack of a political will to start afresh in developing the indigenous languages to scientific, intellectual and standardised orthographies. English has all those, with readily available literature materials; perhaps it was easy to use an already developed language.⁷⁷⁸

Supplementing Kamwanyah's narration above, Chauke elucidates how European languages and culture induces self-hatred among some Africans. He narrates:⁷⁷⁹

Have you ever wondered how Umbali turned to Mbaleigh? Or how Uthuli in now pronounced as Thuleigh? Or how she insists that she is Karabow and not Karabo? Well, I have and this gives me sleepless nights. It gives me sleepless nights to think that a born-free would rather be called Karabow and not Karabo, when in the days of slavery you would be called Maria because the slave master could not pronounce Karabo. Your grandmother would be so pleased to be called Karabo but I bet you would rather be addressed as Maria. It sounds more sophisticated does it not? One should never downplay language, because language plays a big role in colonization. When a black man mispronounces an English word, he is often looked down upon by his fellow black men. Ask a student what they know about Anton Lambede (sic) and they will respond with "who is that?" But ask them about Paul Kruger and they can probably recite a book about him by heart. But when this fine mind produces a product, his fellow black men would not support his product for unknown reasons. We are made to believe that we are free and we are emancipated from oppression. Yes, we are not in chains anymore, but are we really free? If we are, why is it that we embrace their languages so much and we are embarrassed to speak our own? I am not saying we should not speak English, French or Portuguese but let us embrace our own languages as well. If we blacks lose our languages, will we ever own anything?

⁷⁷⁸Ndumbah J. Kamwanyah. "Language is Development". The Namibian newspaper. 24 February 2017.

⁷⁷⁹Mbotana Gino Chauke. "You are your own enemy". The Namibian Newspaper. 05-05-2017.

Weighing in on the controversy surrounding negative attitudes towards indigenous languages by some parents in Namibia, the Minister of Higher Education, Itah-Kandjii-Murangi states:

Sustainability, development and peace will be at stake if indigenous languages disappeared. Language is inseparable from our ways of being, our thoughts, our feelings, and much more. It is through language that we find our identity, and who we are. Moreover, indigenous languages could also be useful in finding solutions to the effects of climate change.⁷⁸⁰

7.9 Is there a need for a specific law and body on language protection and protection in Namibia?

Besides the constitutional provisions which accords protections for indigenous languages, Namibia has no specific piece of legislation that fulfils this function. Instead, the country relies on the pre-independence and outdated National Language Policy of 1981 to this effect. The Namibia Institute of Educational Development (NIED) is the institution mandated to develop local languages in the country. However, language development is not the only function of this body. In fact, the main function of this body is curriculum research and development. I argue that for Namibia to adequately protect and promote and linguistic heritage, it should enact a specific law on language protection and establish a body responsible for monitoring the use of all languages in the country. Such a body should be modelled along the lines of Tanzania's BAKITA and South Africa's PanSalb.

7.10 The shortcomings of language planning and policies in Africa

Language policies in Africa are besieged by many challenges. Lack of political will, financial resources and external pressure from erstwhile colonialists are some of these challenges. The importance of robust language policies cannot be overemphasized. As observed by Mackey:

⁷⁸⁰ Ruth Kamwi. 'Preserve indigenous languages-Minister'. The Namibian. 09 April 2019.

The making of a language policy is not a mere academic exercise. It is most often a practical response to social, economic and political pressures. These are becoming stronger and more evident. They no reach the nation-state from the outside—from supranational bodies and powerful groupings of stateless minorities, what has been called the Fourth World or “la force des fiables.”⁷⁸¹

Language policies in African countries are characterised by one or more of the following problems: avoidance, vagueness, arbitrariness, fluctuation, and declaration without implementation.⁷⁸² Bamgbose explains avoidance of policy formulation as an attractive technique because it frees the government from the unpleasant political consequences of any pronouncement which some sections of the community find objectionable.⁷⁸³ Several African governments appear to employ the avoidance technique, as can be illustrated from the fact that very few African countries have definitive statements of language policy. Absence of a statement does not, however, mean absence of a policy. What tends to happen is that such absence indicates the continuation of an inherited policy, such as the policy on an official language.⁷⁸⁴

Bamgbose describes vagueness of policy formulation as related in part to the same causes that bring about avoidance of policy formulation. If the policy is couched in sufficiently general terms, it may go down well, since it will be a ‘catch-all’ formula that may be interpreted in a flexible manner. Apart from the policy being vague, implementation is not likely to be a burden to anyone, since it may not happen.⁷⁸⁵

⁷⁸¹ Mackey, W.F. (1993) “Language Policy, Literacy and Culture. Contexts, Contents and Constraints.” In UNESCO, 1993, *Language Policy, Literacy and Culture*. Report on the Round Table of the International Conference on Education, Geneva, 18 September 1992. Paris. UNESCO.

⁷⁸² Bamgbose, A. 1999. African language development and language planning. In N. Alexander (Ed.). *Language and development in Africa*. Social Dynamics Series. Vol. 25 (1). Cape Town: University of Cape Town Document Management Services, 13 – 30

⁷⁸³ Ibid.

⁷⁸⁴ Ibid.

⁷⁸⁵ Ibid.

On the issue of arbitrariness of policy formulation, Bamgbose posits that when a policy decision is taken without previous enquiry as to its feasibility or reference to experts who are in a position to advise on the matter. The decision may be taken by a ruler in his absolute discretion, a government (particularly a military government through the promulgation of a decree) or a ruling party.⁷⁸⁶ Among military regimes, Somalia offers a good example of a government concern with the language question. Unlike most other African countries Somalia is relatively homogenous linguistically, with virtually all its citizens being proficient in the Somali language. But because the language had no established orthography by the time the country became independent in 1960, Arabic, English and Italian, all 'foreign' to the country, were adopted as official languages. In 1972, however, a military decree of President Mohammed Siad Barre replaced these foreign languages with Somali as the official language, imposed the Latin script on the language, set in motion an ambitious literacy campaign in the Somali language.⁷⁸⁷

Fluctuation in language policy is due to such factors as changes in government or party policies, and new ideas or practices recommended by commissions of inquiry or adopted on the advice of foreign organisation.⁷⁸⁸ With each change come problems of reorientation for teachers, procurement of new materials or resuscitation of old ones and the inevitable lag between policy and practice.⁷⁸⁹

Declaration of policy without implementation can take one of three forms. First, a policy may be declared which in the circumstances cannot be implemented, and policy-makers are aware

⁷⁸⁶ Ibid, p.114.

⁷⁸⁷ Mazrui and Mazrui, supra note 306 p. 96; see also Laitin, D.D. (1977). *Politics, Language and Thought: The Somali Experience*. Chicago. University of Chicago Press.

⁷⁸⁸ Bamgbose, supra note 782, p. 121.

⁷⁸⁹ Ibid.

of this, Bamgbose alleges.⁷⁹⁰ For example, when a country declares that pre-primary education shall be in the mother tongue and there are no pre-primary schools in the country, clearly the policy is only for propaganda purposes.⁷⁹¹ Second, a policy may be declared, and escape clauses may be built into the policy, thus effectively giving an alibi for non-implementation. Third, a policy may be declared but implementation procedures may be left unspecified with the result that the policy remains only on paper.⁷⁹²

7.11 The status of African languages in selected African countries: a comparative approach.

7.11.1 South Africa

South Africa has one of the most progressive language policies in Africa. Under the National Language Policy Framework (NLPF) organized in 2003, higher salience was placed on languages other than those of previous European colonizers.⁷⁹³ Although the expanded policy ideally should have evened the racial playing field, it has actually continued racial and economic stratification through the subtleties of language. Before 2003, the language policy in South Africa allowed only for two official languages, Afrikaans and English, meaning these were the only languages of instruction. Today English is considered to be the language of upward mobility and Afrikaans is the language of instruction in many schools, while the mother tongues of much of the population are the indigenous languages of Southern Africa.⁷⁹⁴

⁷⁹⁰ Ibid.

⁷⁹¹ Ibid.

⁷⁹² Ibid.

⁷⁹³ Corner, T. (2004) Language Systems in South Africa and Their Parallels to the Linguistic Struggle of Blacks in the U.S. Available online at: http://web.stanford.edu/~jbaugh/saw/Tracy_Language_&_Ebonics.html. Accessed on 02 February 2016.

⁷⁹⁴ Ibid.

The 1993 and 1996 constitutional provisions on language constitute two influential early statements in a growing domestic discourse on multilingual language planning. This new literature can be traced back to two relatively distinct concerns about language, which began to converge during the 1980s.⁷⁹⁵ The first was a concern for the future status of Afrikaans in post-transition South Africa. The second was a concern to develop the indigenous African languages and thereby render them capable of serving as viable media of instruction in primary and secondary education.

In this regard, Alexander in an article titled ‘Proper use of mother tongue the way forward’, argues that the South African language policy, although very progressive on paper, has allowed English to become the ‘de facto sole official language’, which benefits only the middle class and elite in our society. At the same time too little is done to transform our indigenous languages into ‘cultural capital’ in order to create a better life for the working class as well.⁷⁹⁶ Therefore, an international literature on language planning therefore provided a means of integrating two very different language agendas. For Afrikaans speakers the concern was that Afrikaans would lose status, which is to say lose many of the higher functions with which it had traditionally been associated.⁷⁹⁷

Amongst white South Africans as a whole, 89 per cent appear to have a speaking ability in English. Amongst white Afrikaners, despite negative sentiments towards English earlier in this century, an ability in the language has become essential, given its general societal status and

⁷⁹⁵ Hill, L. (2010) “Language and status: On the limits of language planning”. Stellenbosch Papers in Linguistics, Vol. 39, pp. 41-58.

⁷⁹⁶ Alexander N (2008) ‘Proper use of mother tongue the way forward’, Cape Times, 21 April 2008; See also The Economic Value of Indigenous Languages 2009. Available online at: <http://www.ngopulse.org/article/economic-value-indigenous-languages>

⁷⁹⁷ Combrink, J. (1991). Die toekomstige status en funksies van Afrikaans. *Tydskrif vir Geesteswetenskappe* 31(2), pp. 75-92.

the lack of popular support for Afrikaans.⁷⁹⁸ Such speakers typically reveal superior abilities in English than native English speakers do in Afrikaans, and there is some evidence of language shift towards English amongst those who were previously Afrikaans-speakers.⁷⁹⁹

7.11.2 The establishment of the Pan South African Language Board (PANSALB)

A Pan South African Language Board (*PANSALB*) established national legislation must promote, and create conditions for, the development and use by of, all official languages; the Khoe Khoe and San languages; and South African Sign language; and promote and ensure respect for all languages commonly used by communities in South Africa, including German, Greek, Gujarati, Hindi, Portuguese, Tamil, Telegu and Urdu; and Arabic, Hebrew, Sanskrit and other languages used for religious purposes in South Africa.⁸⁰⁰ Thus, the Pan South African Language Board (PanSALB) is a statutory body established in terms of Act 59 of 1995 (as amended) for, *inter alia*, the creation of conditions for the development and for the promotion of the equal use and enjoyment of all the official South African languages.⁸⁰¹

7.11.3 The South African Languages Act

The *Use of Official Languages Act*: ("the Act") is meant to "regulate and monitor" the use of official languages in terms of arguably one of the most inclusive official language arrangements

⁷⁹⁸Gough, D. H. (undated) English in South Africa.p.2. available online at: https://www.ru.ac.za/media/rhodesuniversity/content/dsae/documents/articles/Gough_article.pdf Cf. Gough, D. H. 1995. 'Black English in South Africa', in V. De Klerk (ed.), *English Around the World: Focus on Southern Africa*. Amsterdam: John Benjamins.

⁷⁹⁹ Ibid.

⁸⁰⁰ Section 6. Founding Provisions. Ibid. Thus PanSALB was created by Section 6 of the Founding Provisions, and defined by the PanSALB Act. Section 4 of the PanSALB Act sets out similarly PanSALB's independence and impartiality, and also provides that no organ of state or any other person shall interfere with the Board or its staff in the carrying out of the Board's function and mandate.

⁸⁰¹ Prah, K.K. (2006). Challenges to the Promotion of Indigenous Languages in South Africa. p.12. Available at: http://www.casas.co.za/fileassets/newscast/misc/file/204_cv_challenges%20to%20the%20promotion%20of%20indidegous%20languages%20in%20sou_.pdf.

of any constitution currently in force. The eleven languages recognised as official in terms of section 6(1) of the *Constitution* represent the home languages of more than 99 percent of the country's population.⁸⁰² The list of official languages includes the languages of groups comprising as little as 1.58 percent of the total population. In addition, the *Constitution* has also included non-official languages in the scope of the Pan South African Language Board's mandate "to promote and ensure respect" for languages.⁸⁰³

7.11.4 The controversy of language policies in South African schools

The controversy surrounding the use of Afrikaans as a medium of instruction in public schools has not only played itself in the public arena but also in courts. In the case between the *Minister of Education, Western Cape (MEC), and Others v Governing Body, Mikro Primary School, and Another*, learners were denied access based on the language policy of the school.⁸⁰⁴ Mikro Primary School has been a single-medium school in which Afrikaans was the language of instruction. The HOD in the Western Cape, after several requests, instructed the principal to accommodate 21 black Grade 1 learners and the relevant number of teachers would be provided to ensure effective learning and teaching took place. The language of instruction for these learners would be English. The school however, refused to enrol these learners. This matter was then brought to the High Court. The basis of the School Governing Body (SGB's) argument was that Afrikaans was the language of instruction based on the language policy of the school.⁸⁰⁵

⁸⁰² Pretorius, JL. (2013). The Use of Official Languages Act: diversity affirmed? *PER: Potchefstroomse Elektroniese Regsblad*, 16(1), 00. Retrieved September 05, 2020, from http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812013000100010&lng=en&tlng=en

⁸⁰³ Ibid.

⁸⁰⁴ Minister of Education, Western Cape (MEC), and Others v Governing Body, Mikro Primary School, and Another (140/2005) [2005] ZASCA 66; [2005] 3 All SA 436 (SCA) (27 June 2005). See also Mestry, R. (2017) A critical analysis of the learners' constitutional rights to basic education in South African public schools. KOERS — Bulletin for Christian Scholarship. Available online at: <http://www.scielo.org.za/pdf/koers/v82n3/01.pdf>

⁸⁰⁵ Ibid.

According to section 6(2) of Schools Act, the SGB of a public school may determine the language policy subject to the Constitution, the Schools Act and any applicable provincial law. As determined by the SGB, Mikro Primary School's language of instruction was Afrikaans— a single medium language. The Western Cape Department of Education (WCDoE) wanted to alter the school's language policy and convert the school, *de facto* into a parallel medium school, where English and Afrikaans would be the medium of instruction.⁸⁰⁶

Unquestionably, the language policy went hand-in-hand with its admission policy and had to a large extent determined what learners were admitted to the school. The WCDoE had not seen the admission policy of the school until 2005 and therefore considered it unlawful and unconstitutional. The Court averred that the admission policy could not have played a role in decisions taken by the Department before 2005, nor could it have influenced them in their conduct before that date. The Judge ruled in favour of the SGB and Mikro Primary School. The Department was prohibited and restrained from compelling or attempting to compel the principal to admit learners for instruction in the medium of English. The Department was also prohibited from interfering unlawfully in the governance and professional management of the school.⁸⁰⁷

7.11.5 South African sign language to become the 12th official language?

To be all inclusive, the South African government might declare sign language as its 12th official language. A move that is progressive and possibly revitalize the language debate on the need to promote other neglected languages. Following requests from the deaf community, Parliament's Constitutional Review Committee is recommending to the National Assembly

⁸⁰⁶ Ibid.

⁸⁰⁷ Ibid.

that sign language be officially recognized.⁸⁰⁸ Proponents of this move argue that it will encourage the hearing community to learn South African Sign Language (SASL) to communicate with the deaf and hard of hearing. This breaks down the communication barrier that exists. The recognition of sign language will impact positively in service delivery as it is envisaged that more focus will be given at state and other sectors for sign language training and will also mean focus on teaching SASL at school level.⁸⁰⁹

7.12 Zimbabwe

They are an estimated eleven indigenous languages in Zimbabwe, and these include Shona, Ndebele, Tonga, Nambya, Kalanga, Sotho, Hwesa, Sena, Chikunda, Doma, Tswana, Tswawo/Khoisan, Barwe, Fingo/Xhosa, and Chewa and all of them are marginalized except for Shona and Ndebele.⁸¹⁰ The two major indigenous languages of Zimbabwe which are Shona and Ndebele can be identified in a true sense as hybrid languages. Shona being a hybrid of what are now referred to as dialects which include Zezuru, Ndau, Korekore, Manyika and Karanga after the unification by Clement Doke in 1931. Ndebele was originally Nguni or better still Zulu but got the influence of Kalanga, Sotho and Shona as Mzilikazi, the former leader of the Ndebele incorporated some people from these other groups into his group.⁸¹¹

⁸⁰⁸ Rahima Essop “Sign Language could become South Africa’s 12th language”. *Eyewitness News*. Available online at: <http://ewn.co.za/2017/07/27/sign-language-could-become-sa-s-12th-language>

⁸⁰⁹ Shelley Seid. “Deaf South Africans to get their voice: Signing could soon be an official language”. *Timeslive*. 30 June 2017.

⁸¹⁰ Nhongo, R. (2013) A National Language Policy for Zimbabwe in the Twenty-first Century: Myth or Reality? *Journal of Language Teaching and Research*, Vol. 4, No. 6, pp. 1208-1215. See also Hachipola, S. (1998). *A Survey of Minority Languages in Zimbabwe*. Harare: University of Zimbabwe Publications.

⁸¹¹ *Ibid.*

7.12.1 Legal framework that promotes indigenous language in education

Several proposals and affirmations have been put forward regarding the use of indigenous African languages not only in Zimbabwe but in Africa and beyond. Zimbabwe has its own education act which is one of the clear signs that language matters are a cause for concern.⁸¹²

In 1987, there came an Education Act which stipulates that:

1. There are three main languages of Zimbabwe, namely: Shona, Ndebele and English, shall be taught in all primary schools from the first grade as follows:
 - (a) Shona and English in all areas where the mother-tongue of the majority of the residents is Shona; or
 - (b) Ndebele and English in all areas where the mother tongue of the majority of the residents is Ndebele.
2. Prior to the fourth grade, either of the languages referred to in paragraph (a) or (b) of sub-section (1) may be used as the medium of instruction, depending upon which language is more commonly spoken and better understood by the pupils.
3. From the fourth grade, English shall be the medium of instruction provided that Shona or Ndebele shall be taught as subjects on an equal-time allocation as the English language.
4. In areas where minority languages exist, the Minister may authorise the teaching of such languages in primary schools in addition to those specified in sub-section (1), (2) and (3).
(Part XII, 62, p.255).⁸¹³

Makanda opines that indigenous languages play a critical role in culture, economics and politics.⁸¹⁴ He argues that ordinary people have creative ways of contributing to the

⁸¹² Nhongo, *ibid.*, p. 1209.

⁸¹³ *Ibid.*

⁸¹⁴ Makanda, A.P.T. (2011) An investigation into the creation of a Language Policy and subsequent implementation in selected domains of life in Zimbabwe. Submitted in accordance with the requirements for the degree of Doctor of Literature and Philosophy in the subject African Languages at the University of South Africa, p. 2.

development of a language policy because these people are constantly creating new words and vocabulary that they implement in their day to day struggle with nature and other social classes. Authorities in Zimbabwe are yet to view the role of indigenous languages in development as a cornerstone of socio-economic and political progress.⁸¹⁵ African languages, particularly the Shona language has the capacity to handle complex ideas. Makanda therefore recommends that when Shona and other indigenous languages are accorded the status of official languages of the country and then provided with the financial resources and linguistic expertise to develop them then, a coherent language policy can become a living reality in Zimbabwe.⁸¹⁶

7.13 Tanzania

Tanzania is a country of about 60 million people with a rich history of social transformation. The country was born from the union of two formally independent nations that is, Tanganyika and Zanzibar, both located on the East coast of Africa. The two countries merged in 1964 to form one nation now known as Tanzania.⁸¹⁷ The precise number of languages spoken in Tanzania is not clear. The number 120 is still often quoted despite the fact that it bears no real credence.⁸¹⁸ The most recent survey of the Tanzanian linguistic situation states 164 languages (Languages of Tanzania Project 2009). *Ethnologue* mentions 128 languages.⁸¹⁹ The reason for the diverging numbers is that many of the Tanzanian languages are part of a dialect

⁸¹⁵ Ibid.

⁸¹⁶ Ibid.

⁸¹⁷ Biswalo, T. (2010) Policy processes in relation to Language in Tanzania: Examining Shifts in Language Policy. A Thesis Submitted in partial fulfilment of the requirements for the degree of Doctor of Philosophy in Educational Policy Studies in the Graduate College of the University of Illinois at Urbana-Champaign. p.19. Available online at: https://www.ideals.illinois.edu/bitstream/handle/2142/18369/Biswalo_Tage%20.pdf?sequence=1

⁸¹⁸ Petzell, M. (undated) The linguistic situation in Tanzania, pp. 1-3. Available online at: ojs.ub.gu.se/ojs/index.php/modernasprak/article/download/1187/1026

⁸¹⁹ Lewis, M. P., (ed.) (2009), "Ethnologue: Languages of the World, Sixteenth edition." Retrieved 20 September, 2011, from <http://www.ethnologue.com/>; see also Maho, J. and B. Sands (2003), The languages of Tanzania: a bibliography. Göteborg: Acta Universitatis Gothoburgensis.

continuum.⁸²⁰ Besides, to draw the line between a language and a dialect is not straightforward in view of the fact that many of these languages are quite similar. Moreover, there may be several glossonyms (language names) that denote the same language, thus giving rise to more language names than there are actual languages. To add to the confusion, the glossonyms do not always correspond to the autonyms (the name used by the group of speakers themselves) of the languages.⁸²¹

7.13.1 The case of Kiswahili

During the 1950s when former President Julius Nyerere⁸²² began his campaign for political independence, Kiswahili emerged as the unifying language and became an important tool for mass mobilization throughout the entire country. The radio, local newspapers and political rallies were all conducted in Kiswahili. It cannot be doubted therefore, that by independence in 1961, Kiswahili had attained a high degree of political prestige as well as wide acceptability in the whole country. Even more significantly, Kiswahili was not clearly associated with a particular ethnic group and hence its use did not provoke any of the political problems associated with ethnic domination. During the same period, the drive of nationalistic politics added impetus to the popularity of Kiswahili.⁸²³

This was the time when politicians preached about cultural autonomy, national identity and the rejection of symbols of colonial domination including the use of English language in public

⁸²⁰ Legère, K. (2007), "Vidunda (G38) as an Endangered Language?" in *Selected Proceedings of the 37th Annual Conference on African Linguistics*, p. 43-54.

⁸²¹ Petzell, supra note 818, pp. 1-3.

⁸²² Mesaki, S. and Malipula, M, (2011) "Julius Nyerere's influence and legacy: from a proponent of familyhood to a candidate for sainthood." *International Journal of Sociology and Anthropology* vol. 3(3), pp. 093-100. Available online at: <http://www.academicjournals.org/journal/IJSA/article-full-text-pdf/7DBC2502079>

⁸²³ Rwezeura, B. (1994) Constraining factors to the adoption of Kiswahili as a language of the Law in Tanzania. *AAP*. 37 (1994). 109-126.

administration. Indeed, as correctly noted by Massamba⁸²⁴ Kiswahili was, during the independence struggles, "associated with nationalism, patriotism, and liberation." It is in this political atmosphere that we must locate the decision to make Kiswahili the national language and eventually the language of the law in Tanzania.

Since Swahili is seen as a symbol of national unity. It was thus the language of all Tanzanians, rich and poor, and it acted as an effective tool against centrifugal forces in society⁸²⁵. During his last speech as chairman of CCM in 1990, Nyerere still formulated this dogma in a virtually identical way as he did in the 1960s:

If every Tanzanian had stuck to using his tribal language or if we had tried to make English the official language of Tanzania, I am pretty sure that we would not have created the national unity we currently enjoy.⁸²⁶

In opting for Swahili as its sole official and national language, Tanzania has most departed from policies established under colonial rule. Although English is still the medium of post-primary education, its overall position has been reduced. This also applies to vernaculars. The uniform practice of using Swahili is a symbol of both socioeconomic egalitarianism and national integration, reflecting the nation's socialistic policies.⁸²⁷

⁸²⁴ Massamba, D.P. (1985) "An Assessment of Development and Modernisation of the Kiswahili Language in Tanzania Paper " Presented at the Conference on Vernacular Languages for Modern Societies (Bad Homburg, Germany) ERIC Documents ED 276278, p. 6.

⁸²⁵Blommaert, J. (2013) State Ideology and Language in Tanzania. Tilburg papers in Culture studies. p.38. available online at: https://www.tilburguniversity.edu/upload/5913c1e9-4e07-4d30-9346-5e6b69bf8c29_TPCS_80_Blommaert.pdf

⁸²⁶ Laitin, D. (1992) Language Repertoires and State Construction in Africa, Cambridge: Cambridge University Press, p. 92.

⁸²⁷ Scotton, C.M. (1988) "Patterns of Bilingualism in East Africa". In C. B. Paulston, (ed), International Handbook of Bilingualism and Bilingual Education. New York: Greenwood Press, p. 219.

7.14 Angola

It has been argued that postcolonial Angola has inherited the colonial language ideology.⁸²⁸ With colonization, the Portuguese, in line with other colonising powers pushed a language policy that regarded the multilingualism of their colony as messy.⁸²⁹ Like their French counterparts, the Portuguese pursued a policy of assimilation. The policy of assimilation was based on Portugal's claim to be nonracist: anyone in the colonies could absorb Portuguese civilization and be regarded as equal to the Portuguese by birth, without distinction of colour or birth, i.e. Africans could become Portuguese through the medium of the Catholic religion, the Portuguese language and technology.⁸³⁰ From 1961, the former government also tried to achieve assimilation in Angola and Mozambique by means of European colonization.⁸³¹ As observed by Bowden.⁸³²

The Portuguese imperial venture more thoroughgoing than the British or French. Of all the European imperial powers the Portuguese were in Africa longest and penetrated it most deeply. Because they were trader-settlers, rejected by their own country of birth, they created a class of people in Africa, white, mixed-race and black, who had been de-Africanised, spoke no African language and who were culturally, European. What baffled me was that in every other African struggle such a class would have identified with the colonists, the enemy. In Angola they became the liberationists, or at least claimed to be, formed into a Marxist liberation movement, their credentials approved by communists of Moscow and Havana.

⁸²⁸ Augusto, A.F. (2012) Assessing the Introduction of Angolan Indigenous Languages in the Educational System in Luanda: A Language Policy Perspective, p. 1. Research report submitted to the Faculty of Humanities, University of the Witwatersrand, Johannesburg, in partial fulfilment of requirements for the degree of Master of Arts in Linguistics. Available online at: <http://wiredspace.wits.ac.za/bitstream/handle/10539/11378/Antonio%20Augusto%20Final%20MA.pdf?sequence=2&isAllowed=y>

⁸²⁹ Fernando, J. & Ntongo, Z. (2002). Angola, povos e línguas. Luanda: Nzila,

⁸³⁰ De Sousa Ferreira, E. (1974) Portuguese colonialism in Africa: *the end of an era*: The effects of Portuguese colonialism on education, science, culture and information. The UNESCO Press. Paris. p.113. Available online at: <http://unesdoc.unesco.org/images/0001/000113/011345eo.pdf>

⁸³¹ Ibid.

⁸³² Bowden, R. (2008) Africa: Altered States, Ordinary Miracles. Portobello Books. London. p.204

7.14. 1 The status of African languages in Angola today

It is said that Angola is a country where the indigenous languages have no clear official status. Nonetheless, state authorities acknowledge the role of indigenous languages in the preservation of culture and development of the country. This acknowledgement, however, is no more than political rhetoric.⁸³³ Even the highest political officials in the country still do not seem to have the terms to apply to address these languages. No one knows whether they are “National Languages”⁸³⁴ or “African Languages spoken in Angola”⁸³⁵ or “additional languages of Angola” (constitution) or something else. As Ricento⁸³⁶ observes, the absence of a clear status for indigenous languages reflects the unclear perception that policymakers have with regard to these languages.

7.15 What model should Namibia follow?

As alluded to above, the author of this study is of the opinion that both the Tanzanian and South African model can be adopted by Namibia. In this regard, the structure and mandate of Tanzania’s Baraza la Kiswahili la Taifa (BAKITA) and PanSALB can be emulated by Namibia should it decide to have a language specific body of her own. However, there are areas where BAKITA has outperformed PanSALB in relation to language promotion and protection. Unlike South Africa’s PanSALB, BAKITA has ensured that Kiswahili dominates the country’s affairs. Kiswahili is currently the dominant language in parliamentary debates in the country as well as the sole language of instructions at primary school levels. Moreover, due to BAKITA’s unrelenting efforts to fully “Swahilise” many aspects of governance, the Tanzanian

⁸³³Ibid.

⁸³⁴ Ibid.

⁸³⁵ Dos Santos, J. E. (2006). Discurso do Chefe do Estado Angolano na Abertura do 3º Simpósio Sobre a Cultura Nacional. *Jornal de Angola*, pp. 3-4.

⁸³⁶ Ricento, T. (2006). Theoretical perspectives in language policy: An overview. In Ricento, T. (Ed.), *An introduction to language policy: Theory and method*. Malden: Blackwell Publishers, pp. 3-10.

government recently announced measures that would switch all English-language proceedings to Kiswahili, the most widely spoken language in the nation. Proponents of the new plan say that the measure will help destroy the linguistic barriers that prevent the judicial system from effectively administering justice.⁸³⁷ On the other hand South Africa is yet to embrace African languages in its judicial system. There is a Chief Justice’s directive in the country that provides that written court records must be kept in English. This by implication means that most South Africans cannot access justice in their own languages. It is often argued that only 8.1% of South Africans speak English at home. It is only the country’s sixth most common home language. If we use statistics in this regard, it means that there’s a 91.9% chance that a South African will be at a disadvantage during a court case because they cannot properly follow the proceedings, documents and records.⁸³⁸

However, it can also be argued that PanSALB unlike BAKITA has done a great deal of work in promoting local African languages. Whereas BAKITA is designed to only promote one language, PanSALB is mandated to cater for all indigenous tongues of South Africa. Moreover, PanSALB is further mandated to receive and settle complaints related to language discrimination. BAKITA’s largely lacks this mandate.

Overall, the author of this study is of the opinion that should Namibia decide to establish its own language body, it should “cherry pick” the best practices from both BAKITA and PanSALB.

⁸³⁷ Tanzania courts Kiswahili. (2021). Language magazine. Available online at:

<https://www.languagemagazine.com/2021/03/10/tanzania-courts-kiswahili/>

⁸³⁸De vries, A,Kaschula, R.H, Docrat, Z. (16 April 2020) Why using just one language in South Africa’s courts is a problem. Available online at: <https://theconversation.com/why-using-just-one-language-in-south-africas-courts-is-a-problem-134911>

7.16 Financing language policy.

Among the reasons advanced by many African states about the marginalisation of African languages is the cost of financing language policies and planning. As alluded to in preceding chapters, Africa is home to thousands of languages and developing orthographies for each and every one of these languages is quite complex and economically not viable. It is because of this flawed reasoning that European languages continues to dominate all aspects of African governance decades after colonisers left Africa.

A common assumption about languages is that making them all equal is inexpedient. It is assumed to be either impossible or unreasonably costly for a multilingual country or organization to promote, use, and recognize all its languages to the same degree.⁸³⁹ Even if equal official treatment of several languages were feasible, it would presumably fail to erase the differences of utility and prestige among languages. Thus, the selection of one or a few privileged languages is considered necessary, practical, and legitimate, even where the unequal treatment of races, religions, sexes, regions, and other social categories is illegitimate.⁸⁴⁰ It has been argued by Phillipson that basic economic theory speaks in favour of a user-pay approach to financing, meaning that, in the case of minority language policies, members of the minority members themselves should pay for them, in the same way as they pay for privately provided services.⁸⁴¹

⁸³⁹ Pool, J. (1987) Thinking about Linguistic Discrimination. Published in *Language Problems and Language Planning*, 11 (1987),pp. 3–21.

(<http://www.ingentaconnect.com/content/jbp/lplp/1987/00000011/00000001/art00002>).

⁸⁴⁰ Ibid.

⁸⁴¹Grin, F. and Vaillancourt, F, On the Financing of Language Policies and Distributive Justice', in Phillipson, R. (eds) (2010) *Rights to Language: Equity, Power, and Education*. Lawrence Erlbaum Associates, Publishers. New Jersey, p. 110.

In the same vein, this presupposes a high degree of socio-economic equality between the majority and the minority. In the absence of such equality. Direct monetary transfers from the former to the latter can be required to establish or restore it. This solution is, in principle, preferable to the direct financing of minority language policies out of the public coffers, because direct financing amounts to a manipulation of the structure of prices and costs, and hence, distributive considerations may justify transfer payments from the majority to the minority, but not necessarily the direct financing of policy measures.⁸⁴²

It is important, therefore, to have a sense of the costs involved or at least of their order of magnitude. According to Dixon a thumbnail calculation provided by the Foundation for Endangered Languages suggested that \$56,000 per language would provide a basic grammar and dictionary, assuming two years of work by one linguist.⁸⁴³ Dixon further opines that to do a good job, a linguist will need three years, and there would then not be much change from \$200,000 after taking into account a salary, fees for indigenous language consultants, travel, equipment, accommodation, publication of findings, and the provision of basic facilities for revitalisation.⁸⁴⁴ Gerdts on the other hand argues that anticipating in-depth studies, the development of an audio-visual archive, and a wider range of publications and teaching materials will amount to \$2 million in fifteen years per language.⁸⁴⁵ Conditions vary so much that it is difficult to generalise, but a figure of \$64,000 a year per language cannot be far from the truth.⁸⁴⁶

⁸⁴² Ibid.

⁸⁴³ Dixon, R.M. W. (1997) *The rise and fall of languages*. Cambridge University Press.

⁸⁴⁴ Ibid.

⁸⁴⁵ Gerdts, D. (1998) *Beyond Expertise: the role of the linguist in language revitalization programs*. In Ostler (ed), 14.

⁸⁴⁶ Crystal, *supra* note 38, pp. 95-96.

South Africa with its 11 officially designated languages continues to grapple with the high costs of implementing its national language policy. According to Mwaniki⁸⁴⁷ with the launching of the National Language Policy Framework: Implementation Plan (2003) the government projected financial commitment over a Medium-Term Expenditure Framework (MTEF) period of three years (2001/2002-2004/2005) is a total of N\$ 379 349 732.00 for national government departments, R 18 243 510.00 for each language unit which may be established, for example, in each government department. It is argued that the then projected allocations pointed to a commitment by government to provide financial resources for the implementation of South Africa's language policy and language plan envisioned in the Constitution.⁸⁴⁸ Mwaniki further opines that what is clearly lacking is a framework by means of which government departments can deploy the projected financial resources for the realisation of the National Language Policy Framework.⁸⁴⁹

7.16.1 Does Namibia have the funds and capacity to finance and revise a new or updated language policy?

As stated above, financing a language policy is not only a cumbersome but also a costly process. The Namibian government may have the political will to either develop a new language policy or revise the existing one but to it will boil down to the availability of funds and human resources. As it stands, Namibia has been experiencing an economic crisis for a number of years. In 2016, Namibia recorded its slowest growth, registering an estimated growth of 1.1 percent. This was due to weak performance by the secondary, tertiary and

⁸⁴⁷ Mwaniki, M.M. (2004) Language Planning in South Africa: Towards a language management approach. A Thesis submitted to the Department of Afro-Asiatic Studies, Sign Language and Language Practice, Faculty of the Humanities of the University of the Free State in fulfilment of the requirements for the award of the degree of Doctor of Philosophy in Linguistics, pp. 21-22.

⁸⁴⁸ Ibid.

⁸⁴⁹ Ibid.

primary industries. The primary and secondary industries contracted by 2.0 and 7.8 percent respectively while tertiary industries recorded a slow growth of 3.9 percent.⁸⁵⁰ In 2020, the government officially admitted that the country is in deep recession. The worst since its independence.⁸⁵¹ Therefore, any talk of financing a new language policy is likely not going to be received well by the establishment.

Moreover, Namibia lacks the capacity and the necessary human resources to undertake work of this magnitude. Already the country has a critical shortage of language teachers let alone linguists.⁸⁵²

7.17 Conclusion

This chapter dealt with the origins, nature and various theories underpinning the concept of language policy and planning. Contrary to some relatively popular beliefs in academic circles, language planning and language policy are not the same. Both are related to one another and in most instances cannot function without the other, but they are nevertheless two different entities. As stated in the chapter, Language planning is defined by some scholars as the planning of deliberate changes in the form or use of a language or language variety. On the other hand, a *language policy* is a body of ideas, laws, regulations, rules and practices intended to achieve the planned language change in the society, group or system.

This chapter provided several case studies on how different African countries are struggling to implement their respective language planning policies. The chapter provided a relatively detailed overview on the intricacies surrounding language policy and planning in Namibia. Namibia lacks a specific law and body responsible for indigenous language protection and

⁸⁵⁰ Status of the Namibian Economy. (2018). National Planning Commission. p.1. Available online at: https://www.npc.gov.na/news/paper-the-impact-of-savings-and-investment-on-the-namibian-economy/?wpfb_dl=315

⁸⁵¹ Charmaine Ngatjiheue. 'Namibia in deep recession – Geingob'. The Namibian. 03 December 2012.

⁸⁵² Country lacks language teachers. Namibian Sun. 23 May 2013. Available online at: <https://www.namibiansun.com/news/country-lacks-language-teachers>

promotion. Instead, it relies on the pre-independence National Language Policy designed by the then liberation movement SWAPO in exile. South Africa, despite having progressive policies and laws on language rights has failed to equitably use all its African languages in administration, the judiciary and higher education. This is the country that prides itself as having 11 official languages. From this chapter, one can deduce that these 11 official languages are only constitutionally enshrined for cosmetic purposes. English and Afrikaans still dominate government administration. It is only in Tanzania where indeed African language holds sway over a European one. Kiswahili, East Africa's lingua franca, is Tanzania's most important language. It is used in lower courts; government and it is the main language of the national parliament. Any form of Language planning is very costly and requires strong financial backing from the state in order to be successfully implemented. It is the cost associated with language planning that has partially resulted in many African states unwilling or unable to fully promote the use of indigenous languages in all forms of governance.

CHAPTER 8 MECHANISMS TO PRESERVE, REVITALISE AND PROMOTE INDIGENOUS AFRICAN LANGUAGES: A CASE STUDY OF MINORITY KHOISAN LANGUAGES OF NAMIBIA.

8.1 Introduction

In order to develop mechanisms to preserve, revitalize and promote minority languages, it is imperative to understand the concept of language endangerment, its nature and causes. Khoisan languages of Namibia, Botswana and South Africa are very vulnerable to extinction unless measures are put in place to save them. Language attitudes are often cited as among the biggest obstacles to the development of African languages. In this chapter I interrogate how attitudes towards one's language impends or revitalizes the said language. Further, I interrogate various theories on language endangerment as well as explore mechanisms that are often used by linguists and other language experts to preserve and promote endangered, dying or extinct languages. I also analysed case studies where language loss was reversed wholly or partially.

8.2 Khoisan peoples and their languages

The Khoisan, an indigenous population in Southern Africa, may once have comprised the majority of living humans on the planet, for much of the past 150,000 years. The Khoisan population declined about 22,000 years ago and again during the 17th century's European colonialists' incursions into Africa.⁸⁵³ Up to 300 000 Khoisan peoples once lived throughout southern Africa from the southern reaches of the Zambezi basin to the Cape of Good Hope.⁸⁵⁴ These Aboriginal population of southern Africa falls into three distinct groups: The Bushmen,

⁸⁵³ Miller, M. (2014) Khoisan people of South Africa were once the most populous humans on Earth. Available online at: <http://www.ancient-origins.net/news-evolution-human-origins/khoisan-people-south-africa-were-once-most-populous-humans-earth-002448?nopaging=1>

⁸⁵⁴ Lee R & I Devore (eds) (1976). Kalahari Hunter-Gatherers: Studies of the !Kung San and Their Neighbours. Cambridge Massachusetts: Harvard University Press.

the Hottentot, and the Bergdama.⁸⁵⁵ This population comprised exclusively of hunter-gatherers until around two thousand years ago when Bantu cattle economies first penetrated into the east of the region and segments of the indigenous population turned to pastoralism.⁸⁵⁶ The Hottentots in particular, differ culturally from the other two groups in that they had obtained cattle from the South-western Bantu and had adopted a pastoral mode of life. Physically, however, they closely resemble the Bushmen, varying only to about the degree one would expect in a people with a superior diet and a more secure livelihood. When compared to the Bushmen, the *Hottentot* tends to be 4 or 5 inches taller and to have a slightly narrower head and nose, but in other respects h/she reveals all the typical *Bushmanoid* stigmata.⁸⁵⁷ Following the European colonisation of the Cape in the 17th century, most of southern Africa's Khoisan populations were wiped out. Squeezed between Bantu migrants from the north and east, and white colonisers from the south, they were variously assimilated, decimated or subjugated by these new arrivals.⁸⁵⁸

By the early 20th century only a small San population remained in southern Africa, the majority of whom lived in and around the Kalahari basin in Botswana and Namibia, southern Angola, southern Zambia and north-western Zimbabwe. Being relatively isolated, they continued practising a hunting-and gathering lifestyle supplemented by occasional trade with others and sporadic forays into pastoralism.⁸⁵⁹ The vocabularies of the indigenous hunter-gatherer and herder groups of southern Africa traditionally lacked inclusive names for themselves larger

⁸⁵⁵ Murdock, G.P. (1959) Africa: Its peoples and their culture history. McGraw-Hill Book Company. p. 52.

⁸⁵⁶ Ibid.

⁸⁵⁷ Murdock, supra note 855, p. 53.

⁸⁵⁸ Suzman, J. (2001) An Introduction to the Regional Assessment of the Status of the San in Southern Africa.p.2. Available online at: www.lac.org.na/projects/lead/Pdf/sanintro.pdf

⁸⁵⁹ Ibid.

than those of the linguistic unit to which they belonged. This creates a major difficulty for those who wish to talk about them.⁸⁶⁰

The word Khoisan is believed to have been invented in the 1920s to describe peoples of a certain supposed physical type. Since then, it has come to describe cultural features and social organization as well, and to refer to languages of a particular family.⁸⁶¹ The word Khoisan is a concoction, *Khoi* or *Khoe* plus San. As a linguistic label, *Khoe* designates those who use this term to mean ‘person’.⁸⁶² These include the cattle and sheep-herding Khoekhoe or ‘People of People’.⁸⁶³ And it includes the hunter-gatherers known as the Central Bushmen or *Khoe* Bushmen, who speak languages related to Khoekhoe. San means Bushmen, hunter-gatherers, or foragers, not in any San language at all, but in one of the Khoekhoe dialects. The fit between lifestyle and language is not a precise one, since the Central San speak what others might call ‘San languages’.⁸⁶⁴

As stated by Barnard,⁸⁶⁵ the Khoe and the San have historically been labelled Bushmen, a term often regarded as deeply offensive in modern day Namibia. Many myths and misconceptions have been imposed upon them in the name of civilization by settlers who came into contact with them.⁸⁶⁶ The San or related peoples were at one time very widespread in central and east as well as southern Africa. This can be seen in the record of stone implements found throughout these regions and in the existence of small pockets of people in east Africa speaking languages

⁸⁶⁰ Mitchell, P. (2002) *The Archaeology of Southern Africa*. Cambridge World Archaeology. University of Cambridge Press, p. 7.

⁸⁶¹ Barnard, A. (2003) *Diverse People Unite: Two lectures on Khoisan imagery and the state*. Occasional papers no. 94. University of Edinburgh, pp. 11-13.

⁸⁶² Ibid.

⁸⁶³ Ibid.

⁸⁶⁴ Ibid.

⁸⁶⁵ Ibid.

⁸⁶⁶ Chebanne, A. M. (2008). A Sociolinguistic Perspective of the indigenous communities of Botswana. *African Study Monographs*, 29(3): 93-118. Available online at: http://www.africa.kyoto-u.ac.jp/kiroku/asm_normal/abstracts/pdf/29-3/chebanne.pdf

containing the click consonants which occur only in Khoisan languages and those of peoples who have been in contact with them. By the seventeenth and eighteenth centuries they had been absorbed into other cultural communities in most of their territory.⁸⁶⁷ They survived, however, in Namibia and neighboring Botswana, southern Angola and a small area of Zambia, in the hinterland of the Cape up to and somewhat beyond the Orange River, and along the east coast up to the neighborhood of the Great Fish River.

8.3 The Khoisan as “Indigenous Peoples”

Indigenous and tribal peoples constitute at least 5,000 distinct peoples with a population of more than 370 million, living in 70 different countries. This diversity cannot be captured easily in a universal definition, and there is an emerging consensus that a formal definition of the term “indigenous peoples” is neither necessary nor desirable.⁸⁶⁸ Similarly, there is no international agreement on the definition of the term “minorities” or the term “peoples”.⁸⁶⁹

8.4 Who are indigenous peoples?

Jose Martinez Cobo, former UN Special Rapporteur to the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, Indigenous Communities, Peoples and Nations, defined indigenous peoples as:

Those which, having a historical continuity with pre-invasion and precolonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing on those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system.⁸⁷⁰

⁸⁶⁷ Omar-Cooper, J.D. (1987) *History of Southern Africa*. James Curry Publishers, pp. 1-2.

⁸⁶⁸ *Indigenous and Tribal Peoples’ Rights in Practice*. A guide to ILO Convention No. 169.

⁸⁶⁹ *Ibid.*

⁸⁷⁰ Secretariat of the Permanent Forum of Indigenous Issues, *The Concept of Indigenous Peoples*, ¶ 2, U.N. Doc. PFII/2004/WS.1/3 (Jan. 2004).

On the other hand, Lee⁸⁷¹ argues against the Cobo definition, claiming that this is not applicable in all parts of the world. Lee offers a proposition to understand indigenous in terms of two sets of criteria. In this regard, the first criterion, according to Lee⁸⁷² is the *Indigenous One* which essentially takes the historical trajectory into account of the various periods, for example, in the Americas after 1492, in Australia after 1788, and in Siberia probably from the 1600s following the expansion of the Russians.

The notion of *Indigenous Two*, according to Lee looks at indigenous claims, not through the lens of the European settler states, but through agrarian polities in which the dominant ethnicity situates itself in one or the other as the “Great Traditions” from which the indigenes are excluded.⁸⁷³ These according to Lee include India and its scheduled tribes, Malaysia with its Orang Asli and Indo China’s Montagnards. While in some places Lee states that both category one and two are used together, complicating the task of defining indigenous, he further postulates that *Indigenous Three* might be useful for groups reclaiming lost identities, such as the Neo-Khoisan groups in South Africa.⁸⁷⁴

8.5 Recognition of indigenous peoples under ILO Convention No. 169

Article 1(1). This Convention applies to:

- (a) Tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;

⁸⁷¹ Lee, R. B. (2006). Twenty-first century indigenism. *Anthropological Theory*, Vol. 6, No. 4, pp. 455-479.

⁸⁷² Lee, *ibid*, p. 1629.

⁸⁷³ Lee, *ibid*.

⁸⁷⁴ *Ibid*.

(b) Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.⁸⁷⁵

Article 1 (2)

Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.⁸⁷⁶

8.6 The importance of preserving indigenous Khoisan languages

Indigenous languages of the world play a critical role in preserving indigenous knowledge. As it has been observed, losing an indigenous language is not only a loss to the speakers of that language, but also to humanity. Such a loss, by implication entails that thousands of years of accrued knowledge disappears forever.

8.6.1 Indigenous knowledge systems

Indigenous knowledge on its part refers to what indigenous people know and do, and what they have known and done for generation's practices that evolved through trial and error and proved flexible enough to cope with change.⁸⁷⁷ Indigenous Knowledge Systems (IKS) have suffered for decades from several strategies of disinformation embedded in western centric, colonial and post-colonial education and western religion, science and technology.

⁸⁷⁵ See ILO Convention No. 169.

⁸⁷⁶ Ibid.

⁸⁷⁷ Eyong, C.T. (undated) *Indigenous Knowledge and Sustainable Development in Africa: Case Study on Central Africa*. p.1. Available online at: http://www.zef.de/module/register/media/deed_Chapter12_Eyong-C-Takoyoh.pdf cf. Melchias, G. (2001). *Biodiversity and Conservation*. Enfield: Science Publishers, Inc.

Indigenous communities claim that the existing intellectual property laws in countries such as South Africa do not adequately recognise and protect their cultural products and expressions. In certain instances, intellectual property law is considered to be a threat to indigenous communities' cultural maintenance,⁸⁷⁸ in the sense that intellectual property law does not sufficiently protect indigenous intellectual property, and that accordingly this knowledge is sometimes misappropriated. For example, in recent years, patents have been granted to the Council for Scientific and Industrial Research (CSIR) in South Africa for inventions derived from traditional knowledge, such as the *Hoodia* plant used by the Khoisan to curb hunger, without the prior consent of the Khoisan community.⁸⁷⁹

8.6.2 Indigenous peoples or marginalised communities?

As a matter of policy, the Namibian government does not recognise the San and other related groups as “indigenous peoples”, rather it uses the term “marginalised communities” in this regard.⁸⁸⁰ Chapter 11 of the Namibian Constitution contains principles on social welfare. Article 95 of the Namibian Constitution deals with the Promotion of the Welfare of its people and states that the State shall actively promote and maintain the welfare of the people by adopting, inter alia, policies aimed at:

ensurance that senior citizens are entitled to and do receive a regular pension adequate for the maintenance of decent standard of living and the enjoyment of social and cultural opportunities.

⁸⁷⁸ Davis, M. (1997) *Indigenous Peoples and Intellectual Property Rights*. Research Paper No 20. Canberra, pp.39-45.

⁸⁷⁹ Finger, J. Michael, and Philip Schuler. *Poor People's Knowledge: Promoting Intellectual Property in Developing Countries*. 2004. Washington, DC: World Bank and Oxford University Press, p. 19.

⁸⁸⁰ In the Namibian Perspective the term ‘marginalised’ is more preferable than the term ‘indigenous’ to apply to communities that have faced particular challenges because of discrimination against their culture and economic activities. ‘Indigenous is a term that is often used to describe the people who lived in an area before it was colonised or became a nation state, so in most African countries the majority of the population would consider themselves to be indigenous. Hence, it would be contradictory to only refer to certain groups as more indigenous than others. (Empowering Marginalised Communities in Namibia, OPM, Windhoek, Namibia, p.2).

enactment of legislation to ensure that the unemployed, the incapacitated, the indigent and the disadvantaged are accorded such social benefits and amenities as are determined by Parliament to be just and affordable with due regard to the resources of the State.⁸⁸¹

The above provision attempts to explain the notion that all Namibians are equal irrespective of class, and as such it is incumbent on the government of the day to ensure that those citizens belonging to communities which are socially and economically disadvantaged are integrated into the mainstream economy. The said provision defeats the notion that Khoisan people are indigenous to the country.

However, the term “marginalized has elicited some criticism from certain quarters of the mainstream Namibian society as posited by a certain Kleophas in one of the local dailies:

I am a teacher at a San community (sic) some 8 kilometres outside Grootfontein in Otjozondjupa region. During the time I have been teaching in this community, I learnt a lot about this so-called ‘marginalised’ group (San). This term is misinterpreted by many members of this group. They think being called marginalized means you should just depend on the government. They don’t want or don’t know how to do anything on their own because the government is there for them. The dependency includes food production and the search for jobs. If you approach them about employment and food production, they will tell you that ‘our government will do that for us’. As such, the government should know that every ethnic group has poor people.⁸⁸²

Yumbo, a San activist rebuts the above assertions as flawed and without basis. He argues that it is attitudes like the one above which is contributing to the further marginalization of San speaking Namibians. He states:

⁸⁸¹ See Chapter 11 and article 95 of the Namibian Constitution. See also Thobias T. T. (2007) Impact Evaluation of Poverty Alleviation Programmes for the San Community in Omaheke and Ohangwena Regions. A research paper submitted in partial fulfilment of the requirements for the degree of Master of Public Policy and Administration Of The University of Namibia (UNAM) Faculty of Economics and Management Science Department of Political and Administrative Studies And The Institute of Social Studies (ISS). pp.1-2. Available online at: <https://repository.unam.edu.na/bitstream/handle/11070/360/Tobias2007.pdf?sequence=2>

⁸⁸² E. Kleophas. ‘Why are They Called Marginalised?’ The Namibian Newspaper. 14 August 2015.

We face all forms of discrimination from our Bantu neighbours, for example as the denial of (a) Economic opportunities (e.g. Jobs), (b) Educational and Social & Culturally Exclusion (school placement, bullying, name calling-mukwengo/kwangala/muduni/bushmen which are all having negative connotations/tribalism), c) Land rights/tenure (e.g. land invaded in Tsumkwe area by dominant tribes, the Khwe in western Zambezi and Kavango East do not have land rights as their habitat is declared Bwabwata national park in 2007, in short their land is/was taken away), d) Politically deprived of such that only two representatives in Parliament currently.⁸⁸³

The San/Kwe living west of the Kwando-Mashi River in the Bwabwata National Park lead a marginalized life characterized by poverty, illiteracy and suppression. Political instability in their ancestral land as a result of the Angolan and Namibian liberation wars during the 1960s and 1970s, as well as the secessionist uprising in the Mafwe-MaMbalangwe area during the late 1990s had many Khwe fleeing to Botswana.⁸⁸⁴

Aggravating the situation of the San people is the fact that many of them are not aware of their human rights. An indigenous San activist narrates the ordeals that her community faces in their day to day interactions with other numerically superior and economically powerful neighbours. She submits as follows:

Most San people do not know where they came from, and do not know their place in the 'Namibian House' because the education system does not include San history in the curriculum. She said the San community continues to feel excluded amongst other tribes, are bullied at schools, and denied justice at police stations when reporting gender-based violence or rape. There is a case of a San child who was raped, but nothing was done when the case was reported to the police. San people do not speak up for their rights because they are not educated enough to understand what equal rights mean. When they visit the clinic, they do not know how to communicate their symptoms because the doctor only speaks English or Afrikaans, and ends up prescribing wrong medication. They also cannot apply for jobs because they

⁸⁸³ Yumbo Maleach. (Personal interview/communication). 06 November 2017.

⁸⁸⁴ Otto, A and Goldbeck, M. (2014) *The People of Namibia's Eastern Zambezi Region (Eastern Caprivi): A historical perspective*, p. 40.

do not speak the official language. Those who are disabled do not have access to social grants as they do not own national documents.⁸⁸⁵

This stance on defining the San and Himba communities as marginalised instead of ‘indigenous’ is all more difficult to comprehend given Namibia’s exemplary actions in the international arena, both in signing the UN DRIP and their work with the ILO in implementing the rights contained in the ILO’s Indigenous and Tribal Peoples’ Convention 169.⁸⁸⁶ It has been stated that these steps are all the more important given:

The Namibian Constitution affirms that all treaties binding upon Namibia as well as general rules of public international law are incorporated into Namibian domestic law. thus, provisions of International human rights treaties to which Namibia is a party, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights, (ICESCR), and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), as well as the African Charter on Human and Peoples’ Rights, form part of the domestic laws of the land.⁸⁸⁷

To address the socio-economic challenges affecting the so-called marginalised communities, the government launched an ambitious fifth National Development Plan poverty among the marginalised Ovatie, San and Ovatjimba will be a thing of the past by 2022. According to government reports on overall socio-economic conditions of citizens, it states that the Ovatjimba, San and Ovatue community groups have been heavily tormented by poverty.⁸⁸⁸ The report further states that there are 20 000 households with 105 000 individuals in the marginalized communities. Of these, 90% are from the San. About 55% of the San have not attended formal education at all and are thus unable to read or write. Only 7% completed

⁸⁸⁵ Theresia Tjihemuna. “San community unaware of their rights”. The Namibian Newspaper. 09 June 2017.

⁸⁸⁶ ILO (2013) Promoting and Implementing the Rights of the San Peoples of the Republic of Namibia, ILO, Geneva.

⁸⁸⁷ UNHCR (2013), Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya: The situation of indigenous peoples in Namibia, A/HRC/24/41, para. 75.

⁸⁸⁸ Ndanki Kahiurika. “Plan to reduce poverty among the San”. The Namibian Newspaper. 05 June 2017.

primary education, 5.5% completed junior secondary education and 3.7% completed senior secondary education, while 0.6% have post-secondary qualifications. In terms of income, 50.5% of San households rely on wages and salaries as the main source of income, while unemployment among them is 77% with poverty at 68%. The NDP V thus hopes to have the unemployment rate decreased to 45% by 2022, with poverty levels at 35%, and 60% of the San accessing primary education.⁸⁸⁹

8.7 San language education in Namibia schools

Several San languages spoken in Namibia have been codified and used in several schools. So far some educational materials are available for grades 1–3 in three San languages, Ju|’hoansi, Khwedam and !Kung.⁸⁹⁰ At the Village Schools in the Nyae Nyae Conservancy of Tsumkwe district, in north-eastern Namibia, San teachers teach Ju|’hoansi children in their own language up until grade 3. The village schools are an important and highly regarded example of the government’s efforts to provide mother tongue and culturally appropriate education for San children.⁸⁹¹

According to Hopson,⁸⁹² the relative lack of discussion of language or linguistic rights at the governmental or non-governmental level, despite continued discussions about the development and implementation of official language policy, is not a hopeful sign for the most marginalised groups, such as the San. Hopson further points out that in comparison to other countries where San people live, approaches to education and language development in Namibia are progressive. In Botswana, the only other country with a comparable percentage of San, the

⁸⁸⁹ Ibid.

⁸⁹⁰ Hays, J (2011) Educational rights for indigenous communities in Botswana and Namibia, *The International Journal of Human Rights*, 15:1, 127-153.

⁸⁹¹ Ibid.

⁸⁹² Hopson, R.K. (2011) Language rights and the San in Namibia: a fragile and ambiguous but necessary proposition. *The International Journal of Human Rights*. Vol. 15, No. 1, pp. 111–126.

explicit government policy of non-ethnic approaches to education and development requires that the Basarwa are not to be addressed as a specific ethnic group, but included in the category of Remote Area Dwellers (RADs).⁸⁹³ The non-use of languages other than Setswana or English prevents any serious discussion of using San languages as languages of education. The result is that while provision of educational services appears extensive, the specific cultural and linguistic factors which strongly influence success and failure in schools for San children are completely overlooked.⁸⁹⁴

As Hays⁸⁹⁵ also points out, while literacy, numeracy, and other indicators of schooling success are increasingly necessary and desired by San communities, the skills, and success in formal schools remain out of reach for many San children and adults. Reports from the years immediately following Namibia's independence describe commonalities that exist for San across borders. In particular, these reports highlight the high dropout rate and low and inconsistent attendance of San children in schools compared to other groups. These factors, along with a high rate of academic failure, have been attributed to several factors – a very important one of which is the lack of mother-tongue education (others include cultural practices that prevent students from attending school, lack of full integration in the formal schooling arena, frequent abuse at the hands of school authorities and other peers, and the alienating experience of boarding schools, which are often located great distances from home villages and schools).⁸⁹⁶

⁸⁹³ Ibid, p. 118.

⁸⁹⁴ See also Saugestad, S. (2011) 'Impact of International Mechanisms on Indigenous Rights in Botswana', *The International Journal of Human Rights* 15, no.1.

⁸⁹⁵ Hays, J. (2011) 'Education Rights for Indigenous Communities in Botswana and Namibia, *The International Journal of Human Rights* 15, no.1.

⁸⁹⁶ Hays, J. (2002) "We Should Learn as We Go Ahead": Finding the Way Forward for the Nyae Nyae Village Schools Project', *Perspectives in Education* 20, no. 1: pp. 123–39.

8.8 Attitude as an impediment to the development of Khoisan and other Namibian languages

Language attitudes have been defined as a feeling, reaction or emotional disposition towards an idea, concept or phenomenon.⁸⁹⁷ Where languages are concerned, attitudes to a language could be described as positive, negative or indifferent. Such attitudes become more pronounced where speakers become bilingual or speak several languages. There is a tendency to develop different attitudes for each of the languages that they speak.

These attitudes, whether positive or negative, will normally depend on the degree of symbolic or socio- economic value manifested by each language. This is because the speakers of a language hold the key to the continuation or abandonment of their language, the inter-generational transmission or non-transmission of the language and the expansion or reduction of the domains in which it is used.⁸⁹⁸ Many people in Africa are bi- or multilingual. Typically, in sub-Saharan Africa that means acquiring a local language first, a language of wider communication or a national language second, and an international language last. Or it might mean being able to communicate in several local languages.⁸⁹⁹

The multilingual abilities of most Africans therefore yield different attitudes to these languages. Some speakers of smaller languages are slowly shifting to bigger languages. The educated class are moving towards appropriating languages of former oppressors such as English, French and Portuguese. As observed by Kamwanyah:⁹⁰⁰

I suspect that only a few of Namibia's young people are learning their vernacular at school, especially in urban areas, and at universities. Instead, they are more interested in learning sophisticated European

⁸⁹⁷ Baker, C (1992) *Attitudes and Language*. Clevedon: Multilingual matters, p. 12.

⁸⁹⁸ Adegbija, E (1994) *Language Attitudes in Sub- Saharan Africa: A Sociolinguistic Overview*. Clevedon: Multilingual Matters.

⁸⁹⁹ Nurse, D and Philippson, G. (2003) (ed) *The Bantu Languages*. Routledge: Taylor and Francis Group, p. 1.

⁹⁰⁰ Ndumbah Kwamanyah. "Mother Tongues' Days are numbered". *The Namibian Newspaper*. 20 February 2015.

languages such as French, German and so forth. Parents too probably speak to their children in English. Here I am talking about a phenomenon where the grandparents and perhaps the older generation at the village may faithfully still speak the mother tongue, but not the parents who for the most part are educated and working class. You may call it it colonised mind but the indigenous people's attitude that our mother tongues are less sophisticated, and therefore of lower status, is one of the main contributing factors risking the development of Namibia's native languages.

“Attitudes to language are strongly influenced by social and political factors”.⁹⁰¹ Domains shrink based on the perception of language value. English and other dominant European languages on the continent affects the motivation of governments, schools, parents and students to promote the languages. The lower status of local languages derives from their functions, which are perceived as limited. In contrast, English for example, is seen as offering gains in terms of entry into higher levels of education and employment, and subsequent upward social mobility.⁹⁰²

Official government records indicate that many speakers of the *Khoekhoegowab* have no interest in developing their language let alone choosing it as an academic language at tertiary institutions.⁹⁰³ Statistics reveal that due to seemingly negative attitudes towards their language, only few Khoisan language speaking students doing their studies in Education opt for the subject at university level.⁹⁰⁴ The negative attitude that some Damara>Nama speaking Namibians have been recorded during the early days of European exploration of the then German South West Africa. As articulated by Vedder in his book “South West Africa in Early times”:

⁹⁰¹ Holmes, J. (2008). An introduction to sociolinguistics. London: Pearson Education Limited, p. 406.

⁹⁰² Chen, S. (2006). Simultaneous promotion of indigenisation and internationalisation: New language-in education policy in Taiwan. *Language and Education*, 20(4), p. 322-337.

⁹⁰³ Selma Ikela ‘Country lacks language teachers.’ The Namibian Sun. Newspaper. 23-05-2013.

⁹⁰⁴ New Era Staff reporter. Only ten qualify to teach Khoekhoegowab in //Karas’. New Era Newspaper. 19 February 2016.

Hans Heinrich Knudsen, a German missionary and linguist had mastered the Nama language so completely in a few years's time that he was able to publish, in 1846, the Gospel according to St. Luke, with new characters to represent the click sounds, and a reader with a vocabulary, both of which he had printed in Cape Town. In addition, to this he collected a mass of material about the grammar of Nama, the manuscript of which is preserved today in the Grey Collection of the Cape Town Public Library. His contributions to the geography and ethnography of the country are likewise to be found in the Grey Collection. His work as an artist has been spoken of before. Yet this very man, who was doing his utmost to understand and teach the Namas in their own language, underwent the experience that the people in control of affairs at Bethanie refused, in rude and insulting terms, to allow their children to be taught through that medium. They wanted their children to be taught exclusively through the medium of Dutch, for the Europeans in Cape Town and the Orlam tribes spoke nothing else. The chief, David Christian, stood up in a stormy meeting, which had been convened to decide the medium of instruction in the schools, waved his arms about and shouted: 'Only Dutch, nothing but Dutch! I despise myself and want to creep into the bushes for very shame when I speak Hottentot'.⁹⁰⁵

However, this lack of interest in indigenous language learning is also affecting other non-Khoisan languages.⁹⁰⁶ As stated by one irate member of the Namibian public narrating her first-hand experience on the attitudes of parents towards children's choice of language in their daily interactions in the local daily:

'They don't speak Oshiwambo'

These were the words of a couple standing in front of me in a queue at a supermarket with their children as they exchanged greetings with another woman. When the woman turned to greet the children in Oshiwambo, their father proudly declared: *Ovo ihava popi Oshiwambo. Oshiingilisha ashike* ("They do not speak Oshiwambo. Only English"). This couple is not the first I have heard in Namibia proudly telling the world that their children do not speak their own mother tongue. I asked myself if this means the children need a translator to communicate with their grandparents. As I pushed my shopping trolley forward I thought of the colonized mindset that the parents are transferring to their children. A mindset

⁹⁰⁵ Vedder, H. Hall, C.G. (ed) (2016) *South West Africa in Early Times*. Frank Cass and Co. Ltd, pp. 240-241.

⁹⁰⁶ Tuyeimo Haidula. 'Minister Iyambo warns of critical teacher shortage'. *The Namibian Newspaper*. 29-11-2012.

to believe that their culture is inferior. No culture is superior or inferior to another. a culture is not fashion. If you are one of the parents, who claim that your children do not speak their mother tongue or vernacular, put yourself in their shoes. The fact that you (the parent) are fluent in Oshiwambo means your own parents took their responsibility of parenthood seriously. How do you expect someone else to respect your heritage if you do not embrace it? How will you feel if a co-worker disrespects your heritage?⁹⁰⁷

This stance affirms that many believe that English should be embraced as the most important language for advancement in many domains within many different societies. This is not usually the case as generally do not hold opinions about languages in a vacuum. They develop attitudes towards languages which reflect their views about those who speak the languages”.⁹⁰⁸ As elsewhere in Africa, the educated elite are the biggest contributors to the marginalisation of African languages on the continent. As Muchali postulates:

Do indigenous African languages even have their own writing characters, alphabets, or are the pro-indigenous African language crew still planning to borrow the colonial alphabetical characters? This is the reason I say the idea is a non-starter and that proponents of African languages are living in a fantasy world. For proponents of African languages must know that the Chinese, Arabs, Russians and Indians have their own alphabetical characters. Their languages are well developed to the extent that one cannot compare them with any indigenous language in Namibia. Africans, whoever they are, must come to terms with the reality and stop living in the dream world. The formal education that many African countries have embraced in management, science, and technology is all of Western education, the colonial powers. Today is not the time to start undoing the good Namibia’s official language has done in uniting and benefiting the nation. No one has belittled our indigenous African languages, but to bring them to the English standard is just impossible. For Namibia, some languages have never been introduced in the print media, let alone be taught in classes – even in elementary school.⁹⁰⁹

⁹⁰⁷Albertina Nakashole 'They do not Speak Oshiwambo'. The Namibian Newspaper. 11 November 2016.

⁹⁰⁸ Holmes, supra note 897, p.406.

⁹⁰⁹ Mulife Muchali. “African languages as a medium of instruction laughable”. New Era Newspaper. 06 November 2015.

8.9 The future of Khoisan languages in Namibia: revitalising and recognising the importance of Khoe languages in Namibia

According to some language experts, the lack of access, interest and teachers for indigenous languages such as Khoisan and *Khoekhoegowab* is threatening their sustainability. The latter is taught at university level, but interest from young people to study the language is very low and this is triggering the fear in many *Khoekhoegowab* ardent promoters that their language may die. This is attributed to the development of the English education system, which is forcing parents to communicate with their children in English, while they (parents) communicate in their indigenous languages.⁹¹⁰ Today indigenous peoples are still concerned that despite the gains of a democratic state, the fact that their languages and identity are not officially recognised continues to hamper their capacity and efforts to enjoy socio-economic development as well as other fundamental human rights and freedoms.⁹¹¹

According to Brezinger the only Khoisan language which seems to be “safe” is *Khoekhoegowab*, a Central Khoisan language spoken by pastoral Nama and Damara, as well as, by the Haiom and Aakhoe, formerly hunter-gatherers.⁹¹² After Oshiwambo, with almost a million speakers, *Khoekhoegowab* has the second largest speech community of the Republic of Namibia, with slightly over 200 000 speakers.⁹¹³

Among the non-Khoekhoe languages of the Central Khoisan grouping, Naro, spoken predominantly in Botswana and Khwe, with major speech communities in Namibia, Botswana and South Africa seem to be the most stable and vital.⁹¹⁴ *Naro* is a Central Khoisan language

⁹¹⁰ Pecka Semba. “Lack of access, interest threatens minority languages”. The Namibian Newspaper. 21 November 2017.

⁹¹¹ Report of the UN Special Rapporteur on Indigenous Peoples’ Mission to South Africa 2, paras 26-32.

⁹¹² Brezinger, M. Language Endangerment in Southern and Eastern Africa, in Brezinger, M. (ed) (2006) Language Diversity Endangered. Mouton de Gruyter. Berlin. New York. pp.179-200.

⁹¹³ Ibid, p. 186.

⁹¹⁴ Ibid.

spoken by around 9,000 people in western Botswana and eastern Namibia. It is numerically one of the minority languages of Botswana, where, with a country's population of only 1.7 million, the majority of languages are spoken by less than 10,000 people.⁹¹⁵

The *Naro* language has benefited from a vigorous project, known as Naro Language Project (NLP) which was started in the 1980s by the Reformed Church in D'kar village, western Botswana. The primary aims of the Project were to describe the language system, to promote literacy among the speakers and to translate the Bible into Naro.⁹¹⁶ Literacy in Naro is not restricted to the religious contexts, but has become an important feature of Naro identity.⁹¹⁷

According to the Namibian government, the Khwe people are defined as part of Namibia's San population.⁹¹⁸ According to Boden⁹¹⁹ they speak a language of the Khoe language family and belong to the so-called Northern Khwe Bushmen. Historically, Khwe settlement area extend into south-east Angola and south-west Zambia and it still extends into East Caprivi and northern Botswana. The Khwe amount to 7,000 people in total, and up to 5,000 of them might be considered speakers of the Khwe language. The language is relatively safe in Namibia. However, like many members of other minorities in Botswana, the Khwe communicate increasingly in Setswana, even at home.⁹²⁰

⁹¹⁵Batibo, H. (undated) Language Documentation as a Strategy for the Empowerment of the Minority Languages of Africa. pp.197-198. Available online at: <http://www.lingref.com/cpp/acal/38/paper2147.pdf>

⁹¹⁶ Ibid.

⁹¹⁷ Brezinger, supra note 913, p.186.

⁹¹⁸ Boden, G. (2009) The Khwe and West Caprivi before Namibian independence: Matters of land, labour, power and alliance. *Journal of Namibian Studies*. p.27-71. Available online at: <http://www.the-eis.com/data/literature/The%20Khwe%20and%20West%20Caprivi%20before%20Namibian%20independence.pdf>

⁹¹⁹ Ibid.

⁹²⁰ Brezinger, supra note 913. p.187.

Despite recognising the *Khoikhoegowab* language as among the national languages of the State, Namibia when compared to its neighbours continues to make strides in recognising the importance of Khoisan languages in society. Through recommendations by the Delimitation Commission for the Electoral Commission of Namibia (ECN), the then President of Namibia, Hifikepunye Pohamba renamed the Karas Region- a region whose inhabitants are largely Nama speakers to //Karas region. Thus, recognizing the historical Khoisan aspect of the place name.⁹²¹ In addition, the coastal town of Lüderitz, was to be renamed! Nami#Nus despite strong opposition from the white inhabitants of the said town.⁹²² Some residents of Lüderitz are opposed to the name change claiming tourists flock to the town because of the name Lüderitz and that any changes would reduce the number of tourists visiting the town. These residents organized meetings to discuss legal matters on the renaming of the coastal town of Lüderitz to !Nami#nus, which remains a heated debate among certain sections of the town.⁹²³

An increasing number of Khoi speakers have raised concerns about the mispronunciation of their native names by both Bantus and European descendants Namibians as well as government agencies. They argue that omission of Damara>Nama clicks to their names is unconstitutional and discriminatory. As posited by an anonymous letter in one of the weekly newspapers:

Could you allow me space in your esteemed newspaper to courteously disagree with the Minister of Works and Transport, while appealing to the President of Namibia for the Roads Authority/NATIS to allow Damara>Nama clicks on personalised number plates as it is virtually impossible to write our language with meaning without these. This letter is in the spirit of “Freedom of Speech and Expression” as stated in article 21 (a) of our Constitution. Not allowing Damara>Nama clicks on number plates is

⁹²¹ Shinovene Immanuel. Caprivi is no more”. The Namibian Newspaper .09 August 2013. Available online at: <http://www.namibian.com.na/index.php?id=112767&page=archive-read>

⁹²² Luqman Cloete. “ I approved Luderitz name-change: Pohamba”. The Namibian Newspaper. 09 September 2013. Available online at: <http://www.namibian.com.na/index.php?id=113828&page=archive-read>

⁹²³ New Era Staff reporter. “Luderitz name change faces litigation”. New Era Newspaper. 18 March 2015. Available online at: <https://www.newera.com.na/2015/03/18/luderitz-change-faces-litigation/>

violating Articles 10⁹²⁴ and 19 of the Constitution. Fortunately, these fundamental rights and freedoms are not only guaranteed in the most important and the highest law of Namibia, the Constitution, but are also enshrined and protected.⁹²⁵

In recent times, political leaders have also raised their concerns pertaining the potential deaths of the Khoekhoegowab language. The Governor of the //Karas Region and former Member of Parliament had this to say about her people's attitudes to their language:

Only 23% of people in the //Karas Region speak Nama (Khoekhoegowab). This is disheartening. The 2011 Census indicates that Afrikaans is spoken by 36% of the population and Oshiwambo by 27% of the region's inhabitants. Something is really wrong here. The figures are a clear indication that original or indigenous inhabitants of the //Karas Region, who are Nama people, are not paying enough attention to maintaining their language. I have nothing against other languages, but it cannot be correct to advocate for other people's languages at the expense of your own mother tongue.⁹²⁶

8.10 Is there a need to revive “dead” or dying languages in Namibia?

Although Namibian languages save for some Khoisan languages are minimally threatened with extinction, the question arises as to why the state should invest money in languages which are already dead or dying instead of using the funds for pressing developmental projects? The answers to this question lies in the discussion below.

⁹²⁴ Article 10 of the Namibian Constitution deals with freedom against discrimination. Article 19 deals with the Right to practice and promote one's culture/language.

⁹²⁵ Concerned citizen. “Omission of Damara/Nama clicks to their names is unconstitutional”. Informante Newspaper. 16 April 2009. Available online at: <http://www.informante.web.na/node/3814>

⁹²⁶Staff reporter ‘Speak more Nama: Basson’. The Namibian Newspaper. 14 August 2014.

8.10.1 Language revival

Language revival, also known as “resuscitation” or RLS, is also difficult to define completely, as different speech communities approach the problem differently.⁹²⁷ The term ‘language revival’ is used as a cover term for efforts to reintroduce a language to a younger generation of speakers (revitalization); efforts to reinvigorate and extend a significant body of language remaining in the community, but in the absence of fluent speakers (renewal); and efforts to relearn a language on the basis of historical records (reclamation).⁹²⁸

8.10.2 Why revive a language?

In addition to many benefits associated with the importance of language to humanity alluded to in the preceding chapters, it has also been argued that preserving or reviving dying languages has some economic benefits. Language revival has a number of utilitarian benefits.⁹²⁹ For example, reviving a language provides the speakers involved with the opportunities to improve their well-being and mental health. Evidence shows that bilingualism slows dementia, enhances quality of life and reduces money spent on medical care.⁹³⁰ Secondly⁹³¹ language revitalisation plays a major role in reducing delinquency.⁹³² It also increases tourism.⁹³³ Vitality, language

⁹²⁷ Freeburg, E. (2013) The Cost of Revival: The Role of Hebrew in Jewish Language. Endangerment. Submitted to the Faculty of the Department of Linguistics in partial fulfilment of the requirements for the degree of Bachelor of the Arts. p. 2. available online at: <http://ling.yale.edu/sites/default/files/files/alumni%20senior%20essays/Freeburg,%20Elizabeth%20-%20Senior%20Essay.pdf>

⁹²⁸ Amery, R. (2001): "Language Planning and Language Revival." *Current Issues in Language Planning*, pp. 141-221.

⁹²⁹ Alsheri, A.A. (2016) Language Revival: Significance, Strategies, Methods and Issues. *European Journal of English Language and Literature Studies*. vol.4. Issue 6, pp. 53-65.

⁹³⁰ Ibid.

⁹³¹ Ibid.

⁹³² According to Alsheri (ibid), it has been found in British Columbia and other parts of Canada that there is a strong link between youth suicide and absence of conversational knowledge in the mother tongue.

⁹³³ To illustrate, cultural tourism is already a major contributor to Australia’s economy, hence language revival has the potential to positively influence Australian economy as a significant number of tourists wish to learn indigenous cultures. -quoted in Jai Kookana, 2014, *Tourism and the Australian Economy*.

revitalisation can be a key source of employment in both tourism and education, and therefore indigenous people can be provided with jobs and opportunities such as language teachers.⁹³⁴

8.11. Challenges associated with language revival

Finances and lack of political will are the most cited reasons for not investing in the revival or protection of languages, more so minority languages spoken by indigenous peoples of the world. However, there are other factors that should be taken into consideration in this regard. Some of them are discussed below:

8.11.1 Complexity of the language

Complex grammatical system has been the most serious problem that might render any language difficult to be learned. It may result in reducing the possibility of language transmission.⁹³⁵ However, Tsunoda notes that the possible remedy for this problem is ‘compromise approach’ which refers to the acceptance of deviation from the traditional norms.⁹³⁶

8.11.2 Existence of other languages to revive

The presence of more than one language to maintain hinders the task of renewal. For example, the revival programs of the Maori language have been highly successful due to the absence of other language that needs to be revitalised.⁹³⁷ This means determined efforts have been only

⁹³⁴ Ibid.

⁹³⁵ Dorian, N.C. (1994) ‘Purism vs. compromise in language revitalisation and language revival’, *Language in society*, vol. 23. No.04, pp. 479-494.

⁹³⁶ Tsunoda, T. (2006) *Language endangerment and language revitalisation: An introduction*, vol.148. Walter de Gruyter, p. 180.

⁹³⁷ Ibid, 180.

made to preserve Maori. However, countries such as Australia and others have experienced this problem as it had about 250 indigenous languages.⁹³⁸

8.11.3 Lack of Government support

Government support plays a leading role in enhancing the likelihood of success of language revival activities. It can be provided in different ways such as recognition of people's language and culture, and this can be done through encouraging the use of minority languages in government offices, schools and mass media.⁹³⁹ Lack of this support will greatly undermine revival efforts of these languages.

8.12 Successful cases of language revitalisation and preservation

8.12.1 Hebrew

In the nineteenth century, Hebrew had no native speakers; currently, it has nearly eight million. The growth of Hebrew from a "dead" language to the official language of Israel is often described as the most successful language revival project of all time.⁹⁴⁰ Hebrew is the official language of the State of Israel. It is a Semitic language spoken by the Jewish people and one of the world's oldest languages. There are 22 letters in the Hebrew alphabet and the language is read from right to left.⁹⁴¹

The Hebrew language is the thread that has bound the Jewish people together for millennia, both in liturgy and literature, and, in ancient times, as a spoken language. In the history of

⁹³⁸ Dixon, D.M. (1991) 'The endangered languages of Australia, Indonesia and Oceania', *Endangered Languages*, pp. 229-255.

⁹³⁹ Spolsky, B. (1995) *Conditions for Language Revitalisation: A Comparison of the Cases of Hebrew and Maori*, *Current Issues in Language and Society*. vol.2, no.3, pp. 177-201.

⁹⁴⁰ Freeburg, supra note 928, p. 9.

⁹⁴¹ Pelaia, A. (2004) *History and origin of the Hebrew language*. p. 1 Available online at: <http://judaism.about.com/od/jewishhistory/a/Hebrew-Language-Origins-History.htm>

modern Zionism, however, if there is one event more miraculous than the establishment of the State of Israel, it is the revival of Hebrew as its common tongue. To make this revitalization possible, an uncommon organization was formed: The Academy of the Hebrew Language, the Israeli body with legislated authority to study, guard, and guide the development of the Hebrew language.⁹⁴²

8.12.2 The death of Hebrew and its subsequent revitalisation

The Hebrew language underwent this extinction process over a thousand years ago. The Jewish-Roman wars brought the Jewish people to the verge of extinction in the first and second centuries A.D. Most of the remaining Jews in Palestine were converted to Christianity during the Byzantine Empire.⁹⁴³ As a consequence, the Hebrew language stopped being used as a vernacular and had no native speakers for almost two thousand years. It remained, however, used for liturgical and scholarly purposes, but it was nobody's native language. The knowledge of Hebrew people had was limited to the Hebrew language found in the Bible. Nevertheless, and in spite of being a "dead" language for centuries, Hebrew was successfully "resuscitated" as a living, spoken language in a matter of few generations.⁹⁴⁴

8.12.3 Language marketing in Israel

The Israeli government and private organisations have employed a number of mechanisms aimed at developing the Hebrew Language. They have done so by marketing the language both

⁹⁴²The Academy of the Hebrew Language. Available online at: <http://hebrew-academy.huji.ac.il/English/Pages/Home.aspx>

⁹⁴³ Hayes, J. H. and Mandell, S. (1988) *The Jewish People in Classical Antiquity: from Alexander to Kochba*. Westminster John Knox Press, USA.

⁹⁴⁴ Lemus, J.E. (2012) *The resuscitation of Hebrew and its implications for language revitalization*, pp. 71-73.

Available online at: <http://rd.udb.edu.sv:8080/jspui/bitstream/11715/348/1/The%20resuscitation%20of%20Hebrew%20and%20its%20implications%20for%20language%20revitalization.pdf>

formally and informally. Cooper⁹⁴⁵ narrates how Hebrew proponents employ unorthodox marketing mechanisms to promote the language in the following words:

Posters with the (Hebrew) injunction 'Hebrew [person] speak Hebrew' appeared in Palestine in the early part of the twentieth century, long before the establishment of the state. The Academy of the Hebrew Language publishes and distributes lists of approved terms for various specialized fields. For many years the Israeli radio broadcast a one-minute skit, twice daily, in which one speaker criticized another for using a given expression (in many cases used by everyone in everyday speech) and then supplied a normative alternative (in many cases used only in writing or only on the most formal public occasions if at all), sometimes justifying the preferred variation by citing its appearance in the Bible.

8.13 Partially revitalized languages

8.13.1 Irish language

According to Wardhaugh, Ireland was a Celtic domain outside the Roman Empire and after the Roman legions were withdrawn from England the Celts in Ireland found themselves in a strong enough position either to resist or to assimilate any other non-Celtic people in Ireland.⁹⁴⁶ Ireland's 'Golden Age' is the period between the sixth and ninth centuries. The Irish language flourished during this period and it was the only vernacular language of any western European country that came to rival Latin as a language suitable for education and writing. By the eighth century it had attained sufficient prestige so that it could even replace Latin in monasteries and for religious purposes and by the tenth century the Irish Celts had successfully asserted their hegemony over everyone else in Ireland other Celts, Picts, Anglo-Saxons, Norse, and Danes alike. All had been successfully gaelicized.⁹⁴⁷

⁹⁴⁵ Cooper, R.L. (1989) *Language Planning and Social Change*, Cambridge: Cambridge University Press, p. 63.

⁹⁴⁶ Wardhaugh, *supra* note 130, p. 90.

⁹⁴⁷ *Ibid.*

8.13.2 Seachtain na Gaeilge

One way of how the Irish government promotes the Irish language is through the Seachtain na Gaeilge translated as “The Irish Language Week” in English. Irish Language Week is an annual event which takes place between 1st and 17th March. The festival is sponsored by the Irish Language Agency Foras na Gaeilge which encourages communities to organise events and activities which promote the Irish language.⁹⁴⁸

8.13.3 Constitutional enshrinement of Irish as the first Official Language of the State

To emphasize the importance of Irish as a mirror reflecting the soul and identity of the nation, the language was made the first official language of the state in a court ruling in 1999. Article 8⁹⁴⁹ of the Irish Constitution proclaims Irish as the first national language by virtue of being the national language. The said proviso states: “The Irish language as the national language is the first official language.”⁹⁵⁰ However, despite this constitutional recognition of the Irish Language as the first Official language, English still dominates all aspects of governance and administration in the Republic. To this end, this author is of the view that the constitutional recognition of African languages is a major step in making them relevant. Constitutional recognition of African languages may be interpreted as part and parcel of “prestige planning” as discussed in the preceding chapters of this research.

⁹⁴⁸ Darmody, M Daly, T. (2015) Attitudes towards the Irish Language on the Island of Ireland. Available online at: <http://www.forasnagaeilge.ie/wp-content/uploads/2015/09/Attitudes-towards-Irish-2015.pdf>

⁹⁴⁹ 20-year strategy for the Irish Language: 2010-2030. Available online at: <https://www.chg.gov.ie/app/uploads/2015/07/20-Year-Strategy-English-version.pdf>

⁹⁵⁰ Ibid.

8.14 Cornish

According to Ferdinand⁹⁵¹ the Cornish language, unlike the Anglo-Cornish dialect, which is an English dialect spoken in Cornwall, is one of the three living members of the Brythonic family, the other two being Welsh and Breton. The appearance of Cornish as a distinct language dates to about 600 AD as a result of the evolution of the Brythonic language spoken in the south-western region of Great Britain. Its closest relative, however, is not Welsh, but Breton, since both languages were mutually comprehensible for centuries.⁹⁵² The efforts to promote the language began to show some progress when on 2 March 2000, the United Kingdom signed the Council of Europe Charter on Regional and Minority Languages, which aims to protect and promote the regional and minority languages of Europe for the contribution they make to Europe's cultural diversity and historical traditions and to avoid as far as possible their extinction.⁹⁵³

On 5 November 2002 the British Government announced its decision to recognize Cornish as falling under Part II (Article 7) of the European Charter for Regional or Minority Languages. This recognition supposed a measure of official status for the language for the first time in history, although it does not mean that Cornish is an official language in Cornwall. This has partially solved the problem of financing, allowing a larger sum of money to be made available for the preservation and promotion of the language than formerly.⁹⁵⁴ This fund is channeled through the Cornwall Council. The new status for the Cornish language opened the way in 2004 to the development of a *Strategy for the Cornish Language* designed by government entities and by some language and cultural organizations.⁹⁵⁵

⁹⁵¹ Ferdinand, S. (2013) A Brief History of the Cornish Language, its Revival and its Current Status. *Journal of Interdisciplinary Celtic Studies*. Vol. 2. pp. 199-227. Available online at: https://www4.uwm.edu/celtic/ekeltoi/volumes/vol2/2_6/ferdinand_2_6.pdf

⁹⁵² Ibid.

⁹⁵³ Ferdinand, *ibid*, p. 216.

⁹⁵⁴ Ibid.

⁹⁵⁵ Ibid.

8.15 Avenues for empowering Namibian and African languages

Various mechanisms have been advanced to empower vis a vis develop indigenous African languages. Some have been successful, others not. The ability of African countries to implement sustainable language development policies will be determined to a large extent by the capacity of their people and their institutions as well as by their financial resources. Capacity building includes a country's human, scientific, technological, organizational, institutional and resource capabilities.⁹⁵⁶ Simala then argues that a fundamental goal of capacity building is to enhance the ability to evaluate and address crucial questions related to policy choices and modes of implementation among language development options, based on an understanding of the potentials and limits of language needs as perceived by the people of Africa.⁹⁵⁷

8.15.1 Medium of instruction

As stated in earlier chapters, the Namibian government opted for English as the main language of instruction in all public schools. According to Brock-Utne and Holmarsdottir⁹⁵⁸ 0.8% of the population has English as their first language or mother tongue. That is an extremely low percentage and it would mean that the approximately 99% that have another of the national languages have to study in a medium that is not their mother tongue. In Namibia the population has a large variety of mother tongues. There are about 13 recognized national languages and over 50 varieties of those languages. Most of them are indigenous African languages.⁹⁵⁹

⁹⁵⁶ Simala, I.K. (2002) Empowering Indigenous languages for sustainable development' in Francis. R. Owino. Speaking African. African Languages and Development. Casas. p.48

⁹⁵⁷ Simala, *ibid*

⁹⁵⁸ Brock-Utne, Birgit & Halla B. Holmarsdottir. 2001. The Choice of English as medium of instruction and its effects on the African languages in Namibia. *International review of education*, Vol. 47(3-4). pp.293-322.

⁹⁵⁹ Wolfaardt, D. (2001). *Facilitating learning: An investigation of the language policy of Namibian schools*. University of Western Cape. pp. 17-20.

According to Simasiku et al “learners can only progress successfully if their language proficiency in the language of instruction is sufficiently developed to be able to communicate academically.”⁹⁶⁰

Bamgbose⁹⁶¹ therefore argues that medium of instruction, particularly in basic education, is a potent dimension of enhancing African languages. Starting with the 1953 historical recommendation that a child’s education is best begun in his or her mother tongue, UNESCO has provided theoretical underpinning for the use of African languages as a medium of instruction with such force and persuasion that it is difficult for policy makers to avoid paying adequate attention to the theory and practice of medium of instruction.⁹⁶² The results of research overwhelmingly support bilingualism or multilingualism. Recent research by the International Institute for Educational Planning of UNESCO in Paris came up with these lessons:⁹⁶³

1. “A strategy of bilingualism produces better learning outcomes and higher rates of internal efficiency in school.
2. Pupils’ skills in the first language of instruction should be consolidated for a lengthy period (at least three years of study) so that they can be transferred effectively to the second language of instruction.⁹⁶⁴

⁹⁶⁰ Simasiku, L, Kasanda, C and Smit, T. (2015) Barriers to Code Switching in English Second Language medium classrooms. p.71.

⁹⁶¹ Bamgbose, A, African Languages Today: The Challenges of and prospects for Empowerment under Globalisation, pp. 9-12, in Agama Ouane (ed), Towards a Multilingual Culture of Education, UNESCO Institute for Education, 2003.

⁹⁶² Ibid.

⁹⁶³ Shaeffer, S. (1994) Participation for educational change: a synthesis of experience, UNESCO: International Institute for Educational Planning. pp. 4-5. See also Shaeffer, S. (1991) School and community collaboration for educational change. R of an IIEP Seminar, Cipanas Indonesia, 29 May - 6 June 1991. Paris, IIEP.

⁹⁶⁴ Ibid.

3. Using the language understood by learners as the medium of instruction not only builds trust, initiative, and participation in the learning process but also promotes participatory teaching methods.⁹⁶⁵
4. Encouraging the use of an [ethnic] language as the medium of instruction stimulates the production of school and cultural materials in that language, broadens the body of knowledge to be learned to include local knowledge, and facilitates learners' integration into social and cultural life.⁹⁶⁶
5. Monolingual schools, whether they work in a Western or an [ethnic] language, perform considerably less well."⁹⁶⁷

8.15.2 Media

In order to help indigenous African languages to spread, policy on the mass media could be particularly used to increase the advantages of those languages.⁹⁶⁸ As Amman and Mercator argue, a policy which has as its objective the spread of a specific language or languages must try not only to entrench it more deeply in its speakers, but also try to improve attitudes towards it besides enhancing its status and extending its functions. This is an objective that the mass media in African countries can help to achieve.⁹⁶⁹ In addition to promoting the use of African languages through the media, article 19(2) of the ICCPR provides that the right to freedom of expression includes the "freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. Article 9(1) of the Framework Convention ensures that this freedom

⁹⁶⁵ Ibid.

⁹⁶⁶ Ibid.

⁹⁶⁷ Ibid.

⁹⁶⁸ Musau, P. (1999) The liberalization of the mass media in Africa and its impact on indigenous languages: the case of Kiswahili in Kenya. AAP 60 pp. 137-146.

⁹⁶⁹ Ammon, U. & G Mercator (1997) "Language-spread policy", *language Problems and Language Planning* 12, 1, pp. 51-57.

shall be enjoyed by members of a national minority through the medium of the minority language.⁹⁷⁰

8.15.3 Literary Arts and Performing arts

It is a known fact that most African writers still eschew African languages for English, French or Portuguese. That said, things are changing, in a quietly explosive digital moment, the literary collective Jalada translated a short story, *The Upright Revolution: Or Why Humans Walk Upright* by Ngugi wa Thiong'o simultaneously into 30 languages, 28 of them indigenous African languages; a year ago, Ankara Press, an imprint of Cassava Republic, translated 14 short stories into various African languages on Valentine's Day; so it seems publishers in Africa are increasingly waking up to the possibility of African literature in indigenous African languages being a huge market opportunity for them.⁹⁷¹

Performing arts can also serve as a conduit of language preservation in a number of ways. In this regard, the local linguist and academic, Mbenzi⁹⁷² posits:

Music is a very important in the preservation of indigenous languages. I am glad most Namibian artists sing in their own indigenous languages. The lyrical contents of a song sang in an indigenous language resonates well with the population as its listeners are able to fully grasp its message. Creative singers can even use idioms and proverbs contained in their indigenous languages in their lyrics to spread a positive message about peace and harmony to society.

Using African languages in literature and performing arts will greatly enhance the prestigious status of many of these languages. However, there is reason for concern as Namibia's 4th

⁹⁷⁰ Dunbar, R., *Minority Language Rights in International Law*, p.324, in Weissbrodt and Rumsey, M. (eds) (2011) *Vulnerable and Marginalised Groups and Human Rights*. Human Rights Law 1. Edward Elgar Publishing Limited.

⁹⁷¹ Dele Meiji Fatunla Africa. 'The next generation & the state of play'. *New African Magazine*. 30 June 2016.

⁹⁷² Petrus Mbenzi. (Personal communication). 11 March 2019.

National Development Plan (NDP4) has no reference to the arts. According to the only reference to culture vis a vis language is in the context of cultural tourism.⁹⁷³

8.15.4 Religion

If religion is a central pillar in the identity and culture of a group whose language is at risk, it makes sense to exploit its strength and to suggest that it is uniquely expressible through the threatened tongue. This posture is generally the political component, activated at need, of an underlying belief that the language has always been inextricably intertwined with the religion.⁹⁷⁴

Citing Campbell and Maclean in their study of Nova Scotia Scots, similar sentiments were expressed:

The one who is taught the Gaelic acquires knowledge of wisdom and an understanding of truth and honour which will guide his steps along the paths of righteousness and will stay with him for the rest of his life. The Gaelic is a powerful, spiritual language; and Gaels who are indifferent to it are slighting their forefathers and kinsmen.⁹⁷⁵

According to Grenoble and Whaley, religion can be a vehicle for spreading language, local languages can also be used as a vehicle for spreading religion.⁹⁷⁶ Grenoble and Whaley cite the example of the Summer Institute of Linguistics in conjunction with the Wycliffe Bible Translators that has spent considerable time and effort in translating portions of the Bible into hundreds of local languages. In the process, they have become one of the biggest advocates for local language use.⁹⁷⁷

⁹⁷³ Hofmeyr, R. L. (2015) Arts development and promotion in Namibia: The role of the government since independence. *Journal of Namibian Studies*, 18, pp. 123 – 133

⁹⁷⁴ Edwards, J. (2009) (ed) *Language, Religion and identity: An Introduction*. Cambridge University Press, p. 112.

⁹⁷⁵ Campbell, D and Maclean, R. (1974). *Beyond the Atlantic Roar. A study of the Nova Scotia Scots*. Toronto: McClelland and Stewart, p. 178.

⁹⁷⁶ Grenoble and Whaley, supra note 713 p. 35.

⁹⁷⁷ Ibid.

Religion is an important domain in language maintenance because church services and activities are often conducted in the mother tongue of a particular minority group. It is argued that "religio-societal insulation" is very important to language maintenance.⁹⁷⁸ Sridhar⁹⁷⁹ stresses the importance assisting the maintenance of minority languages through ritual and prayer. In certain cases, Fishman⁹⁸⁰, points out that language is an integral part of religious observance as, for example, in the Greek Orthodox Church. The importance of the mother tongue in the church is also stressed in the Vatican's Apostolic Constitution, *Exsul Familia* (1952) in which the Pope points out the fact that immigrant groups have the right to be served in their mother tongue.

Pütz,⁹⁸¹ in his study of a German Australian speech community, indicates that "membership of a religious denomination seems to promote language maintenance which, in turn, underlines the importance of a combination of domains, i.e. religion, ethnicity and language."

The Roman Catholic Church in Caprivi, Namibia, also lends support to the view that religion is an important aspect in maintaining the mother tongue.⁹⁸² The first missionaries in Namibia in the 19th century used High Dutch in preaching, but they were encouraged to learn the local language, which was Afrikaans if they wanted to continue preaching in the Namaqualand where they started with their gospel, which they did. The use of Afrikaans as a general language medium enhanced church unity and cooperation within the members of the church. This is the

⁹⁷⁸ Ibid.

⁹⁷⁹ Scridhar, K.K. 1988. Language maintenance and language shift among Asian-Indians: Kannadigas in the New York area. *International Journal of the Sociology of language*. 69:72-86.

⁹⁸⁰ Fishman, J.A., Narirny, V. C., Hofman, J. E. & Hayden, R. G. (eds.). 1966. *Language loyalty in the United States*. The Hague: Mouton.

⁹⁸¹ Pütz, M. 1991. Language maintenance and language shift in the speech behaviour of German-Australian migrants in Canbessa. *Journal of multilingual and multicultural development*. 12(6):477-491.

⁹⁸² Nambala, S.V. (2003). *History of the church in Namibia 1805-1990*. Collingswood: Lutheran **123** Quarterly, p. 277.

case with the Catholic Fathers who serve in the Roman Catholic churches in Caprivi. These Fathers come from as far away as Poland, where they speak Polish, but before they are sent out to serve in Caprivi, they are taught Silozi so that they conduct their services in the local language.⁹⁸³

8.15.5 Promoting African languages through information and communication technology

Cunliffe sees the internet as both a threat and an opportunity for language diversity. He points out the diversity of media websites, Wikis, blogs or Weblogs, chat rooms, bulletin boards, instant messaging, and video conferencing all of which work to establish communities.⁹⁸⁴ It is through these online communities that people from multilingual settings exchange ideas using their own vernaculars. However, Cunliffe argues that there are still arguments against minority language use on the net (“Other people won’t understand you”) and some cases of language banning. Moreover, according to Cunliffe, moving a traditional language and its esoteric traditional knowledge to the Internet may be seen as a threat.⁹⁸⁵

The case for commercial use of minority languages is sometimes hard to make, nevertheless the potential is there.⁹⁸⁶ Cunliffe concludes that “a real opportunity exists for those languages that have resources and the determination to make the transition to the internet”. However, Cunliffe concedes that this remains speculation.⁹⁸⁷ Digitisation is also important in the sense that it helps preserve indigenous knowledges and technologies that the indigenous languages carry. For instance, if work about food preservation, proverbs, taboos and games is digitised,

⁹⁸³ Nambala, *ibid.*

⁹⁸⁴ Cunliffe, D. (2007) *Minority languages and the Internet: new threats, new opportunities*. In Mike Cormack and Niamh Hourigan (eds), *Minority language media: Concepts, critiques and case studies* (pp.133-150), Clevedon, UK: Multilingual Matters Ltd. see also Spolsky, B. (2009) *Language Management*. Cambridge University Press. pp.86-87

⁹⁸⁵ *Ibid.*

⁹⁸⁶ *Ibid.*

⁹⁸⁷ Cunliffe, *ibid.*, p.107

it becomes a vehicle to pass on the knowledge and technology from one generation to the other.⁹⁸⁸

Disappointingly and as has been stated in the preceding chapters, African languages are considered suitable for low-status domains and are seldom associated with modern technology.⁹⁸⁹ English and other languages from the West are the languages in which people globally access Information and Communication Technology (ICT) resources. This is endorsed not only by speakers of such languages, but also among African language speakers themselves. This position is supported by the misconception that African languages are underdeveloped and that their vocabulary is unable to express the precise meaning of technical terms.⁹⁹⁰ Prah sums up this defective argument as follows:

The knee-jerk response to arguments like these is often that the investment and technology for these ICT products comes from abroad – from the United States, from Europe or Asia – and using ‘international’ languages such as English or French are the only economically viable options. However, some African languages are spoken by fifty or sixty million people. It makes economic sense to develop products for this market, by this market. If we continue to pretend that African languages are unimportant in the drive to achieve ‘education for all’, we will forever be waiting for 90% of Africans to become English!⁹⁹¹

According to Osborne,⁹⁹² the dual processes of internationalisation and localisation of information and communication technologies (ICT) are still felt incompletely and unevenly in

⁹⁸⁸ Hlupo, T. (2013). Teaching Educational Psychology using indigenous knowledge systems (Unpublished research seminar series paper, Great Zimbabwe University, September 2013). See also Marungudzi, T. Chiwewe, P.Mhute, I. (2014) Harnessing Digital Technology in the Revitalisation of the Linguistic Heritage of Zimbabwe: Possibilities and Challenges. Greener Journal of Science, Engineering and Technological Research. Vol. 4(1), pp. 017-029, available online at:

<http://gjournals.org/GJSETR/GJSETR%20PDF/2014/January/112013978%20Marungudzi%20et%20al.pdf>

⁹⁸⁹ Webb, V. (2002) Language in South Africa: The Role of Language in National Transformation, Reconstruction and Development: Philadelphia: J. Benjamins. p.268; see also Maseko, P, Sam.M, Dalvit, A, Nosilela, B, Terzoli, A. (2010) The Role of the Web in the Promotion of African Languages. pp.312-327. Available online at: <http://alternation.ukzn.ac.za/Files/docs/17.1/15%20Mas%20FIN.pdf>

⁹⁹⁰ Webb, *ibid*, p. 252.

⁹⁹¹ Prah, *supra* note 650, p. 1.

⁹⁹² Osborne, D. (2005) African Languages and Information and Communication Technology: Localising the Future? p.1. available online at: https://www.localisation.ie/oldwebsite/resources/lfresearch/Vol4_2Osborne.pdf

Africa. Situated on the disfavoured side of what is commonly referred to as the “digital divide,” Africa has not benefited directly from internationalisation of ICT as much as it might, largely due to low connectivity and lack of access, but also to the fact that some aspects of internationalisation are not widely available or well understood.

Proponents of the use of African languages in ICT argue that the main approach to preserve these languages is through the localisation.⁹⁹³ Osborn⁹⁹⁴ asserts that localisation of ICT content includes “the translation and cultural adaptation of users’ interface and software application, as well as the creation of internet content in diverse languages and the translation of content from other languages” In addition, Dalvit⁹⁹⁵ pointed out “the primary focus of localisation into indigenous languages is on terminology development, working collaboratively on-line, volunteer translators engage directly with the development and choice of new terms ... and its main contribution is to improve the status of African languages, rather than their instrumental value.”

Sadly, despite these apparent benefits, Africa has not yet seen much activity in the matter of localisation for its languages and cultures even though this is vitally important for the future use and utility of ICT in the region.⁹⁹⁶

However, a study conducted by Hautemo and Dalvit⁹⁹⁷ found that Namibians have mixed feelings regarding the use of local languages in ICT. In this study, Oshikwanyama-a dialect of

⁹⁹³ Lieberman, A. E. (2009). Taking ownership: Strengthening indigenous cultures and languages through the use of ICTs. Washington D. C.: Learnlink.

⁹⁹⁴ Osborn, D. (2010). African languages in a digital age: Challenges and opportunities for indigenous language computing. Cape Town: HSRC Press. p.1

⁹⁹⁵ Dalvit, L. (2009). Multilingualism and ICT education at Rhodes University: An exploratory study. Unpublished PhD thesis, Rhodes University, Grahamstown. p.54

⁹⁹⁶ Ibid.

⁹⁹⁷Hautemo,A M. and Dalvit, L. (2012) E-learning and M-learning in African Languages A Survey of Oshikwanyama Students at a Northern Namibian School. p.1. Available online at:

https://www.researchgate.net/publication/267767592_E-learning_and_M-learning_in_African_Languages_A_Survey_of_Oshikwanyama_Students_at_a_Northern_Namibian_School

Oshiwambo was chosen in their study. According to their findings, Oshikwanyama was perceived to have a limited vocabulary. As a result, ICT tools and manuals would be longer and make extensive use of English borrowings. The respondents remarked that most Oshikwanyama words are longer and they require a larger space, and it is not easily abbreviated. One commented that: “English is easier to write in short, e.g., “hw r u,” if you perhaps shorten something in Oshikwanyama, one will not know how to translate it and know what you mean exactly”. In addition, the respondents also felt that the use of Oshikwanyama would cause complications and lead to confusion.⁹⁹⁸

8.15.6 Museums

Another institution that can promote indigenous languages is the museum. It is argued that the traditional role of museums is to collect objects and materials of cultural, religious and historical importance, preserve them, research into them and present them to the public for the purpose of education and enjoyment.⁹⁹⁹ However, Harris argues that the role of the museum can be extended to encompass language protection. He further posits that African museums should have sections specifically dedicated not only preserving but also highlighting the importance of indigenous African languages to African societies.¹⁰⁰⁰

It is a widely accepted view that education is critical for development. Education that is devoid of the cultures of the people in the society is empty and incomplete. One of the fundamental objectives of the museum is to educate, and it is only the museum that has the capacity and the ability to impart cultural education effectively as it houses the tools and materials for doing so in its

⁹⁹⁸ Ibid

⁹⁹⁹ Arinze, N.E. (1999). The Role of the Museum in Society. p.1. Available online at: http://www.maltwood.uvic.ca/cam/activities/past_conferences/1999conf/batch1/CAM%2799-EmmanuelArinze.GuyanaFinal.pdf

¹⁰⁰⁰ Harris, C. (2019) Museums as conduits for indigenous language protection: An analysis of the role of museums in preserving Indigenous Languages of Namibia. p. 1. A paper presented at conference organized by the Museum Association of Namibia and the University of Namibia. Windhoek. 18-20 September 2019.

collections. In modern society, the museums enrich the educational process by exposing children and indeed the public to their history in a positive way; they assist our future generations to understand and appreciate their history and culture and take pride in the achievements of their forebearers.¹⁰⁰¹ Language Museums will certainly educate the future generation of their cultures and history through language.

8.16 Conclusion

Chapter 8 gave an overview of the language situation in Africa with a special emphasis on indigenous and minority Khoisan languages of Namibia. This chapter also touched on the socio-economic aspects of the indigenous Khoisan language speakers in Namibia. Sadly, Khoisan speakers are some of the poorest in southern Africa. They continue to be marginalized socially, politically and economically by their numerically superior Bantu neighbours. Among the critical objectives of the entire dissertation is to investigate how African languages, principally, those on the verge of extinction can be saved. This chapter revealed that negative attitudes of Khoisan peoples and other African tribal groups towards their languages further contribute to the marginalization of African languages. The chapter shows how complex it is to promote and protect minority languages. Similarly, there are only a few languages in history that were successfully revitalized after being “dead” for millennia. That language is Hebrew. The question here is, can mechanisms that were used in revitalizing Hebrew be employed to save Africa’s dying languages? The answer to this question is equally complex and will require scholars and the political elites to provide an adequate response. As can be seen so far in the dissertation, Africa has thousands of languages and it is this multiplicity of languages that have contributed to their marginalization in their respective countries. Political will change of

¹⁰⁰¹ Arinze, *supra* note 1000, p. 2.

attitudes amongst African language speakers and investment in their development are critical in making African languages relevant in the 21st century.

CHAPTER 9: CONCLUSION AND RECOMMENDATIONS

9.1 Main conclusion

African languages are vital for the continent's development. Africa's ambitious agenda 2063 can only be realized if emphasis is placed on the use of African languages in most aspects of development. Save for Tanzania, no country in sub-Saharan Africa has accorded an indigenous language prestige status that Kiswahili enjoys in the country. The use of European languages to foster Africa's economic development has failed. If European languages as adopted by African states upon independence are naturally endowed with development ideas, then the continent could be the richest on earth but alas Africa is the begging basket of the world.

This study had a number of objectives, much of which were achieved. The study aimed to discuss the nature, scope and history of minority and indigenous language protection in international law. Chapter 4 of the dissertation provided a detailed overview on linguistic rights under various international human rights instruments. Although there is no specific treaty on language protection, there are a number of instruments that have provisions to this effect. Article 27 of the International Covenant on Civil and Political Rights is one such treaty.

As stated in preceding chapters, this study was interdisciplinary in nature. It encompassed elements of sociology, politics, anthropology, history and law. In this light, the study set out to investigate the link between sociolinguistic approaches to the study of language and its implications on language politics in Africa. This objective was achieved in almost all the chapters of the entire dissertation. Chapter 2,3 and 6 are the ones which provides a strong link between law and other disciplines. With the absence of a specific treaty on language

protection, one cannot discuss language issues without making reference to disciplines such as linguistics, history and sociology.

It has been argued that there is an indelible link between language and development. In this regard, the study intended to investigate the economic benefits of developing and promoting indigenous African languages. Chapter 6 of the dissertation interrogated the relationship between African languages and development. Although, the author of this study agrees with the notion that the root causes of Africa's underdevelopment are many, this study however, provided anecdotal evidence that the continent's overreliance on languages of its erstwhile colonisers has somehow contributed to its slow pace of development.

Kiswahili is often touted by many scholars, politicians and celebrities as Africa's future lingua Africa of Africa. In this dissertation, the author provided a synopsis of the benefits of the language to the continent. As a result, the objective to make the case for Kiswahili to become the official language of all of Africa was partially achieved.

One of the critical and main objectives of the study was to investigate the efficacy of Namibia's legal and policy framework on developing and promoting indigenous local African languages. Although the government of Namibia chose English as the sole official language of the state, it still allowed room for indigenous languages to be accorded the same status in future. As it stands, Namibia recognizes and supports seven other languages. These are Afrikaans, Damara>Nama, German, Oshiwambo, Otjiherero, Rukavango, Setswana, Silozi. Each of these languages has a dedicated radio station funded by the state. Other languages such as Afrikaans and Oshiwambo have private radio stations broadcasting in them.

The development of African languages in Namibia is hampered by an outdated national language policy. This policy was drafted in 1981 in Lusaka, Zambia by the then liberation movement SWAPO. In this study, I argued that Namibia's language policy be revised and updated. Once this revision, is completed, a specific law on language promotion and protection be enacted. Moreover, Namibian needs a dedicated language regulatory authority modelled along the lines of South Africa's PanSALB or Tanzania's BAKITA. Currently, the Namibia Institute of Educational Development (NIED) is tasked with developing the country's indigenous languages. I am of the opinion that the mandate of this body is limited when it comes to ensuring that indigenous languages are promoted. This institution is largely responsible for curriculum development. This function (curriculum development) is not only restricted to local languages but to all other subjects taught in schools. What Namibia needs is a specialized language regulatory not a multipurpose entity as NIED.

ANALYSIS AND FINDINGS

1. The Namibian National Language Policy is vague and has become obsolete. The policy has been poorly implemented and has never been fully studied and revised since its drafting in 1981. Namibia requires a specific law designed to fully protect and promote all her indigenous languages.
2. Despite only a small percentage of Namibians proficient in the English language, most parents still favour English to be the sole medium of instruction in public schools. English is seen by many Namibian parents of school children as a vehicle for economic success when compared to indigenous languages.
3. English as the sole official language of the State has failed to adequately develop the country socio-economically. Despite initial hopes that the choice of English will dramatically develop Namibia, the country still faces an uphill battle in addressing socio-

economic issues such as high unemployment, poverty, the rich-poor gap currently afflicting the nation.

4. English favours the elites and it is used to maintain their stranglehold over the country's political and economic power/privileges. Elite closure comes to play in this regard.
5. It was hoped that the choice of English as the sole official language of the state will heal ethnic divisions and thus foster a common national identity. However, this has not been the case. In fact, ethnic tensions are on the increase. The economic and social problems currently afflicting the country has manifested in inter-ethnic rivalry and blame.
6. The majority of Khoisan languages save for Damara>Nama remain critically endangered. The lack of specialized linguists to develop indigenous languages as well as some Khoisan people's negative attitudes towards their own languages are the main reasons for this state of affair.
7. Notwithstanding its apartheid connotations, Afrikaans remains Namibia's lingua franca, especially in urban areas of central and Southern Namibia. The Oshiwambo language is growing in importance, as its principal speakers have moved from their traditional homelands in the north of the country to almost all the corners of the Namibian territory. There is a great chance that Oshiwambo will replace Afrikaans as the country's lingua franca in future.
8. Afrikaans is the biggest threat to the long-term survival of Khoisan languages including Damara>Nama. A significant percentage of Khoi speakers are increasingly adopting Afrikaans as their first language at the expense of their own language. It is worth noting that Afrikaans, English and some Bantu languages are blamed for wiping off most if not all Khoisan languages spoken in neighbouring South Africa.
10. European languages are for now not a threat to indigenous African languages. However, it is African languages "killing" other African languages. Major African languages such

as Kiswahili, Lingala, Wolof, Hausa, Zulu, Shona, Nyanja and Setswana are responsible for the “deaths” of smaller languages in countries where they are dominant.

11. Over 90% of African countries have been using the languages of their erstwhile colonial masters for more than 50 years or so. The choice of former colonial languages as official languages of their respective states was aimed at fostering unity and economic development. However, this has not been the case, Africa is still the world’s poorest continent and still afflicted by wars, poverty, disease, corruption despite having these so called “superior” European languages as official.
12. Despite establishing centers for the development of African languages, conferences and seminars by the African Union and its predecessor, the Organization of African Unity, the two bodies have been unable to compel its member states to robustly implement measures that will effectively use African languages in most aspects of governance. The same inertia is replicated in regional bodies such as SADC, ECOWAS and COMESA.
13. The call for Kiswahili to be declared the official language of the African Union is widely supported by the academic community. Kiswahili is the only sub-Saharan African language that has developed scientific and technological terminology. It is often lauded as the language of black progress and unity by both Africans and the African diaspora alike.

RECCOMENDATIONS: AFRICA AND NAMIBIA

Africa

1. Most parliamentary debates should be conducted in indigenous African languages. This will result in wider participation and broader political recruitment and will enrich the languages in terms of political vocabulary and metaphor.¹⁰⁰²

¹⁰⁰² Mazrui and Mazrui, *supra* note 309. p. 129.

2. All indigenous languages should be taught in all schooling years, from grade 1 to university. Similarly, African languages should be used in the teaching of all educational subjects. This will encourage language practitioners to develop new vocabulary and new scientific terminologies to represent new ideas expressed in African languages.¹⁰⁰³
3. The media landscape should be enhanced to make room for all indigenous languages. The Government and the private sector should assist in the establishment of indigenous language newspapers.
4. International cooperation should be encouraged to harmonize cross vehicular African languages. For example, there should be cooperation between educational experts to harmonize the Namibian and Zambian Silozi dialects. ACALAN's work in this regard is commendable.
5. The African Union (AU) should not only recognize all the languages of Africa as official languages of the organisation, but it should ensure that like those (languages) of the continent's former colonial masters, they too must be used as working languages of the body.

Namibia

6. The Namibian National Language Policy be reviewed, and more emphasis be placed on developing indigenous local languages. African governments together with multilateral stake holders should invest financial resources to enable the standardization, orthography and publishing in African languages.¹⁰⁰⁴
7. A national conference on the promotion and protection of indigenous languages be held in Namibia. This conference should consist of scholars and politicians and thereafter a

¹⁰⁰³ Makanda, supra note 814, p. 232.

¹⁰⁰⁴ Makanda, supra note 35, p. 232.

task force be set up to ensure that its recommendations on indigenous language promotion are implemented.

8. The Namibian Constitution should be amended to include a provision that recognizes all indigenous languages as co-official with English.
9. As proposed by some, the national anthem should be translated and composed into local languages.¹⁰⁰⁵ Namibia can learn from South Africa and Tanzania's examples in this regard.
10. An institution dedicated to promoting and protecting local indigenous languages be established. The said institutions should be established by an Act of parliament to enable it to have full legal force behind it. The Namibia Institute of Educational Development (NIED) purported mandate of developing local languages is obscure as its main focus is curriculum research and development.
11. Like in other African countries, Namibia should ensure that all its monetary notes bear all indigenous African languages. Botswana, Kenya, Tanzania, Uganda, Rwanda are some African languages that have done so.
12. San languages of Namibia should be formally accorded a form of recognition like their Bantu and Germanic language counterparts.

¹⁰⁰⁵ Salom Shilongo. "What does it take to Translate the National Anthem?" The Namibian Newspaper. 13-10-2017.

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Africa

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African Youth Charter, 2 July 2006

African Charter on the Rights and Welfare of the Child, 11 July 1990, CAB/LEG/24.9/49 (1990).

Cultural Charter for Africa. July 05, 1976. Date of last signature: September 26, 2007. Date entry into force: September 19, 1990

Europe

European Charter on Regional and Minority Languages. (ECRML)

United Nations

International Covenant on Civil and Political Rights (New York, 16 Dec. 1966) 999 U.N.T.S. 171 and 1057 U.N.T.S. 407, entered into force 23 Mar. 1976

International Covenant on Economic, Social and Cultural Rights (New York, 16 Dec. 1966) 993 U.N.T.S. 3, entered into force 3 Jan. 1976.

International Convention on the Elimination of All Forms of Racial Discrimination (New York, 7 Mar. 1966) 660 U.N.T.S. 195, 5 I.L.M. 352 (1966), entered into force 4 Jan. 1969

Convention on the Rights of the Child (New York, 20 Nov. 1989) 1577 U.N.T.S. 3, 28 I.L.M. 1448 (1989), entered into force 2 Sept. 1990.

United Nations Declarations

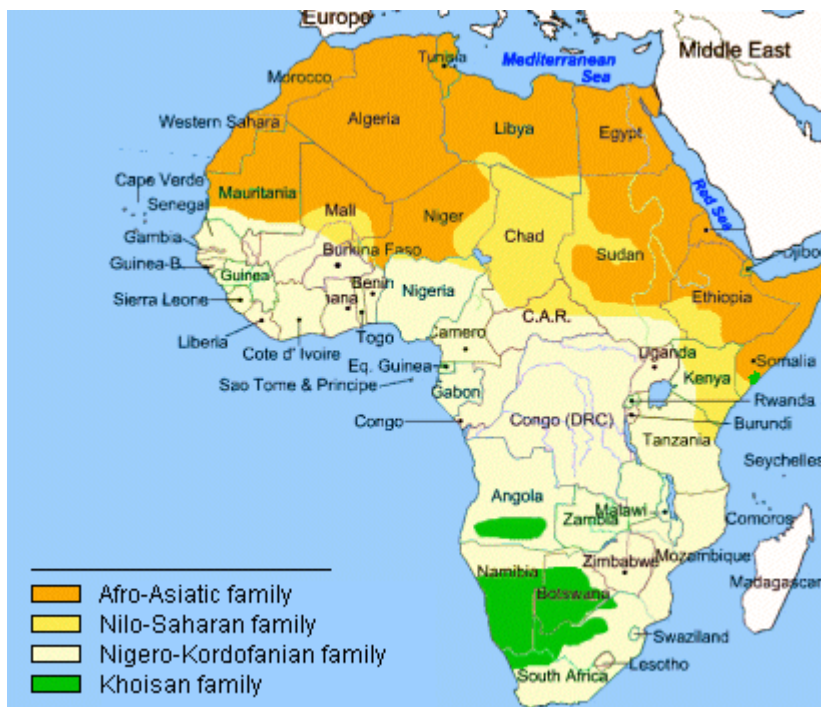
Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)

Universal Declaration on Cultural Diversity (2001)

Universal Declaration on Linguistic Rights (Barcelona Declaration) (1996)

Appendices

Appendix A



Source: Freelang

Appendix B

Distribution of main languages spoken by households in Namibia

Main language spoken	Number of households	percentage
Namibia	464 839	100.0
San languages	3745	0.8
Caprivi languages	22484	4.8
Otjiherero languages	40 000	8.6
Damara>Nama	52 450	11.3
Oshiwambo languages	227 103	48.9
Setswana	1328	0.3
Afrikaans	48 238	10.4
German	4359	0.9
English	15912	3.4
Other European languages	3306	0.6
Other African languages	5795	1.3
Asian languages	461	0.1
Don't know	92	0.0

Source: Namibia Statistics Agency: Namibia 2011 Population and Housing Census Main Report

Appendix C

LIST OF PEOPLE INTERVIEWED

Anonymous. "Personal interview". 14 May 2016

Anonymous (Personal Interview) 20 June 2017

Erastus Kuutondokwa. Cultural Officer. Ministry of Basic Education, Arts and Culture. 12 July 2016

Mr. Yumbo Maleachi. Member of the San community. 06 November 2017

Ms. Namasiku Ntelamo. Educationalist and indigenous languages author. 07 July 2017

Professor Sarala Krishnamurthy. Linguist. Department of Communication. Namibia University of Science and Technology.

Dr. Petrus Mbenzi. Linguist and Academic at the University of Namibia. 11 March 2009.