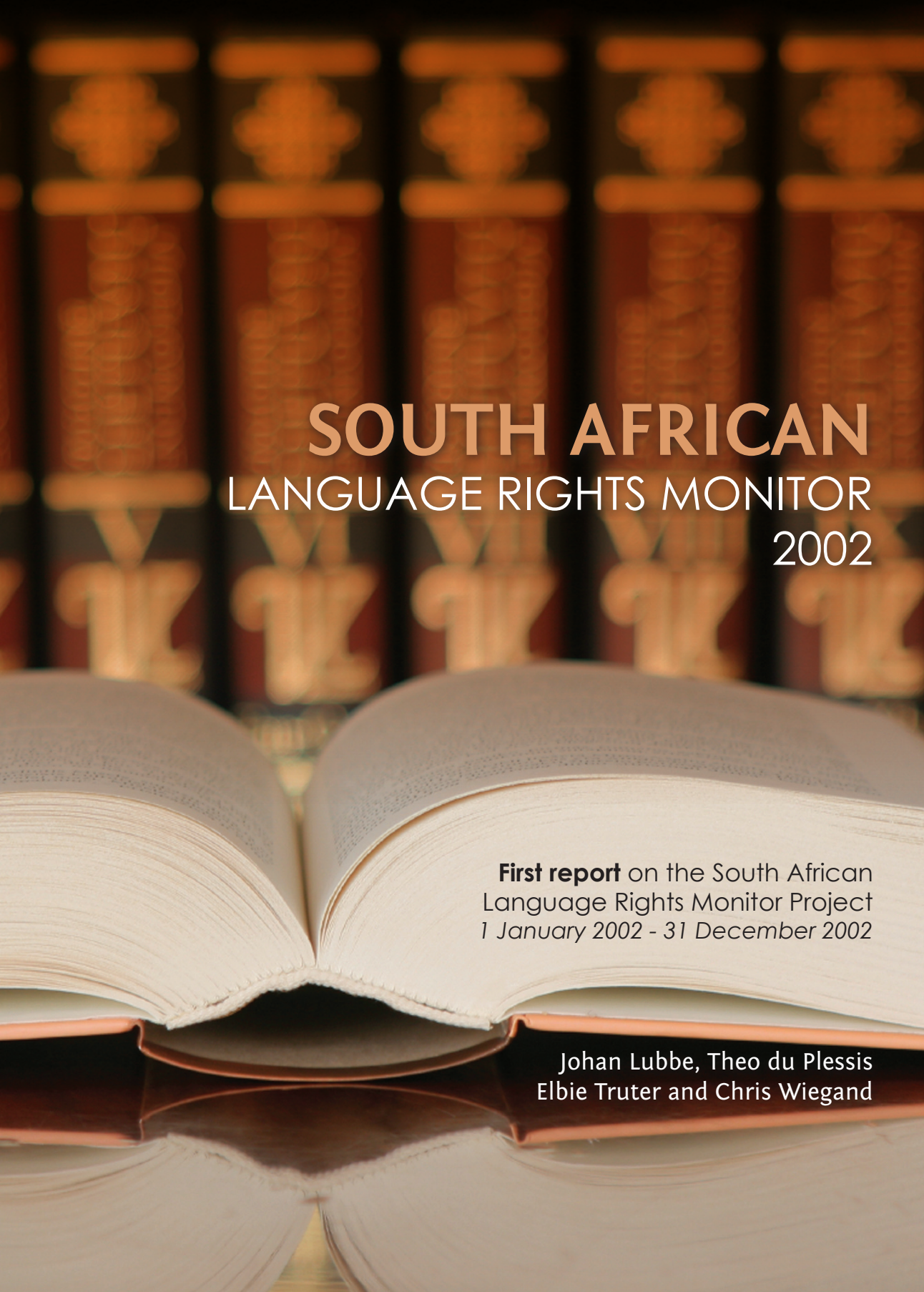

SOUTH AFRICAN
LANGUAGE RIGHTS MONITOR
2002

First report on the South African Language Rights Monitor Project
1 January 2002 - 31 December 2002

Johan Lubbe, Theo du Plessis
Elbie Truter and Chris Wiegand

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Compiled for PanSALB by
Proff. Johan Lubbe, Theo du Plessis, Dr Elbie Truter and Chriss Wiegand

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The South African Language Rights Monitor (SALRM) Project was initiated in 2003, with the aim of reporting to the Pan South African Language Board (PanSALB) on the developments on the language front in South Africa, as reflected in the country's mainstream newspapers. It is with sincere gratitude that we acknowledge the Board's generous financial assistance.

This first SALRM report covers the period from 1 January 2002 to 31 December 2002. The content covers information on language rights complaints covered by the media and lodged with PanSALB, as well as an analysis thereof.

Without the input of SA Media, and then particularly Hester van den Berg and Helena Prinsloo, this report would not have been possible. The research assistants of the Unit for Language Management also provided invaluable assistance.

The views expressed in this report, and the conclusions reached, are those of the compilers, and must therefore not necessarily be regarded as a reflection of the views of the Unit for Language Management, the University of the Free State or PanSALB.

L.T. du Plessis
2003

1. Introduction

1.1. Background

Since the Pan South African Language Board (PanSALB) "wishes all linguistic groups to be made aware of their language rights" (*Annual Report*, 2001: 27), the dissemination in South Africa of information on language rights is of vital importance. Such information can help to raise awareness of language rights and language rights issues. An increased consciousness of language rights could help to cultivate a proactive language rights culture in South Africa. This in turn could contribute quite significantly towards the transformation of our society and thus help to combat linguistic discrimination effectively. The democratisation of our society would be an outcome, along with increased participation in public life.

Comprehensive information on the situation regarding language rights is, however, currently not readily available in South Africa. For instance, to keep track of language litigation, a vital aspect of the enforcement of language rights, one needs to explore publications on law reports and several other sources. A researcher can obviously obtain such information, but the public seldom obtain access to it. Furthermore, findings on the violation of language rights are published in the *Government Gazette* and in the PanSALB annual reports – publications that are not really read by the public. Reporting on language lobbying, community mobilisation and other forms of language rights activism, important instruments in raising language awareness, is done primarily in the Afrikaans press and is not necessarily accessible to the larger audience.

A need thus clearly exists to collate all the above and any relevant additional information and to make it readily available to a larger audience in a single resource on language rights. In order to attain this goal the Unit for Language Facilitation and Empowerment (ULFE) at the University of the Free State (UFS) was commissioned by PanSALB to assist with the establishment of the *South African Language Rights Monitor* (SALRM).

The objective of the SALRM is to make available an annual comprehensive report on the language rights situation in South Africa. This report will cover areas that are considered important for the cultivation of a language rights culture. According to Martel (1999: 78-79), language activism and litigation, two such areas, play a central role in the transformation of society; they are "forever unfinished agendas" since "they do not solve all problems". However, language activism and litigation are essential elements in the cultivation of a language rights culture, especially

since language rights "are fragile" and require a constant struggle (cf. Tollefson, 1991: 167, 191). Martel (1999: 47) identifies six instruments of language activism, i.e. litigation, lobbying, research, community mobilisation, media coverage and even violence, to which Du Plessis (2004: 170) has proposed an additional instrument related to litigation, i.e. language rights complaining. Our report departs from this premise and provides an overview of language rights issues in South Africa based on the following five areas:

(i) Media coverage on language issues (in general)
(ii) Language rights complaints:
    a. as reported in the media, and
    b. lodged with PanSALB
(iii) Language rights activism (as reported in the printed media)
(iv) Language rights litigation
(v) Research on language rights

The Canadian model has inspired this language rights monitoring project. It is relevant not only because of Canada's policy of institutionalised bilingualism and its track record in respect of language rights issues, but also because the example set by the Commissioner of Official Languages in publishing an annual report on language rights issues (*Annual Report, 2002, 2003*) is worth following. This investigation can also serve the government as a direction indicator in order to forestall language friction on a timely basis. If a government does not delay in taking cognisance of language attitudes and critical dispositions of speakers concerning language rights or suspected disregard of "minority" languages, countermeasures can be put in place on a timely basis in order to defuse possible tension, or to prevent friction related to language issues. Therefore a tolerant language milieu, in which dialogue can take place and in which respect for different linguistic groups can flourish, is essential (*PanSALB,* 2002: 37). A report of this nature can contribute significantly towards such dialogue.

1.2. Methodology

For the purposes of this report, data were collected in the areas listed above for the period 1 January 2003 to 31 December 2003, and an analysis was made thereof, as applicable.

Because the status of the respective languages in South Africa has become an important point of discussion, particularly after 1994, the issue has necessarily received publicity in the media. As will be shown in Chapter Three, the media

play an important role in raising awareness regarding language rights. Hence, most of the data for this report were collected from the printed media. These data were obtained from excerpts/ cuttings of SA Media (previously the Institute for Contemporary History) at the University of the Free State (UFS). The media excerpting services of the University of Stellenbosch (US), the Rand Afrikaans University (RAU) and the University of the Witwatersrand (WITS) are linked up to those of the UFS and do not function independently. SA Media provides access to records from the following mainstream newspapers, journals and magazines (the abbreviations that are used follow the titles):

Africa Insight	*AI*
African Armed Forces	*AAF*
Afrikaner	*Afr*
Beeld	*Be*
Boerant	*Boe*
Die Burger	*Bu*
Business Day	*BD*
Cape Argus	*CA*
Cape Times	*CT*
Citizen	*Ci*
City Press	*CP*
Communitas	*Com*
Constitutional Talk	*CTalk*
Daily Dispatch	*DD*
Democracy in Action	*DiA*
DiamondFields Advertiser	*DFA*
Eastern Province Herald	*EPH*
Enterprise	*En*
Financial Mail	*FM*
Finansies & Tegniek	*F&T*
Frontnuus	*Fn*
Impak	*Impak*
Independent on Saturday	*IoS*
Infospec	*Is*
Insig	*Insig*
Journal for Contemporary History	*JCH*
Kerkbode	*K*
Landbouweekblad	*Lwb*
Leader	*L*
LeadershipSA	*LSA*
Lig/Kollig	*L/K*
Mayibuye	*May*
Millennium/Leadership	*M/L*
NALN Nuusbrief	*NN*
Natal Witness	*NW*

New Era	*NE*
Newsweek	*Nw*
Parliamentary Whip	*PW*
Patriot	*Pat*
Politeia	*Pol*
Pretoria News	*PN*
Rapport	*Ra*
RDP News	*RDPN*
SA Journal on Human Rights	*SAJHR*
SA Now	*SAN*
Saturday Paper	*SP*
Saturday Star	*SS*
Saturday Weekend Argus	*SWA*
Servamus	*Ser*
Sidelines	*Sl*
Sowetan	*So*
Sowetan Sunday World	*SoSW*
Star	*St*
Sunday Independent	*SI*
Sunday Times	*Stimes*
Sunday Tribune	*ST*
SWO Bulletin	*SWOB*
Teacher	*Tea*
This Day	*TD*
Time	*Ti*
Tribute	*Tri*
Volksblad	*Vo*
Vrydag	*Vr*
Vuka SA	*VuSA*
Weekend Saturday Argus	*WSA*
Woord en Daad	*WD*
Weekly Mail & Guardian	*WM&G*

This gives a total of 67 publications, of which 47 (70,1%) are English, 17 (25,4%) Afrikaans, and 3 (4,5%) bilingual (English and Afrikaans). The publication ratio of English: Afrikaans newspapers amounts to 2,7: 1.

From a cursory glance at the above-mentioned list of newspapers and magazines, it appears that no claim can be made to comprehensiveness. Thus, for example, the particulars of the Zulu newspaper in KwaZulu-Natal (*ilanga lase Natal*) [Sun of Natal], as well as of the Seswati newspaper available in Limpopo and Mpumalanga (*Unokhethwako*) [Your choice], are missing. Likewise, the list does not include the local and regional newspapers. Both *Mayibuye* [If he comes again] and *Vuka SA* [Wake up SA] which, at first glance, may possibly seem to constitute African-language publications, are published in English. Language rights complaints from

the legal journal, *De Rebus (DR)*, which is not excerpted by SA Media, were taken into account. Unless reference is made in the printed media to books, dissertations, theses and articles in professional journals, these sources have likewise not been taken into account.

A data search was conducted in terms of a number of key words provided to SA Media. The large majority of media records were found on the basis of the following six topics (the numbers indicate the topic at SA Media):

6	Books, authors, language, culture and the arts
15	Justice and political offences
25	Education
27	Constitutional matters and election
31	Media, post and telecommunications
42	Transport

In order to obtain relevant press records, use was made of the greatest possible number of key words concerning the different categories regarding language: namely *resensies* [reviews] including *nominasies* [nominations]; *naamsveranderinge/ plekname* [name changes/ place names]; *spotprente* [cartoons]; *taalprobleme* [language problems] with key words *struikelblokke* [obstacles] and *kwelvrae* [problematic questions]); *taalkruie* ["language spices" – i.e., interesting aspects of language, (as well as the name *Anton Prinsloo*)]; *anecdotes* [anecdotes]; and *taalnormering* [language standardisation]. These yielded 1 896 records. In connection with language rights *per se*, the following additional key words were used: *taal en reg* [language and right]*; taal en klag* [language and complaint]; *taal en howe* [language and courts]*; taal en miskenning* [language and disregard]*; taal* [language]*; language and complaint*; *language and right*; and *language and disregard*. The above-mentioned key words yielded a total of 369 records for the period 1 January 2003 to 31 December 2003. In order to ensure that the widest number of possibilities were covered, the following key words were also used to conduct an additional search: *language and English*; *language and Afrikaans*; *Africa and language*; *Africa and languages*; *activist*; *language and activist* and *Pan SA Language Board*. This additional search yielded a further 180 media records, all of which are duplicates, thus representing an overlap of 48,8% already in the database. For instance, *Beeld*, *Die Burger* and *Volksblad* would "lift" and publish identical reports, in some cases almost word for word. Such records were thus discarded and the database consolidated on the basis of 369 records. Furthermore, records from the bilingual attorneys' journal, *De Rebus*, which is not excerpted by

SA Media, have been added to the database. A total of 22 records were thus added to the database, giving a grand total of 391 records. These records were cross-checked against the ULFE's own database collected from *Volksblad* and *Rapport* for the same period, to ensure comprehensiveness.

The *Government Gazette* contains all the Board Notices regarding findings on alleged language rights violations. Further information concerning language rights complaints lodged with PanSALB is available at the PanSALB head offices and archives in Pretoria. Information regarding language litigation can be obtained from Juta's *The South African criminal law reports* and Butterworths' *Constitutional law reports*.

1.3. Outline

Theoretical issues concerning linguistic rights are discussed in Chapter Two. Specific topics dealt with include, for example, the interrelation between the concepts *linguistic human rights* and *fundamental human rights*, the connection between *linguistic rights* and language (policy) *orientations*, and the concept *minority language* (a concept used frequently in the international literature on language rights but stigmatised in the South African context). In Chapter Three media coverage on language issues in general in South Africa is discussed. Chapter Four deals with the nature of language rights incidents and complaints (especially concerning the implementation of language legislation in South Africa) as reflected in the printed media and as submitted to PanSALB. Chapter Five covers the phenomenon of language activism in South Africa, as reflected in the printed media. Chapter Six provides information on, and gives a critical analysis of, language litigation, while Chapter Seven sheds light on research on language rights in South Africa. Throughout, however, comparisons are made with language conditions in other multilingual countries, especially Canada. Chapter Eight gives an overall assessment of the language rights situation in South Africa and also contains certain recommendations.

Before the collected data are analysed in Chapters Three to Seven, the theoretical issues concerning linguistic rights are discussed in the next chapter.

2. Linguistic rights: theoretical considerations

2.1. Introduction

South Africa is a multilingual, multicultural and multi-faith society, and the different constituent groups are often referred to as *minorities*. In modern history the protection of national minorities, including their linguistic rights, dates back to the Final Act of the Congress of Vienna in 1815 (Hamel, 1997: 3). While in international practice the term *minority* is widely used, the South African Constitution (Act No. 108 of 1996) refers to the rights of *communities*, and establishes the basic framework for promoting and protecting the rights of communities (Beukman, 2000). When the term *minority language* is used in this report, it is not in a pejorative sense; rather, it refers to the official language of a community whose members comprise a minority in comparison with the total population. This approach follows the position adopted by Henrard (2003: 11), who argues that "[a]ll language groups in South Africa would seem to qualify as minorities, with the possible exception of the English-speaking group".

Although the Final Constitution (Act no. 108 of 1996) accords official status to eleven languages in South Africa, in practice the perception exists among certain communities that English is the dominant language, if not the dominating language (cf. Ridge, 2000: 151-152 for the distinction between a *dominant* and a *dominating* language). Although English, too, can be characterised as a minority language, the other ten languages are all used by minority groups; and it is often reproachfully pointed out that the language rights of minority groups are not always maintained.

To ensure the legal implementation of the language policy envisaged by several constitutional language provisions, the Transitional Constitution (Act no. 200 of 1993) had already stipulated, in section 3 (10), that an independent Pan South African Language Board (PanSALB) was to be instituted. This provision is repeated in amended form in the Final Constitution and the broad mandate of this body is more specifically delineated. One of the aims of PanSALB is a commitment to the protection of the language rights of all the speech communities in South Africa, and the promotion of the equal use and enjoyment of all the official South African languages (section 3 of Act no. 59 of 1995). By implication, this commitment implies knowledge of and respect for linguistic rights. The Constitution recognised and granted certain linguistic rights.

A further function bestowed on PanSALB is to facilitate the investigation of alleged violations of linguistic human rights, policy or practice (section 8 of Act no. 59 of 1995). In order to fulfil this function PanSALB formed a focus area, Linguistic Human Rights, with the purpose of protecting the language rights of all the speech communities in South Africa (*PanSALB*, 2000/2002: 28).

In this chapter general theoretical issues in respect of language rights are investigated. To begin with, it is shown how the concept of a *linguistic human right* has become associated with that of a *fundamental human right*, particularly since the eighties of the previous century. A distinction is then made between language as a human right, and language as a (political) right. A discussion of linguistic rights has a bearing on a specific linguistic orientation, and therefore the concept of *orientation* is also discussed. In another section the concept *minority language* is studied. In order to do justice to the concept of a *linguistic human right*, a state should ideally have a language policy in terms of which certain linguistic rights are recognised and others are granted, and should ensure that these language rights are legally regulated. Therefore, attention is given to the way in which the rights of linguistic communities are legally regulated in a few multilingual countries.

Sometimes reference is made to *linguistic* rights, and at other times, to *language* rights. Although the two terms are sometimes more or less synonymous, so that one can be used instead of the other, in other cases *linguistic* rights refer more to the general, the universal, while language rights refer to the particular. Linguistic rights therefore refer to the rights possessed by mankind to use language, while language rights refer to the right claimed by a particular community to use a designated language, usually their mother tongue, in a particular situation or domain, for instance as the language of instruction.

2.2. Linguistic rights and basic human rights

The concept *human right* originated during the Enlightenment of the eighteenth century among philosophers such as Locke, Rousseau, Voltaire and Montesquieu. The strong emphasis that has been attached to human rights since the latter half of the previous century, was a reaction to the totalitarian Nazi dictatorship in Germany. Already in June 1945, with the signing of the *Charter of the United Nations*, universal respect for human rights and the application of the principles of equality and non-discrimination were upheld. Barely three years later, in December 1948, the United Nations (UN) adopted the *Universal Declaration of Human Rights*. Section 2(2) states that every human being shall be entitled,

without discrimination, to fundamental rights and freedoms, "and, in particular, without discrimination based on language" (Braën, 1987: 5).

Particularly after the fall of the Union of Soviet Socialist Republics (USSR) in 1989-1991, and the concomitant ethnic conflicts, especially in central, eastern and south-eastern Europe, the international debate concerning the status of ethnolinguistic minorities (now defined not only in terms of numbers, but also in terms of strength) increasingly associated the protection of the linguistic rights of the minority groups with fundamental human rights. Thus, the concept of *linguistic human rights* began to circulate among renowned sociolinguists and became an important subject of research (Skutnabb-Kangas *et al*., 1995; Paulston, 1997; Kontra *et al*., 1999; Skutnabb-Kangas, 2000; 2002).

Advocates of the point of departure that the free choice of any minority language should be regarded as a basic human right, proceed from the premise that language is essential to life, and that language

> plays a critical role in defining individual identity, culture and community membership (as quoted by Coulombe, 1993: 140).

The recognition of linguistic rights is analogous to the recognition of other individual rights, and specifically that of freedom of religion. Despite differences on the basis of race, ethnic group or language, the most important religious groupings of the world proclaim that individuals are equal. Despite political turbulence in the 17th and 18th centuries, various European states concluded treaties that guaranteed the rights of religious minorities (Braën, 1987: 4).

The point of departure in respect of the use of the language of choice as a basic right, may be characterised as a linguistic orientation. Ruíz (1988), in a study on the education of minority groups, introduced the concept of *orientation* as a heuristic approach to a study of language planning. By *orientation* he means "a complex of dispositions toward language and its role, and toward languages and their role in society" (Ruíz, 1988: 4).

Although the component parts of this orientation are largely unconscious, they comprise the most fundamental level of the arguments concerning language. Therefore, it is important to discover the orientations in the existing policy principles and proposals.

Orientations provide the framework for the formation of language attitudes:

> [T]hey help to delimit the range of acceptable attitudes toward language, and to make certain attitudes legitimate. In short, orientations determine what is thinkable about language in society (Ruíz, 1988: 4).

As examples of how language planners with different orientations offer different solutions for multilingualism, Ruíz (1988) refers to Tauli (1974) who refers to language as an instrument, and to Kelman's (1972) orientation, which can be described in terms of "language as sentimental attachment" (Ruíz, 1988: 5). Tauli, with his instrumentalist vision of language, views language planning as

> [t]he methodical activity of regulating and improving existing languages or creating new common, regional, national or international languages (Tauli, 1974: 56).

Kelman (1972), in contrast, points out that a language policy based on an instrumentalist orientation can result in far-reaching social instability:

> Since language is so closely tied to group identity, language-based discrimination against the group is perceived as a threat to its very existence as [a] recognizable entity and as an attack on its sacred objects and symbols. The issue is no longer merely a redistribution of power and resources, but it is self-preservation of the group and defense against genocide. The conflict becomes highly charged with emotion and increasingly unmanageable. Genocide, after all, is not a matter for negotiation but for last-ditch defense (Kelman, 1972: 199-200).

Three orientations are distinguished by Ruíz (1988), namely language-as-a-problem, language-as-a-resource, and language-as-a-right. In the case of the first-mentioned orientation, multilingualism is identified with language-related problems such as the choice of code, standardisation, literacy, orthography and language stratification. Speakers of minority languages are associated with social problems such as poverty, low educational qualifications and little or no social mobility:

> Maintenance of a subordinate first language and bilingualism involving one of those 'little languages' is therefore associated in a pre-rational way with intellectual limitation, linguistic deficiency [...], provincialism, irrationalism, disruption, so that "the escape from little languages is viewed as liberating, as joyful, as self-fulfilling, as self-actualizing" (Ruíz, 1988: 8).

The language-as-a-problem orientation favours a single language and attempts to restrict the role of minority languages. Such an attitude can also be typified as assimilationist. Historically, this orientation is the oldest approach and is still widely accepted, including in South Africa. The wide dissemination of this point of departure must be ascribed to the historical European monolingual world-view,

and the spreading of this world-view in the colonial era. The false, simplistic view that developed from this point of departure – "the hangover of colonial approaches to language" (Robinson & Varley, 1998: 190) – was that ideally, a state should have a single language, and that linguistic diversity gives rise to a problem.

A later and more sympathetic attitude towards minority languages is found in the language-as-a-resource approach. The benefits of such an attitude are, *inter alia*:

> [I]t can have a direct impact on enhancing the language status of subordinate languages; it can help to ease tensions between majority and minority communities; it can serve as a more consistent way of viewing the role of non-English languages [...]; and it highlights the importance of co-operative language planning (Ruíz, 1988: 15).

Since the seventies of the previous century, the language-as-a-right orientation has been gaining ground, *inter alia* as a result of the concern about minority rights at a trans-national level. The types of arguments that carried so much weight in respect of other aspects of discrimination were transferred to language-related issues. Skutnabb-Kangas (1995: 7), a strong advocate of multilingualism and linguistic rights, states:

> In a civilized state there should be no need to debate the right to maintain and develop one's mother tongue. It is a self-evident, fundamental, basic linguistic human right.

It should be clear that the latter two orientations, namely language-as-a-resource and language-as-a-right, are not contradictory, but that they are, precisely, complementary to each other. To regard language as a right, amounts to providing a tool that can assist in empowerment. This standpoint is pertinently stated by Kontra *et al.* (1999:2 ff.).

Furthermore, the language-as-a-right orientation brings linguistic rights into the domain of the judiciary. As is pointed out by Hamel (1997: 2), linguistic legislation typically emerges when it becomes necessary to protect the rights of one language group against another group, when one group's language is menaced by another language – or rather its speakers – within the same territory.

A distinction must be made between language as a human right (LHR) and language as a right (LR). As the name indicates, LHR exists as a universal human right without any state action and intervention. The state recognises linguistic rights, but does not grant them. A LR exists as it is recognised and granted by the state, in other words with necessary judicial guarantees. The language in which

communication with the state takes place is stipulated, and this recognition of a specifiec language or languages is not a LHR.

The term *language rights* (or *linguistic rights*) is a hybrid concept in terms of which various distinctions can be made. One distinction made by Turi (1995: 113) concerns the right to "a" language and "the" language. To exercise the right to "a" language is to use one or more designated languages in various domains, especially in official domains, while the right to "the" language refers to the use of any language in various domains, particularly in official domains.

Besides the distinction between the right to "a" language and "the" language, a further distinction is made between individual rights and group rights, also referred to as "tolerance-oriented" and "promotion-oriented" rights (Kymlicka & Patten, 2003: 8). The distinction links up with the two functions of language, namely the expressive function and the communicative function (Hamel, 1997: 4). The two approaches to the implementation of language rights also characterise these rights as negative rights that ensure freedom from discrimination, on the one hand, and positive rights that actively promote the right to a choice of language (Riagáin & Shuibhne, 1997: 17), on the other. Individual rights include the right to non-interference in an individual's private domain of linguistic activity, and non-discrimination against his or her language. This right can be justified on the grounds of the individual's humanity, a right that was upheld in 1966 in a UN manifesto, the *International Convention for Civil and Political Rights*. Section 26 stipulates that civil and political rights are guaranteed, without discrimination on the grounds of language. Section 27 confirms that the right of linguistic minorities to use their own language amongst themselves shall not be denied to them (Coulombe, 1993: 142). South Africa was a co-signatory of this Treaty (Scholtz, 2002: 297). As Braën (1987: 6) points out, the negative formulation of the stipulation places no positive obligation on the government to protect minority groups.

It should further be noted that this protection has a bearing on *individuals* who are members of a minority group. It does not offer protection to the *group* as such. However, the individual cannot be separated from the group to which he belongs or chooses to belong, and it is with regard to the recognition of group rights that the greatest amount of resistance has arisen. Whereas individual linguistic human rights require no positive intervention on the part of the state – implying a linguistic *laissez-faire* attitude - the maintenance and consolidation of group rights require positive government intervention. A linguistic *laissez-faire* attitude leaves minorities vulnerable to hegemonic partiality. If the linguistic rights of minorities are guaranteed, the government will simply *have* to intervene, since as Fishman

puts it, "[t]here is no 'free marketplace' anyway, but rather a variety of contending and unequal forces" (as quoted by Coulombe, 1993: 143). In the free market, the forces of competition are not conducive to the maintenance of minority languages and the peaceful co-existence of a multitude of languages. In order to achieve this, government intervention is a *sine qua non*:

> [T]he *laissez-faire* attitude does not offer much to minorities who wish to sustain their languages – and can in itself lead to their assimilation – if the only resource compatible with *laissez-faire* is an appeal to the right against interference and discrimination. *Some* degree of state intervention appears inevitable if languages are to be protected (Coulombe, 1993: 144).

If the members of the majority group have a high regard for their own culture and language, "it is clearly unfair to prevent minorities from continuing to value theirs" (May, 2000: 378).

Another distinction that has been drawn in recent times in respect of linguistic rights, is the one between the original inhabitants of a country and immigrant minorities. An increasing number of original inhabitants do not wish to be classified as "minorities" and are demanding recognition as "peoples and even as nations" (Hamel, 1997: 6). Numerous problematic questions have cropped up as a result of such a way of thinking: Who were the first people in a region? Can continuity be claimed after 500/300/100 years of colonisation?

Two recent international manifestos that recognise the right of original inhabitants, are the *Convention 169*, issued by the International Labour Organisation in 1989, and the *Draft Universal Declaration on Indigenous Rights*. Section 3, 28 of *Convention 169* acknowledges the right of indigenous children to receive education in their own language, and to acquire the national language. The *Draft Universal Declaration* is even more explicit, and acknowledges fundamental human rights for indigenous nations, to enable them to develop and promote their own languages, and to use them for administrative, judicial, cultural and other purposes (Hamel, 1997: 6). Scholtz (2002: 297) refers to further international documents that describe minority rights and minority language rights.

However, many nation-states are hesitant to recognise language rights of minority communities as a result of two assumptions, which are even called *myths* by Phillipson and Skutnabb-Kangas (1995: 495). The first "myth" is that monolingualism is conducive to economic growth. Phillipson and Skutnab-Kangas refer to a study by Fishman, who carried out an investigation in 120 countries, in which it was indicated that there is no causal connection between monolingualism

and economic growth. The second "myth" is that minority rights pose a threat to a nation-state. Cultural diversity is still often regarded as a threat to national unity and the territorial integrity of the state. On the other hand, many observers believe that the granting of cultural and linguistic rights is, precisely, an effective way of avoiding potential ethnic conflict, or reducing existing conflict (Hamel, 1997: 7).

Non-recognition of the linguistic rights of indigenous minority groups, whether explicitly through legislation, *inter alia*, or indirectly through ideological and structural means, for example in an education system, brings about "linguistic genocide", a term that is defined in section III.I of the UN manifesto as

> [p]rohibiting the use of the language of the group in daily discourse or in schools, or the printing and circulation of publications in the language of the group (as quoted by Skutnabb-Kangas, 2002: 182).

The term "linguistic genocide" is not an exaggeration. Investigations have indicated that 50% of the total number of languages could die out within this century, and that a further 40% are endangered languages (May, 2000: 367). However, the biological metaphor should not be allowed to obscure the underlying cause of the process. The endangering of languages, and the disappearance thereof, are not the result of a form of linguistic social Darwinism. Language loss is not the result of linguistic factors, but is very closely linked to political power, prejudice, discrimination and oppression, a fact that is effectively put into words by the renowned general linguist, Chomsky: "Questions of language are basically questions of *power*" (Chomsky, 1979: 191). Domination of the media by a handful of multinational industries plays an important role in this regard. The consequent world-wide control and dissemination of culture is regarded as an even greater threat to independence than colonialism (Ricento, 2000: 17).

In such a case, the dominant language becomes a "killer language" (Skutnabb-Kangas, 2002: 181). Particularly in education, the non-recognition of languages has far-reaching consequences. This topic has already led to detailed investigations (Skutnabb-Kangas (2000), including in South Africa (De Wet *et al.* (2001).

What needs to be stated clearly, is the fact that recognition of the right to the use of a minority language does not imply that the language in question is the only language that must be acquired. Knowledge of the official/majority language is essential:

> Access to linguistic human rights generally means, in the case of minorities, access to at least two languages, the mother tongue and an official language (Kontra *et al.* 1999: 6-7).

The advantages of bilingualism or multilingualism for the minority group are self-evident and are never disputed. However, even for speakers of a majority language, there are advantages attached to being bilingual or multilingual; and just as minority groups ought to be protected against forced assimilation or segregation, so the majority group, too, ought to be protected against forced monolingual reductionism. Not only is biodiversity important, but so is cultural diversity (Skutnabb-Kangas, 1995: 18).

Alongside of the benefits of diversity, the intrinsic value of specific languages is put forward as a second argument for the protection of minority languages. Every language is a unique form of expression and conceptualisation of the world, and of the specific culture's history, traditions and ideas. As a matter of fact, language is not only a communication tool, but also "a central feature of identity" (Kymlicka & Patten, 2003: 15; also compare Van Rensburg, 2003: 75).

Further to the preceding exposition of the point of departure that linguistic rights must be regarded as a basic human right, and that this right should naturally also fall due to speakers of minority languages, two additional matters need to be addressed, namely the concept of *minority language* and the question of how the principle of a *basic human right* can be embodied in practice.

2.3. The concept of a minority language

As was already pointed out in the introduction, the term *minority* is widely used internationally. The South African Constitution, however, does not use the term but instead refers to the rights of communities. Where "minority language" is used, the term is not used pejoratively; rather, it refers to an official language (as recognised in the Constitution) of a community whose members comprise a minority in comparison with the total population.

Although numbers are not the determining factor (strength/ political power also plays a role), numbers nevertheless comprise an important criterion, and the group should at least consist of a minimum number that is high enough to be considered significant.

The language of the group must be distinctive, and the group may not be in a dominant position of power. If the minority group occupies a dominant position, there generally is no longer any need for the protection of their rights.

The legal status of the members of the group is also important: they must be subjects of the concerned state in order to be able to lay claim to official recognition.

Apart from these objective criteria, subjective socio-political criteria also play a role. The group must possess a sense of identity, enrooted in a common origin or a common ideology. In other words, they must wish to maintain their identity. If they accept assimilation, they will lose their uniqueness. The own language and culture, in particular, determine the group's identity:

> The presence of a language and culture different from those of the majority is essential to the expression of a national or ethnic consciousness in the minority group (Braën, 1987: 8).

The historicity of a group can also be taken into consideration. Language guarantees are more readily granted to groups that have already been living in a region for a long time than to recent immigrant groups. As has already been indicated, many original inhabitants do not wish to be classified as "minorities", and demand recognition as "peoples and even nations" (Hamel, 1997: 6).

The geographic circumstances of a minority must also be taken into consideration. English-speaking people in Quebec only comprise a minority in the province itself, whereas in Canada as a whole they belong to the linguistic majority.

As a result of the recognition of the concepts of *minority language*, *minority group* and *basic human right*, they are no longer merely abstract concepts, but political and cultural realities that must be regulated by the state. In the following section, the implementation of the principle of *language right* will be reviewed.

2.4. Implementation of linguistic rights

Naturally, linguistic rights cannot be guaranteed by means of legislation alone. Because the linguistic rights of minority communities have political and cultural facets, as indicated above, the legal protection of linguistic minorities must take these facets into consideration. Language legislation

> must eliminate discrimination based on language, enable the minority to conserve its linguistic characteristics, and allow it to remain in peaceful interaction with the majority. Individually, members of the minority group must have the opportunity of dealing on an equal basis with the majority as well as possessing appropriate means to conserve their linguistic specificity (Braën, 1987: 8).

In order to do justice to the concepts *linguistic human right* and *linguistic right* a state must have a language policy at its disposal and must ensure that specific linguistic rights are legally regulated. It is as a result of this aspect that criticism has also been levelled against the language-as-a-right approach. In developing

countries, in particular, the government simply does not have the powers at its disposal to monitor and maintain language rights. Blommaert, a sociolinguist who is sympathetic towards the recognition of language rights, is forced to acknowledge, to his regret, that

> [O]ne of the well-known big problems in Africa is the powerlessness of the State. In many places, the State is a fiction; in other places, the power of the State is regionally confined [...] So calling for more legislation, for covenants and explicit policies, suggesting that these policies would in practice have a deep effect on the life conditions of the masses, is an illusion which I deeply regret but which has to be recognized (Blommaert, 2000: 9-10; also compare Stroud, 2001: 349-350).

Another aspect that often comes to the fore in language-related conflicts, is the lack of clarity as to which level of government has jurisdiction over language-related matters. For example, should a decision regarding policy that affects education or public services be taken at the level of the European Union, or should it be taken by the member countries, or by the regions/ provinces, or the cities where linguistic minorities are in control?

In the following section, attention will be given to the way in which the rights of minorities are statutorily regulated in a few multilingual countries.

2.5. Attitude towards language rights – a few concrete instances

Nowadays, there is hardly any state in the world where the issue of the language rights of minorities is not being examined. Even states that are regarded as monolingual, for example the United Kingdom, the Netherlands and Germany, are not without minority groups (cf. Extra & Maartens (Eds), 1998). In new supranational units, such as the European Union, the languages of the traditionally monolingual countries, such as the Netherlands and Denmark, thus Dutch and Danish respectively, once again become minority languages. Gardner-Chloros and Gardner (1986), as well as Coulmas (Ed.) (1991), deal with the language rights in European institutions. Only four countries, on four continents where the issue of the co-existence of different languages has important political implications, are discussed here, namely Belgium (in Europe), Canada (in North America), Paraguay (in South America), and South Africa (in Africa). Other well-known multilingual countries include Switzerland (Wardaugh, 1987; Grin, 2000) and Luxembourg (Weber, 2000) in Europe; India (Fasold, 1984:20-30) in Asia; Tanzania (Fasold, 1984:266-277) in Africa (as a matter of fact, multilingualism is the norm in Africa; cf. Mazrui and Mazrui (1998); Robinson and Varley (1998)).

Belgium

When the country obtained independence in 1830, the freedom of language choice was entrenched in the Constitution. However, the difference in prestige between French and Flemish was so great that the elite identified with French, with the result that French fulfilled all the higher functions. The Wallonian French-speaking bourgeoisie regarded Belgium as part of the French cultural region.

In contrast thereto, the Flemish-speaking Belgians regarded Belgium as a bilingual country and propagated the use of Flemish. The Flemish Movement gradually changed from a linguistic movement into a national movement, and experienced an increasing amount of support. The Flemish population obtained an area of their own, and by means of a series of language acts, Flemish was declared to be the only language of a demarcated region. In this way, as a result of the linguistic homogeneity of Flanders as well as Wallonia, the principle of territoriality was introduced in 1962-1963. Brussels, the capital city of the doubly monolingual country, has bilingual status. This entails that Flemish and French both have their own linguistic infrastructure, and that one language can therefore not be placed at a disadvantage for the sake of the other (Buyle, 2000). In the eastern part of Belgium, there is also a small German-language area, where German is the official language.

An important consequence of the territorial approach is that in Belgium, a better understanding of multilingualism has developed than in the rest of Europe. Where, in other European states with multilingual groups, for example Switzerland, the concept of "territoriality" has been made applicable in only two domains, namely administration and education, the domain of the workplace has been added in Belgium. The language choice between employers and employees is regulated. Individual multilingualism is not prescribed anywhere in Belgium, and institutionalised multilingualism has increased. In the light of the process of European unification, Belgium offers a good example of how nations with different cultural backgrounds – with different languages, different histories, different cultures, and different value systems – can be linked together around a common political project. For a successful process, language legislation is essential. The Belgian sociolinguist, Kas Deprez, sums up the benefits of the Belgian solution as follows:

> The main reason why we should opt for Belgium is that it is a land of peace, democracy and prosperity and as such an excellent exercise for a multilingual Europe (Deprez, 2000: 28).

Although in Belgium, a satisfactory solution for the majority of speakers was reached in respect of the division between the two main languages, it must be stated here that the recognition of the rights of immigrant minorities – the so-called allochthones – has still not yet received adequate attention, as is also the case in the rest of Western Europe.

(Literature: Wardaugh, 1987; Nelde, 1997; Buyle, 2000; Deprez, 2000; Deprez *et al*. 2000.)

Canada

In 1774, the British Parliament passed the Quebec Act by means of which, amongst other provisions, the language (French) and religious rights were guaranteed to French Canada. The *British North America Act* (1867), whereby Canada gained its independence, entrenched the guarantees of 1774 for Quebec with its French-speaking majority. Canada is a federation comprised of ten provinces (Quebec, and nine others with English-speaking majorities), where the federal and provincial governments have equal status. Since language is not mentioned in the articles of the *Constitutional Law of 1867*, the federal and provincial governments jointly enact legislation concerning language-related matters. In contrast to Belgium, where the two main languages, Flemish and French, both have an approximately equal number of speakers, French is a minority language in Canada (spoken by only 26% of the inhabitants) in relation to English. In North America, French is the mother tongue of a mere 2% of the population, and the language is under pressure to assimilate:

> In spite of the rights obtained by the people of Quebec the fear of cultural erosion persisted throughout Canada's first century. The strong economic influence of the Anglos in the province, their "we're-no-minority!" attitude, reinforced by location and situation, and a steadfast resistance to learn and use French entrenched the fears of the francophones (Cartwright, 1988: 238).

A whole series of legislation was promulgated after 1867, all of which was aimed at satisfactorily resolving the linguistic rights of both language groups. Only one recent decision, which is currently still applicable, is referred to here. As a subsection of the *Constitutional Law of 1982*, the *Canadian Charter of Rights and Liberties* guarantees fundamental linguistic rights. Section 23 guarantees the right to education in official minority languages, a domain which was formerly restricted to the judicial control of the provinces. Linguistic rights of minority

language speakers who speak an official language (thus, French-speaking persons outside of Quebec and English-speaking persons in Quebec) are guaranteed.

Dealing with language rights remains an important point of discussion in Canada. In this North-American state, the language rights of French- and English-speaking persons are extended to include those of minority immigrant groups. Canadians of a non-French and non-English origin now comprise an almost equal percentage of the population (27%) in relation to those of French origin (28%) (those of English origin comprise 45%) (Wardaugh, 1987: 227). A report concerning language-related matters is annually submitted to Parliament (*Annual Report*, 2002).

(Literature: Macmillan, 1983; Fasold, 1984: 227-231; Gardner-Chloros and Gardner, 1986: 47-48, 52-53; Braën, 1987: 25-58; Wardaugh, 1987; Cartwright, 1988; 1996; Nelde, 1997; Edwards (Ed.), 1998; Martell, 1999; *Annual Report*, 2002).

Paraguay

What makes the situation of Paraguay in South America unique, is the fact that the colonisers, the Spaniards, made use of one of the indigenous languages, Guarani, from an early stage, and that by 1950, approximately 95% of the population spoke Guarani. Language-related issues in Paraguay do not only include the relationship between Guarani and Spanish, but also the languages of small immigrant groups, chiefly Mennonites, who founded semi-independent settlements in the western part of Paraguay, as well as German, Slavonic and Japanese immigrants.

Spanish is the official language of the state and, generally speaking, also of education. Nevertheless, by 1950, only half of the population were still familiar with Spanish, and about 40% of the population were bilingual. Knowledge of Spanish was mainly restricted to the urban inhabitants.

The attitude towards the two languages is ambivalent. Despite the demographic restrictedness of Spanish, the status thereof is highly esteemed by the Paraguayans. At the same time, the attitude prevails that anyone who is not fluent in Guarani is not a true Paraguayan. Although they believe that Guarani is an important language in which all abstract notions, too, can be expressed, the Paraguayans nevertheless look down on anyone who cannot speak Spanish.

> Paraguayans have a profound sense of devotion to their language; they want to be proud of it and are. Nevertheless, there is a covert sense of uneasiness about it and a feeling that somehow Spanish is really more elegant and better (Fasold, 1984: 15).

Until 1967 Spanish alone was the official language. In 1967, Spanish and Guarani were both recognised as "national" languages, but only Spanish was recognised as "official". It is also the language of education. Until 1973, Guarani was not allowed in schools, not even within the school grounds, and offenders were punished. The consequences of this policy, particularly in the rural areas, were catastrophic:

> [S]low, inadequate acquisition of Spanish, a high drop-out rate, and an astonishing amount of grade repetition [...] (Fasold, 1984: 16).

(Literature: Rubin, 1972; Fasold, 1984.)

South Africa

Language legislation in South Africa may be traced back to 1803, when commissioner-general De Mist introduced the principle of mother-tongue education (Malherbe, 1925: 49-52). Shortly thereafter, Lord Charles Somerset stipulated that only English and Latin could be taught in government schools, and Dutch, the mother tongue, was relegated to the background (Malherbe, 1925: 58). In 1910, when South Africa became a Union, the language question was one of the thorniest issues. Ultimately, two official languages, English and Dutch, were entrenched in the Constitution (section 137 of the South Africa Act of 1909). Act no. 8 of 1925 included Afrikaans with Dutch, by definition. The entrenched protection of English and Afrikaans was retained by the Constitution of 1961 and that of 1983.

The 1961 Constitution began to make provision for official status for the so-called African languages in certain black areas - the later homelands, from which the Transkei, Bophuthatswana, Venda and Ciskei (the so-called TBVC states) developed. After 1961, up to and including the coming into effect of each TBVC state's own constitution, Afrikaans and English, plus an African language for each black area, were the official languages of South Africa. As in 1910, the language issue was once again a controversial matter during the transition to a fully democratic form of government. The Transitional Constitution of 1993, Act no. 200 of 1993, declared eleven main languages to be official languages at national level (section 3(1)).

On 8 May 1996, the Final Constitution (Act no. 108 of 1996) was approved by the Constitutional Assembly. Language-related matters are addressed in section 6 of the Constitution. Recognition of the eleven official main languages is maintained. It has already been argued that the choice of (an) official language(s) is primarily a political decision, a symbolic choice without legal content (Du Plessis & Pretorius, 2000: 508-9; Currie, 1998: 37-3). The fact is, however, that the awarding of official language status to different languages confirms the multicultural nature of the

state. Recognition of the multicultural nature of the state should therefore cause the government to be sensitive to any form of preferential treatment of any language (or languages).

(Literature: Malherbe, 1925; Steyn, 1980; Olivier, 1995; Combrink, 1996; Steyn, 1996; Currie, 1998; Du Plessis and Pretorius, 2000; Strydom and Pretorius, 2000; Lubbe and Du Plessis, 2001.)

2.6. Conclusion

The view that the recognition of the linguistic rights of different communities is not a privilege that can be bestowed according to the discretion and graciousness of the authorities, but that it is in actual fact a right, is a standpoint that is widely accepted and propagated today. However, this basic right does not mean very much if it is not guaranteed by the legislation of the concerned country. In Belgium and Canada, *inter alia*, the matter is actively and earnestly addressed. Although eleven official languages are recognised in South Africa, in practice the perception exists that the right to the use of all the minority languages is not accorded full recognition, and insistence on this language right, particularly for Afrikaans, is criticised. In Chapter Four, the nature of incidents and complaints concerning the implementation of language legislation for the period from 1 January to 31 December 2002 is analysed, on the basis of complaints that have been reported in the printed media and lodged with PanSALB concerning the violation of language rights. First of all, media coverage concerning language in general is discussed in the next chapter.

3. Media coverage: Language-related matters in general

3.1. Introduction

Media coverage is one of the instruments of language rights activism distinguished by Martel (1999: 47). The printed media, and newspapers in particular, are the common man's access to the world. According to Reah (1998), newspapers are "artifacts of the commercial and the political world", which convey "a series of snapshots of our life and culture, often from a specific viewpoint".

In analysing media coverage, it is essential to take the importance of newspapers into account. This importance is threefold in nature: Firstly, according to Fowler (1991: 89), newspapers comprise a "major mode of representation" of the community's "important and habitual processes". Secondly, despite the highly temporary nature

of the newspaper text, which is actually only valid for the particular day on which it is released (Reah, 1998: 13), a newspaper is, for the majority of readers, the most important source of printed discourse. Lastly, the language usage in the newspaper can unconsciously give rise to ideas and convictions:

> The linguistics of representation in newspaper discourse is a major element in our daily experience of language (Reah, 1998: 13).

Although this often occurs unconsciously, the formation of ideas and convictions through media reporting may tend towards bias. Already, by exercising a choice as to whether the report will be included in the newspaper – through an act of so-called "gatekeeping" – the editor and reporter are unconsciously displaying an ideological bias. The reading public thus remains uninformed in respect of media events that the "gatekeeper" has decided not to select. This process is described as "deselection" (D'Alessio & Allen, 2000: 134,136). Two further biases can be discerned. Firstly, there is the "coverage bias" that measures the amount of space allocated to reports in terms of column square centimetres, along with the photographs and headings that are included. Lastly, content bias or "statement bias" can be distinguished. In terms thereof, media staff can interpolate their own opinions and interpretations in the media coverage of the text.

All of these types of information are accessible via methods of content analysis. In order to analyse the problem of subjectivity in respect of media bias, as well as to obtain other information, researchers make use of techniques such as content analysis, in order "to replace subjectivity with intersubjectivity" (D'Alessio & Allen, 2000: 137). Although the printed media attempt to avoid any semblance of bias, it becomes apparent from a review concerning media coverage that all three of these biases probably play a role to some degree. However, the fact that the Afrikaans press, for example, probably makes use of both "gatekeeping" and "coverage bias" in order to accord more prominence in general to language-rights issues, in contrast to English newspapers, does not necessarily indicate a bias. Rather, it points to a greater awareness among Afrikaans-speaking persons, since it is, precisely, Afrikaans and other minority languages that are generally being neglected in the new political dispensation. Thus, for example, during the period of a year (2002), the Afrikaans newspapers accorded considerably more prominence to reporting concerning the language body, PanSALB, than the English press did; that is to say, PanSALB was referred to 40 times in the Afrikaans media, while the English press only referred to it 7 times during the corresponding period

3.2. Analysis of media coverage

Media coverage: total number of reports referring to language-related matters

To withdraw the relevant press records, the greatest possible number of key words were used, namely *resensies* [reviews] including *nominasies* [nominations]; *naamsveranderinge/plekname* [name changes/place names]; *spotprente* [cartoons]; *taalprobleme* [language problems] (with the key words *struikelblokke* [obstacles] and *kwelvrae* [problematic questions]); *taalkruie* [language spices – i.e., interesting aspects of language], (as well as the name of *Anton Prinsloo*); *anekdotes* [anecdotes]; and *taalnormering* [language standardisation]. These yielded 1 896 records, comprised as follows:

Keyword	Total
Reviews	1389
Place names	445
Taalkruie [Language spices]	36
Language corpus-related problems	23
Cartoons	3
Anecdotes	0
Language standardisation	0

Table 3.1: **Total amount of records per keyword**

Because only 1 210 of the 1 389 reviews are relevant, it follows that out of a total of 1 896 records, only 1 717 are relevant. Only those reviews referring to language were taken into account. Reviews referring to the following were not taken into account: the fine arts and the visual arts, architecture, photography, films, television programmes, dance theatre, Pieter Dirk Uys's Aids awareness campaign, comic strips and general cartoons not relating to language. The division is as follows:

Paper		Type			Relevance		Total
Afrikaans	English	Theatre	Non-fiction	Fiction	Irrelevant	Relevant	
664	546	176	535	479	179	1 210	1 389

Table 3.2: **Relevance of records**

In addition to these, the following key words pertaining to language rights were used: *taal en reg* [language and right]*; taal en klag* [language and complaint]; *taal en howe* [language and courts]*; taal en miskenning* [language and disregard]*; taal* [language]*; language and complaint*; *language and right*; and *language and disregard*. The above-mentioned key words yielded a total of 369 records. In

addition thereto, the following key words were used in order to ensure that the widest number of possibilities were covered: *language and English*; *language and Afrikaans*; *Africa and language*; *Africa and languages*; *activist*; *language and activist* and *Pan SA Language Board*. These additional data yielded a further 180 media records, all of which are duplicates, thus representing an overlap of 48,8% already in the database. A further 22 media records were excerpted from the law journal, *De Rebus*. This gives a grand total of 571 records. Because of the 180 duplicates, 391 records are relevant for the analysis. Of these 391 relevant records, 251 pertain to specific alleged language rights violations and/ or complainants, while 140 records refer to language rights issues in general, and include references to the Commission for the Promotion of the Rights of Cultural, Religious and Linguistic Communities (CPRCRLC), PanSALB, TISSA and the Human Rights Commission (HRC). Thus, a total of 2 108 relevant records are being dealt with here (1 717 + 391).

The 140 records referring to language rights issues in general include:

Language rights issues	Number
Language rights in general	80
References to PanSALB	47
CPRCRLC	5
TISSA	5
Human Rights Commission	3

Table 3.3: **Records on language rights**

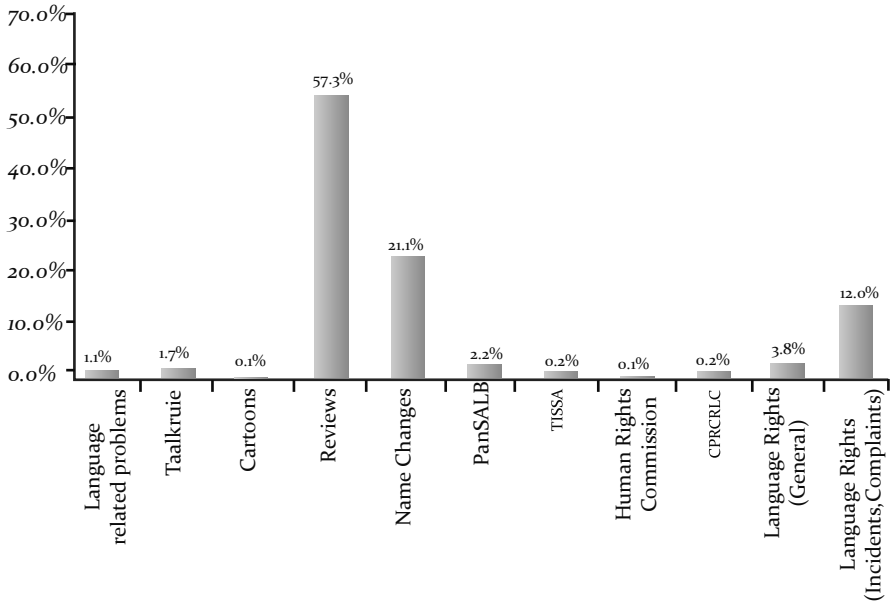
The language-related subjects which make up the 2 110 records are the following:

Language-related subjects	Number	Percentage
Language corpus-related problems	23	1.1%
Taalkruie [Language spices]	36	1.7%
Cartoons	3	0.1%
Reviews	1 210	57.3%
Name changes	445	21.1%
PanSALB	47	2.2%
TISSA	5	0.2%
Human Rights Commission	3	0.1%
CPRCRLC	5	0.2%
Language rights (general)	80	3.8%
Language rights (incidents, complaints)	251	12.0%
Total	2 108	100.0%

Table 3.4: **Language-related subjects of the relevant records**

For the sake of greater overall clarity, the analysis of the media coverage on language-related matters is schematically illustrated in Figure 3.1.

Figure 3.1: Media coverage: total number of media reports



An interesting observation to be drawn from the data is that the reporting of language rights incidents is not very high on the agenda of the media. More prominence is given to issues relating to place names (445 records (21,1%)) than to specific language rights incidents (251 records (12,0%)) and language rights incidents in general (80 records, or 3,8%). Although issues relating to place names can be seen as being related to language rights, place names received more prominence, probably because they offer more opportunity for pressure grouping.

From the graph showing the total number of records in the printed media, it can be seen that the greatest number were related to reviews (theatre, non-fiction, fiction and nominations for literary prizes), namely 1 210 (57,3%). Four hundred and forty-five or 21,1% of the records dealt with name changes and place names. "Taalkruie" [language spices] (including Anton Prinsloo's articles) accounted for 36 (1,7%) of the records, followed by language corpus-related problems (obstacles/ problematic questions) with 23 (1,1%) and cartoons with 3 (0,1%).

Media coverage: reporting per language medium of newspaper

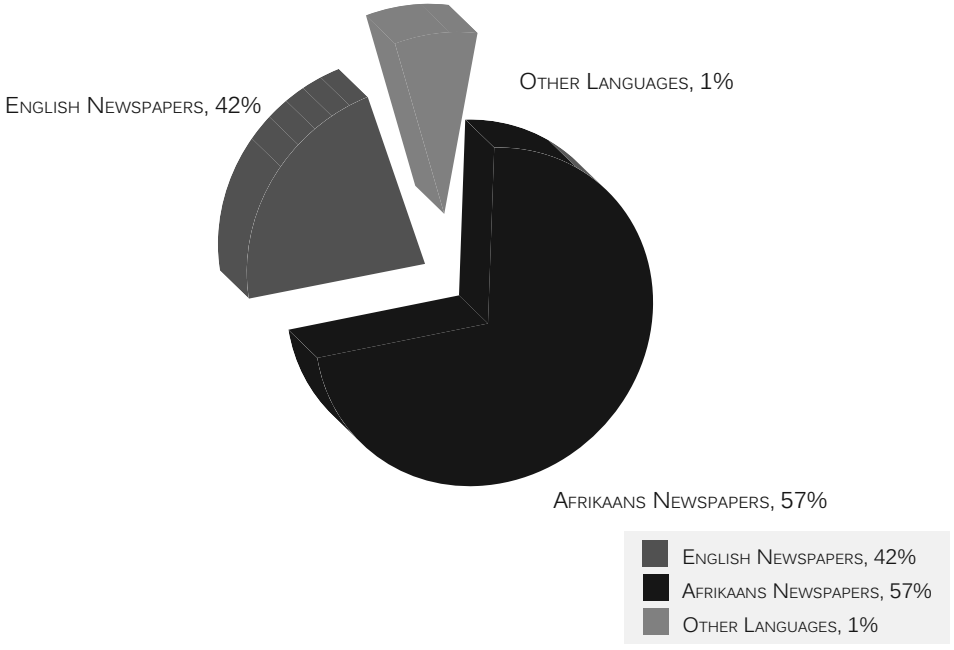
Media coverage according to the language medium of the newspapers is illuminating. The distribution of reporting between the Afrikaans, English and bilingual media for the different categories is as follows:

Subject	Afrikaans	English	Other	Total
Reviews	664	546	0	1210
Name changes	202	243	0	445
Language rights (general)	65	15	0	80
Language rights (incidents, complainants)	167	59	25	251
Cartoons	1	2	0	3
Language corpus-related problems	14	9	0	23
"Taalkruie"	36	0	0	36
CPRCRLC	5	0	0	5
TISSA	3	2	0	5
Human Rights Commission	3	0	0	3
PanSALB	40	7	0	47
Total	1 200	883	25	2 108

Table 3.5: Media coverage according to language of newspaper

For the sake of greater overall clarity, the media coverage according to the language medium of the newspaper is also schematically illustrated (Figure 3.2).

Figure 3.2: Media Coverage: according to the language medium of paper

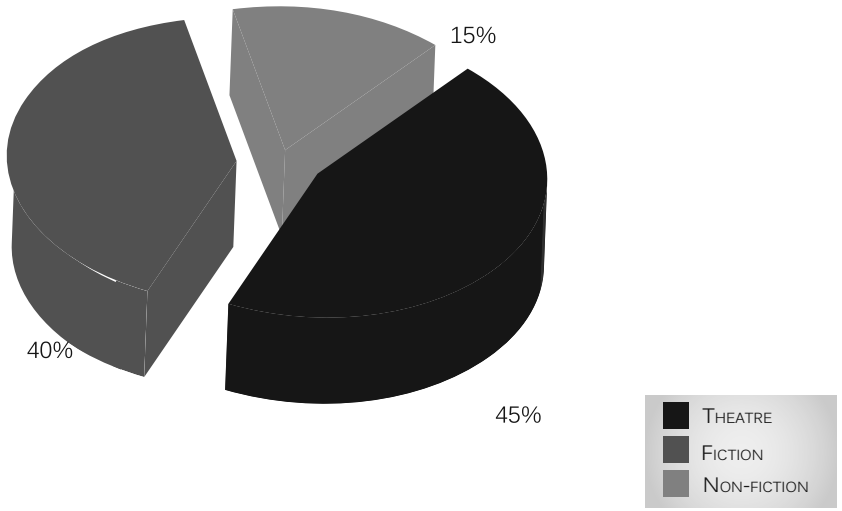


Although there is not a significant difference between the media coverage referring to language-related matters in Afrikaans and English newspapers, namely 1 200 (56,9%) reports in the Afrikaans media, as against 883 (41,9%) in the English media (and 25 (1,2%) in the bilingual media), it is nevertheless significant that out of a total of 80 records referring to the rights of languages, 65 (81%) appeared in Afrikaans newspapers and 15 (19%) in English newspapers. Records referring to PanSALB (47) display the same pattern, namely 40 (85%) records in Afrikaans and 7 (15%) in English newspapers.

Media coverage of reviews concerning literary works (fiction, non-fiction and theatre)

From the media investigation into reviews (Figure 3.3), it can be seen that 555 (45%) reviews refer to non-fiction works, 479 (40%) to works of fiction and 176 (15%) to theatre productions.

Figure 3.3: Media coverage of reviews from literary works (fiction, non-fiction and theater)



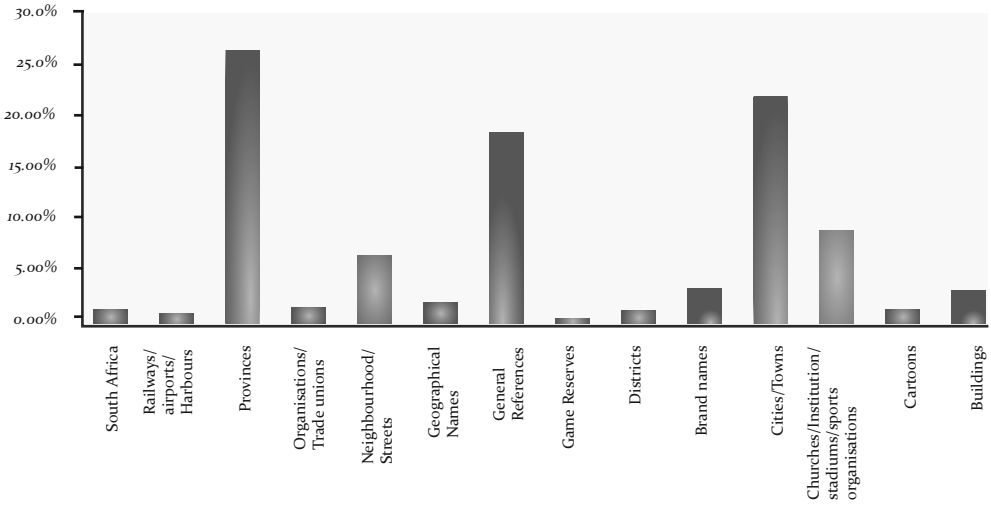
Out of a total of 1 210 reviews, 664 (55%) appeared in Afrikaans newspapers and 546 (45%) in English newspapers. Although it was anticipated that more reviews would appear in English newspapers because there are more English newspapers, the prominence accorded to reviews in Afrikaans newspapers is an indication that a great deal of attention is given to cultural matters in Afrikaans newspapers.

Media coverage of place names/name changes

From the total number of relevant records (2 108), it is clear that matters relating to place names, and specifically the issue of name changes, received a great deal of attention, accounting for 445 records, thus 21,1%. In the case of reports on name changes, however, a complication arose, namely, the fact that one contribution may contain several references, for example, to names of towns, provinces and airports; in other words, a single record does not necessarily refer to a single aspect. As a result of this an additional 177 references were distinguished, bringing the total number of references for name changes to 622 recorded media references.

For the sake of greater overall clarity, the media coverage of name changes is schematically illustrated (Figure 3.4).

Figure 3.4 Media coverage relating to place names and name changes



As is clear from the graph (Figure 3.4), the large majority of reports, namely 297 (47,7%), referred to place names (cities, towns, provinces) or changes thereof. Thus, changes to the names of provinces accounted for 161 (25,9%) of the media references, followed by cities and towns with 136 (22%). General references to place names or changes in such names accounted for 123 or 20% of the reports; 73 reports (12%) referred to churches, institutions, stadiums and sport organisations; 34 (5,5%) of the reports referred to neighbourhoods and streets; 21 (3%) to brand names; 19 (3%) referred to buildings; 15 (2%) to geographical names, including those of rivers, dams and mountains; and 12 (2%) referred to organisations

and trade unions. Reports referring both to cartoons and to South Africa each accounted for 8 media references (1% each); reports on districts accounted for 6 (1%); reports on railway stations, airports and harbours for 4 (0,6%); and 2 (0,32%) media references were accounted for by reports referring to game reserves, and specifically the changing of the name, "Kruger National Park".

As already mentioned, most of the name changes related to provinces, cities and towns, namely 47,7%. The provinces that received the greatest amount of prominence in the media were the Northern Province and the Eastern Province. Most of the towns and cities where name changes were under discussion, or where such changes had already occurred, are located in the Northern Province (Limpopo), and include the following, *inter alia*: Louis Trichardt (Makhado), Warmbad (Bela-Bela), Pietersburg (Polokwane), Duiwelskloof (Ngoake Ramalepe), Nylstroom (Modimolle) and Potgietersrus (Mokopane). In Gauteng, the changing of the name of Pretoria (to Tshwane) was envisaged, while in KwaZulu-Natal the changing of the name of Pietermaritzburg was under discussion; in the Eastern Province, a name change for Port Elizabeth was an issue; and in Mpumalanga, the focus was on Secunda in respect of a possible name change.

It was to be expected that so-called European names, particularly those referring to historical figures from the white community, would be changed to Afrocentric or indigenous names after the introduction of the new dispensation in 1994. The MEC for local government and housing for Limpopo alleged that the current names of the towns and cities in the province were a "sad reminder" of a history of oppressive colonial practices that were out of keeping with the current dispensation (cf. *Volksblad*, 29 January 2002). It is therefore significant that there are no noteworthy differences between the Afrikaans and English printed media in respect of their reporting concerning name changes. This is clear from the fact that out of a total of 445 reports, 243 or 54,7% refer to English reports and 202 or 45,3% to Afrikaans reports. This gives an indication that conservatism regarding name changes is not limited to the Afrikaans ethnic group.

While the discussion concerning name changes in both the Afrikaans and the English press reflects opposition as well as understanding, it is, in particular, the changing of names relating to historical figures from the previous dispensation, for example Potgietersrus and Pietersburg in Limpopo, which has been the subject of more negative reporting in the Afrikaans media in general. Where town or city names have been changed to those of certain prominent figures of the current historical dispensation, the leader of the official opposition, Tony Leon, has felt constrained to dub such changes as "gross insensitivity" towards certain population

groups (cf. *Volksblad*, 19 February 2002). Compared with the Mandela era, the present government apparently is less sensitive about replacing one politician's name with another (Sparks, 2003: 130). Changes of the names of towns/ cities and provinces to geographical names, as well as to indigenous names referring to the newly created district councils, have generally been accepted with more understanding by the reading public, for example the changing of the name of the Northern Province to Limpopo (a name that also refers to the most northerly river).

Likewise, where the character and the ethos of an institution would supposedly **be** sacrificed, according to some, as a result of a name change, for example Potchefstroom University for Christian Higher Education (PU for CHE) to "North-West University", and Rand Afrikaans University (RAU) to "University of Johannesburg", widespread and negative prominence in the media was the result, particularly in the Afrikaans media. From an analysis of media reporting, it is striking that town and city names that had a bearing on important figures from Afrikaner history, in particular, were sacrificed, especially in Limpopo, while historical names from English colonial history in the Eastern Province, for example, Queenstown, King William's Town and Grahamstown, as well as Rhodes University, have remained unchanged for the present.

While a degree of tension can be accepted in a multicultural and multilingual country in respect of the changing of names as a result of a new political dispensation that is more Afrocentric, the matter could possibly be handled with greater sensitivity

3.3 Conclusion

The printed media are an important source of information to the reading public. An investigation into the amount of space allocated by the printed media to other issues, for example sport or foreign news, was not undertaken. From the survey that was conducted by Fourie (1994: 282,293), it is evident that the South African printed media comprise the largest press in Africa, with more than 5 000 registered newspapers, journals, technical and consumer publications (in terms of the Newspapers and Publications Act (1971)). In contrast, the media share of Afrikaans publications is considerably smaller. If the media publications dealt with in this investigation concerning language issues are taken into account, 17 of the publications were Afrikaans, 46 were English, and 3 were bilingual (Afrikaans and English). Although the number of Afrikaans publications is relatively small in comparison with the superior numbers of the English newspapers, the Afrikaans press proportionally accords more attention than the English press to language-

related and cultural matters, as is clear from Figure 3.2. Despite the lion's share enjoyed by the English press, its share in respect of language-related matters is 15% smaller than that of the Afrikaans media, namely 42% as against 57% (with 1% bilingual publications). Publications in African languages are relatively few, and have exercised no influence on the conclusions of this report.

The language debate in the Afrikaans press was considerably more lively than in the case of the English press (including speakers of African languages). Market research (Fourie, 1994: 296) conducted in 1994 indicated that a higher percentage of black and coloured readers read English publications than vice versa, as a result of various historical reasons. Nevertheless, as far as the reporting of language rights incidents is concerned, for example, a great deal more prominence was accorded to language-related matters in the Afrikaans press, namely 65% in the case of the Afrikaans newspapers, as against 35% for English newspapers (Chapter Four, Figure 2).

In a broader perspective on the actual impact of media coverage as an instrument of language activism (Martel, 1999: 47), Booysen and Erasmus (1998: 236) found that after 1994, media coverage did not have a significant impact on policy-making in South Africa. The same assertion can apparently be made on the impact of media coverage on language rights in South Africa.

4. An analysis of language rights complaints

4.1. Introduction

An analysis concerning language rights complaints is undertaken in order to determine which language rights incidents have enjoyed representation in the printed media and have been recorded with PanSALB, and who the language rights complainants are. For the sake of greater overall clarity, the reports on the language rights incidents, as well as those on the language rights complainants, are also schematically illustrated. After the discussion of the results, certain deductions are drawn. The first section will cover language rights complaints reported in the media, and the second section, language rights complaints reported to PanSALB. A comparison will be drawn between the two sets of data in the third section. First of all the methodology is set out.

4.2. Methodology

As was indicated in more detail in Chapter One, data for the first section of this chapter were collected from the SA Media database on the basis of relevant key words for the period 1 January 2003 – 31 December 2003.

Language rights complaints are an expression of dissatisfaction or displeasure by a person, the media, the business sector or an institution (which may include, *inter alia*, a political party, a trade union or professional organisation, a cultural body, a statutory body, a tertiary or educational organisation) in respect of an alleged unacceptable, unsatisfactory level of language treatment; in short, language rights complaints refer to complaints by members of language groups or sectors of the community who are experiencing a disregard for their language rights.

The collected records on language rights complaints may be categorised in terms of language rights incidents and language rights complainants.

A language rights incident refers to the incident that gives rise to the lodging of a complaint by a language rights complainant. As such, a language rights incident is related to a perceived discriminatory action taken by an institution against a certain language; usually an action that the complainant perceives to be violating his or her rights regarding the use of that language. For instance, the decision by a state department to publish all forms that citizens may use in their interaction with such a department in English only, constitutes a typical language rights incident. A language rights incident thus involves a certain administrative action taken by the source (of a language rights incident) in respect of the treatment of a language in conducting its business, that is perceived as discriminative against that language in some way or another. In analysing language rights incidents we thus need to establish which source took what action against (or in favour of) which language.

In order to compile a profile of tendencies regarding the language rights orientations of various newspapers, the records on such language rights incidents are categorised under a number of subdivisions or categories. According to the type of report, five categories of news coverage were distinguished, namely reports (thus, the reporting of events and decisions), editorial comments, letters to the press (thus, comments by the public as reflected in correspondence to the editorial staff), columns by colleagues (thus, comments and discussions by unaffiliated colleagues), and articles (essays on a particular topic by academics and scientists). From these subdivisions, the attitudes of the different role-players become evident, as already indicated by Steyn (1995).

The usual reporting on topical matters reflects three types of attitudes: firstly, those attitudes arising from the reports that appear in the media, where the authorities and governmental institutions state, defend and carry out their policy; secondly, the attitudes arising from reports and comments of the concerned media themselves; and lastly, the attitudes of colleagues and others towards both of the above-mentioned types of reporting, as reflected in articles and letters. In the latter case, a distinction is drawn between the contributions of unaffiliated colleagues and those of letter-writers, since a letter is usually more spontaneous in nature, while a colleague is providing commentary in response to an instruction, owing to the nature of his knowledge or outspokenness in respect of a specific matter.

The language classifications, *Afrikaans, English* and *other,* which were used for language rights incidents and complainants, refer to the language groups against which the supposed discrimination was levelled, and not to the languages in which the newspapers themselves are published. Certain linguistic tendencies and attitudes towards language rights incidents and complainants may be indicated on the basis of this classification. The subclassification, *other*, refers to the various indigenous African language groupings.

A narrower distinction is also drawn in respect of language rights incidents that have a bearing on the government. The first-level government includes a number of government departments such as, *inter alia*, the Department of Correctional Services (DCS) and the Department of Labour. The legislatures of the nine provinces fall under second-level government and those of municipalities, under third-level government. Although, strictly speaking, education falls under the first-level government, it is grouped separately because it comprises an important source of language rights incidents. Tertiary education and school education are grouped together because the language issue is handled differently, both at the various tertiary institutions and in the different provinces. Statutory bodies, such as PanSALB, as well as semi-government institutions, such as Eskom and SAA, likewise fall under first-level government. Since the number of language rights complaints concerning the SABC has dropped sharply since 1998, a separate category for these particular complaints is no longer justified, and they likewise fall under the semi-government category. A distinction is drawn in the business sector between business institutions at national level, for example Sanlam, and those at regional level, for example Radio Lotus.

One particular milieu or institution, such as Parliament, may give rise to various language rights incidents, for example the disregard of Afrikaans in speeches (*Beeld*, 22 February 2002), the placement of notice boards exclusively in English

(*Rapport*, 30 June 2002), and the attempt to transcribe the *Hansard* in English only (*Beeld*, 30 October 2002). Should various language rights violations occur in relation to the same type, for example in the case of the municipality of Bothaville's (Nala's) insistence on serving residents exclusively in English, all such violations are regarded as a single language rights incident. Should the same type of language rights incident (i.e. service in English only) also occur in the local post office in the same town, the incident is regarded as a separate language rights incident. In the same manner, language rights complainants may bring up various objections concerning language at the same tertiary institution, and these are regarded as separate language rights incidents. For example, if the Medical Faculty at the University of Pretoria (UP) scales down Afrikaans (*Afrikaner*, 14 February 2002) and if the Veterinary Science paper is available exclusively in English at the same institution *(Rapport*, 24 March 2002), and the administration is becoming anglicised at the cost of Afrikaans (*Beeld*, 17 May 2002), these occurrences are regarded as three separate language rights incidents.

Language rights complainants who react to a language rights incident, may refer to an individual, an institution, a body or governmental organisation or department, responsible for bringing the alleged language rights violation to the attention of the offender, the institution or the government. The words *complain* and/or *complainant* do not necessarily have to be used in this situation. Expressions such as the following were used, *inter alia*, in order to describe a situation involving a complainant: *mor* [mutter/grumble], *bra langtand byt* [find(ing) it hard to swallow (the disregard of language rights)], *besorgdheid uitspreek* [expressing concern], *betreur* [regret], *concern*. The Department of Communication and the *Taalgroep vir die Bemagtiging van Afrikaanse Gebruikers op Televisie* [Language Group for the Empowerment of Afrikaans Users on Television] (Tabema) made submissions at a language summit meeting for the public broadcaster (*Volksblad*, 12 December 2002). It was found that English is dominant and proposals for the improvement of this situation were actually made. The submission is thus regarded as a language rights complaint and Tabema is considered to be the language rights complainant. Violations in the area of language at a single institution can result in various language rights complainants lodging complaints. The submission of the convocation to the University of Stellenbosch (US) (*Die Burger*, 1 October 2002), a complaint regarding the supposed neglect of Afrikaans in favour of English by lecturers (*Die Burger*, 22 June 2002), and a petition by Stellenbosch University students (*Beeld*, 18 October 2002), are regarded as having been submitted by three language rights complainants. The occurrence, incidence or element of activism

that is present in the appeal to sign a petition in support of Afrikaans at Stellenbosch (*Beeld*, 19 October 2002), is not taken into account, since activism is regarded as a separate form of lodging a complaint, justifying a separate investigation, and discussed in Chapter Five.

In the case of language rights complainants, the same distinction is drawn, under the category of *government*, as in the case of the language rights incidents. Complainants at second- or third-level government level have been left out, however, since an insignificant number of complainants were involved at this level. For the same reason, the *semi-government* category which was used in the case of language rights incidents has also been omitted.

A finer distinction was also drawn in respect of language rights complainants, under the category of *organisations*. Four subdivisions were distinguished, namely political parties, cultural organisations, for example Praag, trade unions, for example Cosatu, and the business sector. Cultural organisations also include, for example, professional organisations such as the *Vereniging vir Regslui vir Afrikaans* (VRA). In addition to the above-mentioned categories of *government* and *organisations*, two further categories are distinguished, namely the *media as language rights complainant* and *private persons*. A language rights incident at the first, second or third level of government which finds expression in the printed media, for example the previously mentioned language rights incidents in Parliament, is classified in terms of a language rights complainant under the category *media*. Because such a large number of private persons air their language rights complaints by means of letters in the media, they fall under the category of *private persons*.

An analysis of the contents of language rights complaints in the South African printed media and of language rights complaints lodged with PanSALB for the period of 1 January to 31 December 2002 was carried out.

Content analysis can be both qualitative and quantitative in nature. Examples of such language analyses are those of, *inter alia*, Lubbe and Du Plessis (2001), Strydom and Pretorius (2000), Truter (2002), Truter and Lubbe (2002), Truter (2003). Owing to the fact that the frequency of the content characteristics is tabulated, a content analysis is usually regarded as being quantitative in nature, according to Pepler (s.a.: 114). The qualitative nature of the content characteristics arises as a result of descriptive observations. The following definition points to the qualitative, as well as the quantitative nature of content analysis:

> [A] systematic, objective analysis of written communications for the purpose of making judgements about the communications, their sender and related political variables (Plano *et al.*, 1982: 27, as quoted by Pepler, s.a.: 113).

The following statement of Joubert (1992: 72) is applicable to the analysis of the language debate in South Africa:

> Content analysis remains an underutilized method with great potential for studying beliefs, organizations, attitudes and human relations. The limited application and development of content analysis is due more to unfamiliarity with the method and its historic isolation from mainstream social science than to its inherent limitations.

4.3. Analysis of language rights complaints in the printed media

Reporting in respect of language rights incidents and language complainants in the media is considered for the purposes of this report to comprise instances of language rights complaints. These complaints may be lodged by an individual writing a letter to a newspaper, or may be reported by a columnist or raised in an editorial, or may even be mentioned in a report on a language right incident (or complainant), or in an article referring to such an incident (or complainant). Our analysis in this section will be based on data obtained from the printed media in South Africa.

As pointed out in Chapter Three, out of a total of 2108 media records relating to language issues published during 2003, we have classified 431 (20.5%) as records related to language complaints, i.e. records containing reports on language incidents or reports referring to language complainants. The remaining records were relevant to other aspects of language, as already mentioned. Of these 431 records, 180 are duplicates, leaving us with a balance of 251 records on language complaints that were analysed for the purposes of this report.

Table 4.1 contains the spread of these records per language of newspaper over the period of investigation.

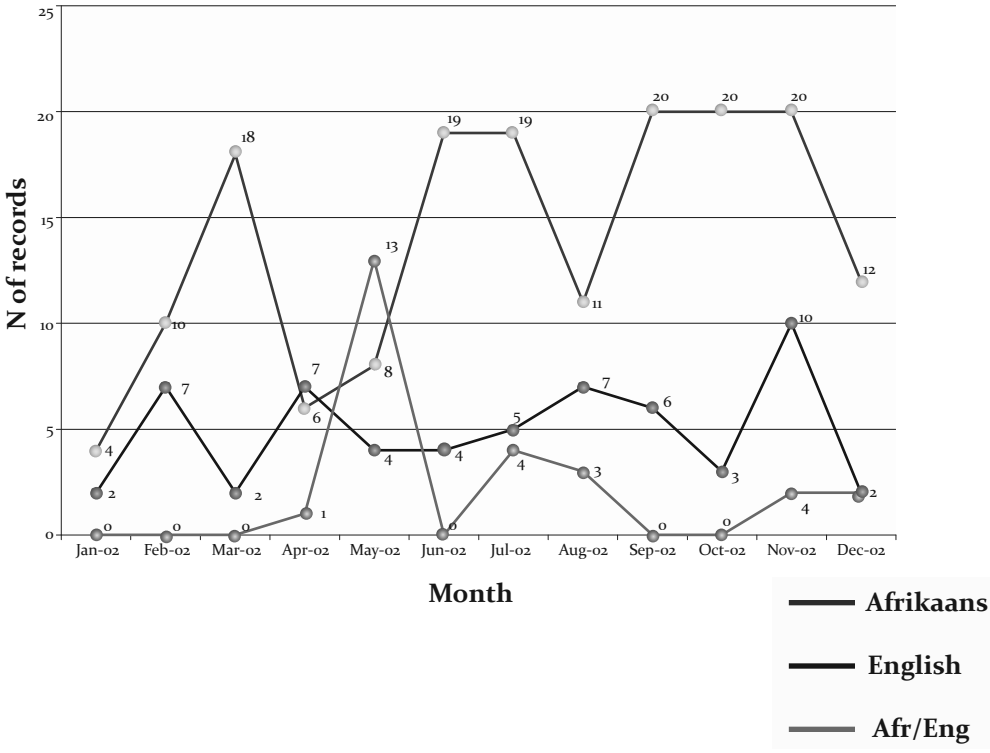
Month	Afrikaans newspapers		English newspapers		Afr/Eng newspapers		Total	
	N	%	N	%	N	%	N	%
Jan-02	4	66.7%	2	33.3%	0	0.0%	6	2.4%
Feb-02	10	58.8%	7	41.2%	0	0.0%	17	6.8%
Mar-02	18	90.0%	2	10.0%	0	0.0%	20	8.0%
Apr-02	6	42.9%	7	50.0%	1	7.1%	14	5.6%
May-02	8	32.0%	4	16.0%	13	52.0%	25	10.0%
Jun-02	19	82.6%	4	17.4%	0	0.0%	23	9.2%
Jul-02	19	67.9%	5	17.9%	4	14.3%	28	11.2%
Aug-02	11	52.4%	7	33.3%	3	14.3%	21	8.4%
Sep-02	20	76.9%	6	23.1%	0	0.0%	26	10.4%
Oct-02	20	87.0%	3	13.0%	0	0.0%	23	9.2%
Nov-02	20	62.5%	10	31.3%	2	6.3%	32	12.7%
Dec-02	12	75.0%	2	12.5%	2	12.5%	16	6.4%
Total	167	66.5%	59	23.5%	25	10.0%	251	100%

Table 4.1: Records on language complaints per language of newspaper

We note on average a relatively even spread of records over the period, with tendencies towards peaks in May 2002, July 2002, September 2002 and November 2002. However, the increase in records during these months does not constitute a significant difference from the preceding months. When the spread of records is compared with the breakdown per language of newspaper, we do note a departure from the general norm with regard to Afrikaans records. Three peak periods are prominent regarding Afrikaans records, i.e. during March 2002, June/July 2002 and September/October/November 2002 (cf. Figure 4.1).

We also note a significant variance with regard to records from bilingual newspapers during the May 2002 period. This sharp rise can be attributed to the debate on the language of courts that was prominent in De Rebus during this period. The March 2002 peak coincides with the refusal to provide Afrikaans examination papers at the training centre of Correctional Services at Zonderwater College. The June/ July 2002, as well as the September/ October/ November 2002 peaks, are related to the language debate at tertiary level, especially at the University of Stellenbosch.

Figure 4.1: Spread of records on language complaints during 2002



We further note from Table 4.1 that by far the majority of the records on language complaints were taken from Afrikaans newspapers. Altogether 167 records (66,5%) are from Afrikaans newspapers. Only 59 (23,5%) of the records were obtained from English newspapers and 25 (10,0%) from bilingual (Afrikaans/ English) newspapers, mainly De Rebus. Keeping the proportionally higher number of English newspapers in the country in mind (as opposed to Afrikaans and other language newspapers), the higher incidence of reported language rights complaints in Afrikaans newspapers suggests a greater awareness of language rights issues among these newspapers than in the case of the English newspapers. This is probably related to a stronger language political tradition in the Afrikaans community, where Afrikaans newspapers have played an important role in language campaigns. One must also keep in mind that these newspapers are mainly from one media house, namely Naspers.

The relative absence of complaints about English may confirm that English has a privileged position in South African society. However, it is a matter of concern that African language speakers do not make use of the forum offered by the media

to complain about language rights violations, especially since the media seem prepared to grant coverage on the status of the African languages.

Table 4.2 contains details on the types of records on language complaints. It seems that 43,4% (109) of the records constitute reports by newspapers, followed by 29,5% (74) that constitute letters from the public. Editorial comments by newspapers constitute 14,3% (36) of the records, columns 11,6% (29) and articles on language complaints 1,2% (3) (cf. Table 4.2). The relatively higher proportion of newspaper-"initiated" reports on language complaints in comparison to letters from the public could suggest that newspapers play an activist role regarding language rights issues. If the public were alarmed by alleged violations of language rights, one would have expected a higher proportion of letters.

Type	Afrikaans newspapers		English newspapers		Afr/Eng newspapers		Total	
	N	**%**	**N**	**%**	**N**	**%**	**N**	**%**
Report	89	81.7%	18	16.5%	2	1.8%	109	43.4%
Editorial	28	77.8%	7	19.4%	1	2.8%	36	14.3%
Letter	35	47.3%	20	27.0%	19	25.7%	74	29.5%
Column	12	41.4%	14	48.3%	3	10.3%	29	11.6%
Article	3	100.0%	0	0.0%	0	0.0%	3	1.2%
Total	167	66.5%	59	23.5%	25	10.0%	251	100.0%

Table 4.2: Types of records on language complaints

Figure 4.2 illustrates the language spread within these records. It can be noted that Afrikaans records are dominant in four of the five types of records. The exception is columns, where the proportions of Afrikaans and English records do not differ significantly. However, we also note a significant difference in language spread when it comes to letters. The English press (20, 27,0%) and bilingual press (19, 25,7%) have published significantly more letters on language complaints in relation to the other types of records, while the Afrikaans press has published proportionally fewer letters of this type (35, 47,3%). This proportional difference suggests on the one hand that Afrikaans newspapers play a larger activist role regarding coverage on language complaints than the English and bilingual press. On the other hand it suggests a relatively smaller activist role amongst readers of Afrikaans newspapers than amongst readers of English and bilingual newspapers. This observation is surprising since the impression exists that Afrikaans speakers are generally more aware of their language rights than other speakers. However, because of the historical activist role of Afrikaans newspapers, readers might still

be consoled that these newspapers are prepared to champion the language cause, as they have done in the past.

Figure 4.2: Language spread of types of records

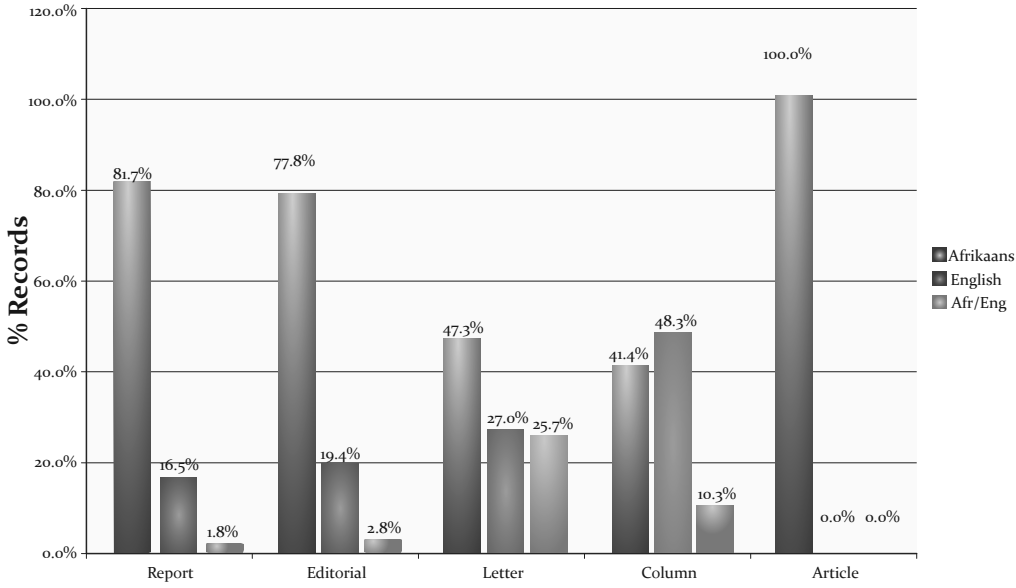


Table 4.3 contains particulars on the sources of language rights incidents. From our 251 records, a total of 126 incidents were identified from our content-analysis. We note that by far the highest percentage of incidents (76,2%) allegedly originated within state institutions; altogether, 96 of the 126 incidents are accounted for by state sources. Semi-state institutions are the source of 10,3% (13) of language rights incidents and private institutions of 13,5% (17) of incidents. Since state institutions traditionally played a vital role in the implementation of the 50/50 bilingual language policy, and since the legacy of this policy still dominates these institutions, it is not surprising to note that they feature prominently as sources of language rights incidents.

Source	Afrikaans newspapers		English newspapers		Afr/Eng newspapers		Total	
	N	%	N	%	N	%	N	%
State	63	65.6%	29	30.2%	4	4.2%	96	76.2%
Semi-state	5	38.5%	8	61.5%	0	0.0%	13	10.3%
Private	10	58.8%	2	11.8%	5	29.4%	17	13.5%
Total	78	61.9%	39	31.0%	9	7.1%	126	100.0%

Table 4.3: Sources of language rights incidents

Figure 4.3 illustrates the language spread in relation to the sources of language rights incidents. We note that 65,6% (63) of the 96 references to the state as a source of language rights incidents, are excerpted from Afrikaans newspapers and 30,2% (29) from English newspapers. However, almost the opposite is true of references to semi-state institutions as a source of language rights incidents. Here 61,5% (8) of the 13 references are excerpted from English newspapers and 38,5% (5) from Afrikaans newspapers. This difference (although the N count is not high) might suggest a greater interest in semi-state institutions among readers of English newspapers because of the privatisation debate. Also, these are the institutions that were traditionally considered to be bastions of Afrikanerdom.

Figure 4.3: Language spread in relation to sources of language rights incident

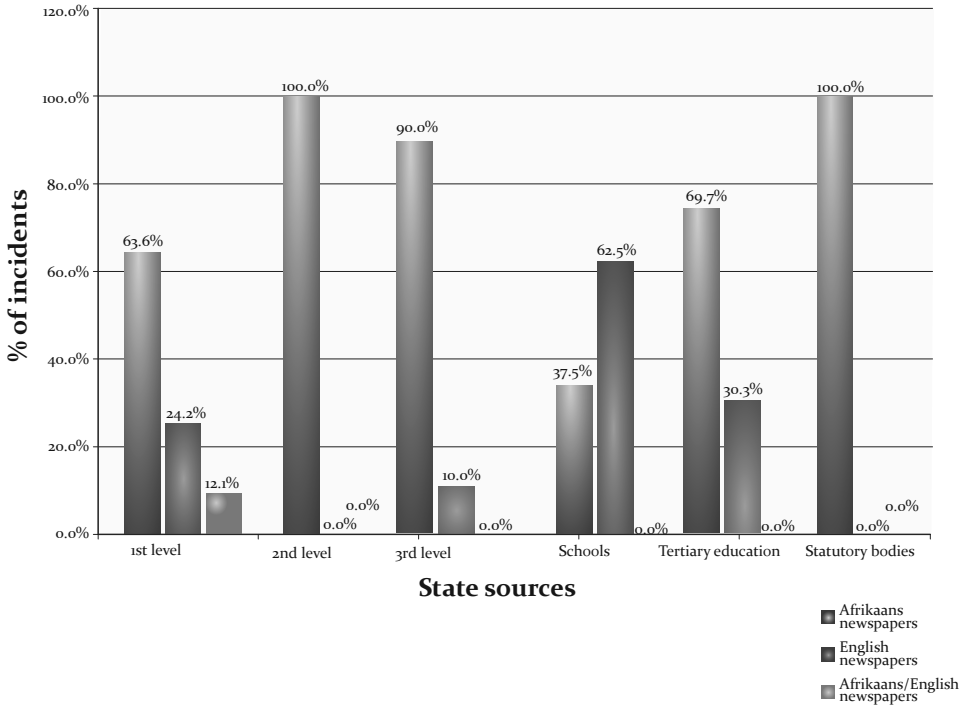


Table 4.4 contains details regarding state sources of language incidents. We note that language treatment at the first level of government prompted 34,4% (33) of the total references to language rights incidents, as did the tertiary education sector. The latter is related to the changes effected to language policy for higher education during the period. The second and third levels of government prompted relatively fewer language rights incidents; 3,1% (3) for second-level and 10,4% (10)

for third-level government. The government departments that were responsible for the majority of incidents were the Department of Justice with 7 incidents, the Department of Correctional Services (DCS) with 3 incidents and the Department of Labour with 2 incidents. The majority of incidents at municipal level occurred in the Western Cape (6), followed by the Free State with 5. One language rights incident occurred in Gauteng and one in KZN.

The language rights incidents that are related to tertiary institutions occurred at the US (11), the UP (7), the Cape Technikon (2), and 1 each at the Rand Afrikaans University (RAU), the Potchefstroom University (PU), the University of Port Elizabeth (UPE), the University of the Western Cape (UWC) and the University of Natal (UN). Nine incidents occurred at the Historic Afrikaans Universities (HAUs), generally without specific reference having been made to particular campuses.

Schools yielded 16,7% of the reported language rights incidents related to state institutions. Of these, most occurred in Mpumalanga, where the Middelburg Primary School was responsible for 3 incidents, followed by the Northern Cape, Western Cape and KwaZulu-Natal (KZN), with 2 incidents each. One incident each occurred in Gauteng and in the Free State.

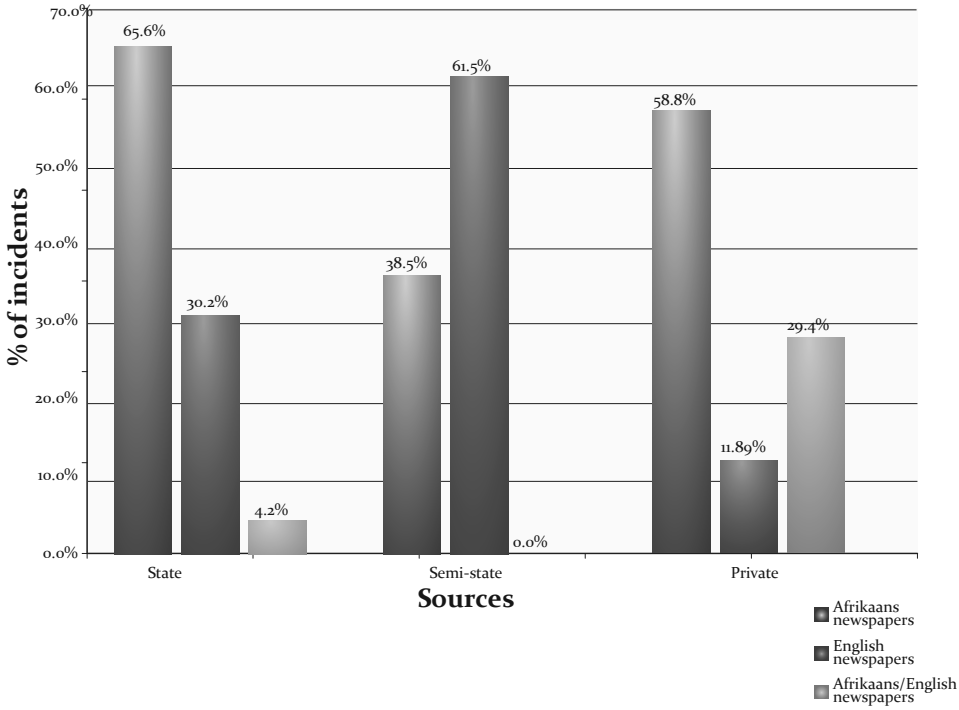
Source	Afrikaans newspapers		English newspapers		Afr/Eng newspapers		Total	
Source	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**
1st-level government	21	63.6%	8	24.2%	4	12.1%	33	34.4%
2nd-level government	3	100.0%	0	0.0%	0	0.0%	3	3.1%
3rd- level government	9	90.0%	1	10.0%	0	0.0%	10	10.4%
Tertiary education	23	69.7%	10	30.3%	0	0.0%	33	34.4%
Schools	6	37.5%	10	62.5%	0	0.0%	16	16.7%
Statutory bodies	1	100.0%	0	0.0%	0	0.0%	1	1.0%
Total	63	65.6%	29	30.2%	4	4.2%	96	100.0%

Table 4.4: State sources of language incidents

Figure 4.4 contains details on the coverage per newspaper group of references to language rights incidents related to state sources. Afrikaans newspapers generally cover these references more prominently than English newspapers, although a notable exception can be observed in the case of schools as sources of language rights incidents. 62,5% (10) of the 16 references are excerpted from English newspapers

and only 37,5% (6) from Afrikaans newspapers. This is a surprising development, since one would have expected more coverage by Afrikaans newspapers on this source of language rights incidents, especially in view of the debate on the position of Afrikaans in state schools.

Figure 4.4: Coverage on state sources of language rights incidents



Our content analysis of the 251 records on language complaints yielded a total of 292 references that have a bearing on language rights complainants. Of these 292 references, 69,9% (204) appeared in Afrikaans newspapers, 21,2% (62) in English newspapers (Table 4.5) and 8,9% (26) in bilingual newspapers. Complainants have used the Afrikaans newspapers far more than the English newspapers to voice their concerns regarding language rights violations.

Newspaper	N	%
Afrikaans	204	69.9%
English	62	21.2%
Afrikaans/English	26	8.9%
Total	292	100.0%

Table 4.5: Distribution of references to complainants per newspaper group

Table 4.6 contains details regarding the complainants. Private persons accounted for the largest percentage of references to complainants 31,2% (91) mentioned in the printed media. The media themselves accounted for 25,7% (75) of the mentioned references, through editorials, columns and articles. 28,4% (83) of the references to language rights complainants were from the ranks of organisations (political, cultural, professional and business associations). Included in this category were economic pressure groups (trade unions). Of these, the largest percentage of references to complainants were from Afrikaans-speaking cultural organisations (16,1%, 47). The Group of 63 as a cultural organisation was responsible for the highest number of language rights complainants (11), followed by the Pro-Afrikaans Action Group (Praag) as a cultural organisation and pressure group, which was the complainant in 8 cases, the Taalsekretariaat [Language Secretariat], which accounted for 5 cases, and the Afrikanerbond which was responsible for 3 cases of language rights complaints. The cultural bodies Tabema, the Afrikaner Club, the Friday Group and Vriende van Afrikaans [Friends of Afrikaans] were each responsible for 1 language rights complaint.

Political organisations were responsible for 9,2% of the language rights complaints mentioned. Of these language rights complaints, the large majority came from the New National Party (NNP) (17), followed by the Freedom Front (FF) with 3 language rights complaints, as well as Azapo, the African National Congress (ANC) and the Democratic Alliance (DA) with 2 each. The African Christian Democratic Party (ACDP), the Pan African Congress (PAC) and the Afrikaner Eenheidsbeweging (AEB) each submitted 1 language rights complaint. Trade unions (Solidarity, Cosatu) accounted for 2 (1%) language rights complaints each. Thirteen complainants lodged language rights complaints against business organisations.

Since the reported number of references to language rights complainants at the second and third levels of government is insignificant, these complainants may be incorporated under the category *government*. The subcategories of *education* (tertiary and school) and *statutory bodies* may thus also fall under this category. These subcategories jointly accounted for 14,7% (43) of the references to language rights complainants mentioned. Of these, 7,2% (21) were related to statutory bodies, namely the National House of Traditional Leaders (NHTL) and the South African Human Rights Commission (SAHRC).

The relatively high score obtained by the media confirms the activist role that they play regarding language rights issues.

Complainant	N	%
1st, 2nd and 3rd- level government	12	4.1%
Education	10	3.4%
Statutory body	21	7.2%
Political organisations	27	9.2%
Cultural organisations	47	16.1%
Professional organisations	3	1.0%
Business organisations	6	2.1%
The media as complainants	75	25.7%
Private persons as complainants	91	31.2%
Total	292	100.0%

Table 4.6: Breakdown of complainants lodging complaints with media

Table 4.7 contains details regarding the language group of the newspaper that covers the reporting on complainants. Of the 292 references to complainants, 69,5% (203) appeared in Afrikaans newspapers and 21,2% (62) in English newspapers. Bilingual newspapers contain 9,2% (27) of the references to complainants.

Complainant	Afrikaans		English		Afr/Eng		Total	
	N	**%**	**N**	**%**	**N**	**%**	**N**	**%**
1st, 2nd and 3rd- level government	7	58.3%	3	25.0%	2	16.7%	12	4.1%
Education	7	70.0%	3	30.0%	0	0.0%	10	3.4%
Statutory body	16	76.2%	5	23.8%	0	0.0%	21	7.2%
Political organisations	19	70.4%	7	25.9%	1	3.7%	27	9.2%
Cultural organisations	42	89.4%	5	10.6%	0	0.0%	47	16.1%
Professional organisations	1	33.3%	2	66.7%	0	0.0%	3	1.0%
Business organisations	3	50.0%	3	50.0%	0	0.0%	6	2.1%
The media as complainants	57	76.0%	17	22.7%	1	1.3%	75	25.7%
Private persons as complainants	51	56.0%	17	18.7%	23	25.3%	91	31.2%
Total	203	69.5%	62	21.2%	27	9.2%	292	100.0%

Table 4.7: **References to complainants per language of newspaper**

A second aspect of our content analysis will focus on the details regarding the language rights incidents reported on thus far. We shall now look at the actions that prompted the complaints that were lodged by the complainants discussed above, and also which languages were involved in these actions. Our content analysis of language rights incidents reveals a total of 48 references that relate to

actions taken regarding an English-only policy or practice. A breakdown of these actions is provided in Table 4.8.

Administrative action	State		Semi-state		Private		Total	
	N	%	N	%	N	%	N	%
Accounts	1	100.0%	0	0.0%	0	0.0%	1	2.1%
Administration	0	0.0%	3	100.0%	0	0.0%	3	6.3%
Advertisements	2	100.0%	0	0.0%	0	0.0%	2	4.2%
Amalgamation tertiary education	0	0.0%	1	100.0%	0	0.0%	1	2.1%
Banners	1	100.0%	0	0.0%	0	0.0%	1	2.1%
Cross-examination in court	1	100.0%	0	0.0%	0	0.0%	1	2.1%
Cultural influence private institutions	0	0.0%	0	0.0%	4	100.0%	4	8.3%
Documents	1	100.0%	0	0.0%	0	0.0%	1	2.1%
English hegemony tertiary education	0	0.0%	8	100.0%	0	0.0%	8	16.7%
Examinations	2	66.7%	1	33.3%	0	0.0%	3	6.3%
General	1	100.0%	0	0.0%	0	0.0%	1	2.1%
Internal/ external communication	4	66.7%	2	33.3%	0	0.0%	6	12.5%
Labels	0	0.0%	0	0.0%	1	100.0%	1	2.1%
Language of institution	0	0.0%	1	100.0%	0	0.0%	1	2.1%
Language of record	2	100.0%	0	0.0%	0	0.0%	2	4.2%
Language policy	6	100.0%	0	0.0%	0	0.0%	6	12.5%
Meetings	1	50.0%	1	50.0%	0	0.0%	2	4.2%
Moi (parallel/ dual medium)*	0	0.0%	1	100.0%	0	0.0%	1	2.1%
Name boards	1	100.0%	0	0.0%	0	0.0%	1	2.1%
Newsletters	1	100.0%	0	0.0%	0	0.0%	1	2.1%
Tuition	1	100.0%	0	0.0%	0	0.0%	1	2.1%
Total	25	52.1%	18	37.5%	5	10.4%	48	100.0%

Table 4.8: Administrative action favouring the use of English

* Moi: Medium of instruction

We note that the highest number of references regarding administrative actions that favour the use of English have been prompted by state institutions. Of the total of 48 references, 52,1% (25) are related to administrative actions taken by the state, 37,5% (18) to actions taken by semi-state institutions and 10,4% (5) to

actions by private institutions. We furthermore note that actions regarding tertiary institutions prompted the most responses, although these are related to actions by semi-state institutions. Actions regarding internal/external communication are related to both state and semi-state institutions.

Table 4.9 contains details regarding the languages that complainants perceived to have been discriminated against through administrative actions. We note that 63,1% (65) of the 103 references relate to actions that are perceived as being discriminative against the language rights of Afrikaans speakers, while 36,9% (38) refer to actions that are perceived as being discriminatory against speakers of languages other than Afrikaans (including English). There is no significant difference between state actions and semi-state actions.

Language	State		Semi-state		Private		Total	
	N	**%**	**N**	**%**	**N**	**%**	**N**	**%**
Afrikaans	25	38.5%	24	36.9%	16	24.6%	65	63.1%
Other languages	22	57.9%	15	39.5%	1	2.6%	38	36.9%
Total	47	45.6%	39	37.9%	17	16.5%	103	100.0%

Table 4.9: **Languages perceived to be discriminated against**

Table 4.10 contains details regarding the references that relate to perceived discriminative action against Afrikaans. Here we note virtually no difference between action instigated by state institutions (38,5%, 25) and action instigated by semi-state institutions (36,9%, 24). Actions by private institutions prompted 24,6% (16) of the references excerpted from the records on language complaints in the media. We furthermore note that 20,0% (13) of the 65 references relate to general discriminative actions perceived to have been taken against the status of Afrikaans. Actions taken by the state dominate in this instance. The downscaling of Afrikaans in journals and magazines prompted 15,4% (10) of the references, and the lack of a language plan, or the institution of a language plan that might not safeguard the use of Afrikaans, prompted 13,8% (9) of the references. It is notable that semi-state institutions are perceived to be taking more discriminative actions in this regard (66.7%, 6) than state institutions (33,3%, 3).

Administrative action	State		Semi-state		Private		Total	
	N	%	N	%	N	%	N	%
Correspondence	5	100.0%	0	0.0%	0	0.0%	5	7.7%
Cultural influence private institutions	0	0.0%	0	0.0%	1	100.0%	1	1.5%
Enforced parallel/dual medium education	2	66.7%	1	33.3%	0	0.0%	3	4.6%
English hegemony tertiary education	0	0.0%	1	100.0%	0	0.0%	1	1.5%
General	8	61.5%	4	30.8%	1	7.7%	13	20.0%
Impact research parallel medium tertiary education	0	0.0%	3	100.0%	0	0.0%	3	4.6%
Influence government semi-state institutions	0	0.0%	0	0.0%	1	100.0%	1	1.5%
Journals	0	0.0%	0	0.0%	10	100.0%	10	15.4%
Labels	0	0.0%	0	0.0%	1	100.0%	1	1.5%
Language of institution	1	50.0%	1	50.0%	0	0.0%	2	3.1%
Language of record	1	100.0%	0	0.0%	0	0.0%	1	1.5%
Language plan	3	33.3%	6	66.7%	0	0.0%	9	13.8%
Language policy	2	66.7%	1	33.3%	0	0.0%	3	4.6%
Meetings	1	33.3%	0	0.0%	2	66.7%	3	4.6%
Moi	1	16.7%	5	83.3%	0	0.0%	6	9.2%
Music SAA	0	0.0%	1	100.0%	0	0.0%	1	1.5%
Postgraduate qualifications Justice	1	100.0%	0	0.0%	0	0.0%	1	1.5%
Reduction cultural programmes SABC	0	0.0%	1	100.0%	0	0.0%	1	1.5%
Total	25	38.5%	24	36.9%	16	24.6%	65	100.0%

Table 4.10: Administrative action discriminating against the use of Afrikaans

Table 4.11 contains details regarding administrative actions perceived to be discriminating against other languages. We note that state action is related to 57,9% (22) of the 38 references and action by semi-state institutions, to 39,5% (15). Furthermore, 42,1% (16) of the references refer to newsletters by the state that disregard the use of these languages, 21,1% (8) refer to meetings where these languages are disregarded (primarily in semi-state institutions) and 15,8% (6) refer to cases where the medium of instruction issue is a concern (primarily at tertiary institutions).

Administrative action	State		Semi-state		Private		Total	
Administrative action	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**
Cancellation mother tongue gr.1-3	1	100.0%	0	0.0%	0	0.0%	1	2.6%

	State		Semi-state		Private		Total	
Administrative action	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**
Enforced parallel/ dual medium education	1	100.0%	0	0.0%	0	0.0%	1	2.6%
Journals	0	0.0%	0	0.0%	1	100.0%	1	2.6%
Language plan	2	66.7%	1	33.3%	0	0.0%	3	7.9%
Meetings	1	12.5%	7	87.5%	0	0.0%	8	21.1%
Moi	0	0.0%	6	100.0%	0	0.0%	6	15.8%
Newsletters	16	100.0%	0	0.0%	0	0.0%	16	42.1%
Reduction cultural programmes SABC	0	0.0%	1	100.0%	0	0.0%	1	2.6%
Total	22	57.9%	15	39.5%	1	2.6%	38	100.0%

Table 4.11: Administrative action discriminating against the use of other languages

Although the data presented here might not be statistically adequate for the purposes of generalisation, they could still serve as an indication of how citizens perceive the relevant institutions to be dealing with language rights accorded by the Constitution.

As indicated initially, we have treated the coverage given to language rights issues in the printed media as language complaints. The 251 media records constituted as "language complaints" were analysed as such.

We also established that there is a relatively even spread in respect of the coverage given to language rights issues by all newspapers, but that a falling trend in coverage nevertheless occurred towards the end of the calendar year. May, September and November 2002 were relatively "busier" months regarding coverage of language complaints.

The Afrikaans press gave more prominence to reports on language issues than the English press did. This is possibly illustrative of aloofness towards language-related matters on the part of the English press – an attitude that is referred to as a "gatekeeping bias" and "coverage bias" by D'Alessio and Allen (2000: 135). In this chapter, this aspect of prejudice will not be further explored. On the one hand, the prominence given by the Afrikaans press to "language complaints" highlights the fact that dissatisfaction with the current language dispensation is relatively higher among readers of these newspapers than among the readers of other newspapers. It also confirms that these readers have a certain perception as to how the new language policy should be implemented. In our view the perception still seems to

exist that Afrikaans should be treated equally to English and that this is expected of state and semi-state institutions. On the other hand, we have established that the Afrikaans press continues to play an activist role when it comes to language rights issues, as it has done in the past. This was seen in the fact that the Afrikaans press carried more reports related to language complaints than letters by the public.

From the references to language rights complaints as reflected in the printed media reports, it is clear that government institutions were responsible for the greatest number of alleged language rights violations. The majority of the references to language rights violations arose from media reporting which had a bearing on the total number of government institutions (at the first, second and third levels of government) as well as education and justice, and also statutory bodies.

Finally, we established that the vast majority of references to language rights complainants reported in the printed media are related to private persons. Of these private persons who had perceived themselves as experiencing language discrimination, the majority were Afrikaans-speaking. This can be deduced from the fact that the majority of the references are related to actions perceived to be discriminative against the status of Afrikaans. Where language rights complaints had arisen as a result of the alleged disregard of African languages, the complaints concerning this issue were generally lodged by non-speakers of African languages.

The state is seen to be favouring English, especially regarding internal and external communication. To a large extent, Afrikaans is perceived to be the language that is most discriminated against. A serious shortcoming of this analysis is that newspapers in the other official languages have not been studied. This deficiency could be rectified in the next report, subject to the availability of funding. Also, only mainstream newspapers in printed form have been studied. Electronic versions as well as more localised newspapers could also be included in the analysis, subject to the availability of funding.

4.4. An analysis of language rights complaints lodged with PanSALB

PanSALB fulfils a key role in ensuring the legal implementation of language policy in South Africa. Its objectives and competencies are determined by the Pan South African Language Board Act (Act no. 59 of 1995). Essentially PanSALB promotes multilingualism, is responsible for language development, undertakes research on language policy matters, gives advice to government on language policy, language legislation and language planning issues and mediates complaints about

language rights violations (cf. Marivate, 2000: 12). Section 8 of its act defines the competencies and activities of the Pan South African Language Board with regard to language rights. Section 8(1)(i) determines that PanSALB:

> [M]ay investigate on its own initiative or on receipt of a written complaint, any alleged violation of a language right, language policy or language practice in terms of section 11.

Section 11 deals with the procedure followed by the Board in respect of arbitration, reconciliation and/or negotiation, and stipulates, *inter alia*, that:

> Any person acting on his or her behalf or any person, body of persons or institution acting on behalf of its members or members of a language group or any organ of state may lodge with the Board a complaint concerning any alleged violation or threatened violation of a language right, language policy or language practice (11 (1)).

It is thus appropriate that one of PanSALB's focus areas, Linguistic Human Rights, deals with the facilitation of investigations into alleged violations of language rights, language policy and/ or language practice (*PanSALB*, 2002: 23). To this end, PanSALB has published a procedure concerning how it deals with complaints (*PanSALB*, 2000: 31).

Since 1997, there has been a sustained increase in the number of complaints on alleged violation of language rights that have been submitted, and by the end of March 2002, a total of 234 complaints had been lodged (*PanSALB*, 2002: 176). The language rights complaints against government departments comprised the largest category, followed by complaints against statutory bodies and public institutions. The number of language rights complaints concerning the indigenous languages increased from 11% in 2000-2001 to 20% in 2001-2002 (*PanSALB*, 2002: 177).

One of the reasons for the occurrence of complaints regarding the implementation of the language policy, is that confusion prevails concerning the requirements of section 6 and how these requirements are to be implemented (Steyn (1996), Currie (1998), Du Plessis and Pretorius (2000), Strydom (2000), Strydom and Pretorius (2000)). It is important to bear in mind that section 6 provides the *principles* according to which the language policy must be determined, but does not comprise the detailed language policy.

It is not only the national government (first-level government) that has come under fire, but so have provincial governments (second level) and municipalities (third level). According to section 6(3)(a) of the Constitution, the national and provincial governments can employ any particular official language for governmental purposes, with due consideration of usage, feasibility, costs, regional circumstances and the

balance of needs and preferences of the population as a whole or in the concerned province; but the national government and each provincial government must make use of at least two official languages. According to section 6(4), the national and provincial governments must regulate and monitor their use of official languages through legislative and other measures.

The question as to which competency applies, with regard to language, for third-level government is more problematic, owing to the vagueness thereof (Zietsman, 2000: 93). Section 6(3)(b) of the Constitution stipulates that municipalities must take the language usage and preferences of their residents into consideration. Municipalities are dealt with separately and the criteria for language use may be reduced. In terms of language demography, it would appear that it is reasonable to expect municipalities to follow a more adaptable and individualised approach because the national, and even the local, language demography is not necessarily repeated in every municipal area within a region. This allows a municipality to have a different official language profile from that which is found at provincial government level, or even that of its neighbouring area (Du Plessis & Pretorius, 2000: 522-523; Strydom & Pretorius, 2000: 114; Truter, 2002: 285).

Methodology

The language complaints officially lodged with PanSALB, the responsible statutory body, were examined at the head office in Pretoria. The dossier containing the language rights complaints is in writing as stipulated by section 11(2) of the Pan South African Language Board Act (no. 59 of 1995), and includes cases of alleged language discrimination as expressed by individual users of one or more official languages. It is sometimes difficult, however, to ascertain which language is being discriminated against. Furthermore, the language background of the complainant is not always obvious from the information.

The stamp indicating the date of PanSALB's receipt of the complaint was used as the date of reference, explaining the appearance of files from January to March 2002. The details mentioned in the discussion were valid for 1 July 2002 (the date on which the researchers visited the PanSALB offices). It is possible that the outcomes of some of the language rights complaints have been settled in the meantime. The language categories, Afrikaans and Other languages, refer to the language in respect of which the alleged language rights violation was perpetrated. Other languages refer to all the other official languages except Afrikaans.

Language rights complaints registered with PanSALB

Alltogether, 83 language complaints were lodged with PanSALB during the period under investigation. Since one of these complaints is pending and had not been registered at the time of the investigation, we shall henceforth work with a total of 82 records. Table 4.12 indicates the number of complaints lodged per month. Details are not available in respect of the language in which each complaint was lodged, but only in respect of the language concerning which the complaint was lodged.

Months	Complaints lodged	
	N	**%**
Jan-02	3	3.7%
Feb-02	16	19.5%
Mar-02	6	7.3%
Apr-02	6	7.3%
May-02	7	8.5%
Jun-02	3	3.7%
Jul-02	17	20.7%
Aug-02	8	9.8%
Sep-02	4	4.9%
Oct-02	9	11.0%
Nov-02	0	0.0%
Dec-02	3	3.7%
Total	82	100.0%

Table 4.12: Language rights complaints lodged with PanSALB during 2002

Figure 4.5 indicates the spread per month of these complaints. It can be noted that the greatest number of complaints were lodged during February and July 2002. Of the total of 82 complaints registered with PanSALB during 2002, 19,5% (16) were lodged in February and 20,7% (17) during July. October also shows a slight increase, with 11,0% (9) of the complaints lodged during this month. Whereas in July, and to a certain degree in October, a single event, relating to complaints lodged against the Compensation Commission, was responsible for many alleged language rights complaints, no single event occurred in February, and a wide range of complaints were lodged. A sharp decline in complaints towards the end of the calendar year can also be discerned. Finally, the trend line indicates a general drop in complaints lodged with PanSALB during 2002.

Figure 4.5: Spread of language complaints lodged with PanSALB

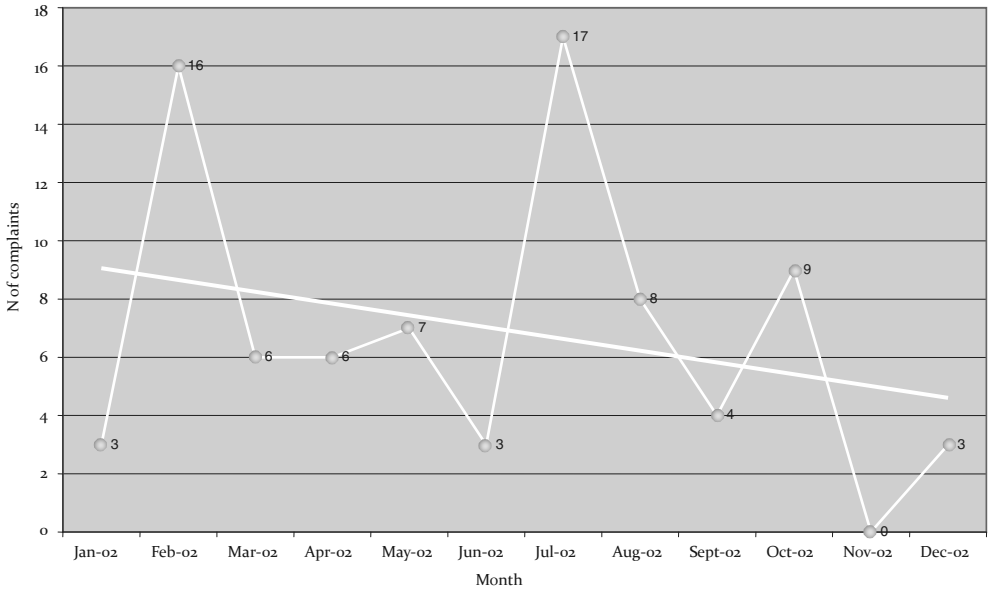
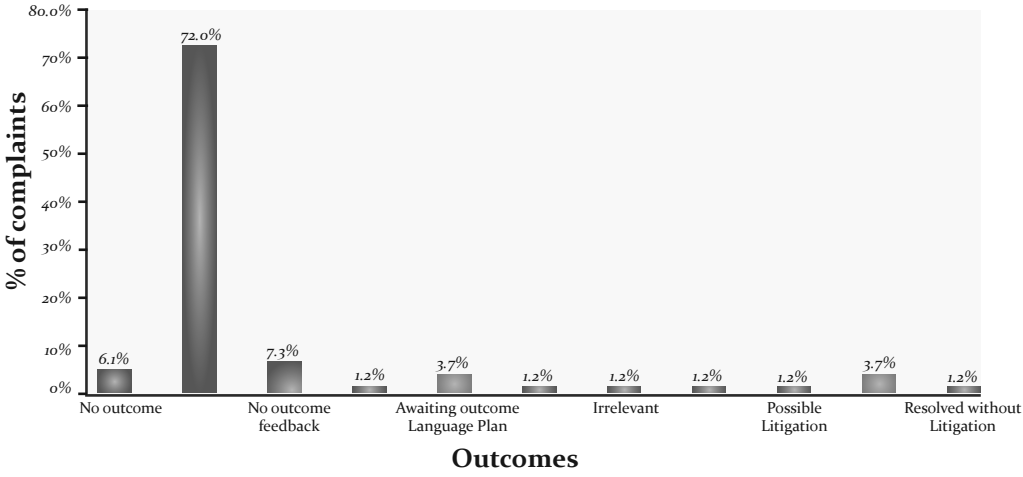


Figure 4.6 illustrates the current *status quo* regarding PanSALB's handling of the lodged language complaints. We note that a very small proportion of the complaints lodged with PanSALB are actually successful. Of the 82 complaints lodged during 2002, only 4, or 5%, of the cases have actually been concluded successfully. The largest number of cases have not yielded an outcome, constituting 85,4% (70) of the 82 cases. This is largely because 72,0% (59) of the 82 cases are currently still under investigation. On the basis of these current trends, we can conclude that only 1 out of every 20 complaints lodged with PanSALB is resolved successfully.

Figure 4.6: *Status quo* regarding language rights complaints lodged with PanSALB



With regard to the four language rights complaints that were successfully settled, the South African Revenue Service (SARS) provided the necessary forms in the chosen language of the language rights complainant in two of the cases (M282 and M304). With regard to the other two cases that had a successful outcome, the SANDF (M282) adopted an accommodating language policy in one case; while in the last case (M306), the matter was resolved after it had been clearly stated to the complainant that the matter fell under the scope of labour relations.

In three of the cases lodged with PanSALB, judgement was reserved pending the adoption of a National Language Plan and/ or a specific language plan of the concerned government or semi-government department. This applied to the Department of Arts, Culture, Science and Technology (M232), the Department of Public Works (M234) and the SABC (M289). Up until the date of the investigation, no finality had been obtained in this regard.

The language rights complaint lodged with PanSALB by Mrs J.G. Steyn (M245) after the Department of Correctional Service's (DCR's) refusal to make tests available in Afrikaans to students at the Zonderwater College, was settled without PanSALB having become involved. This happened because the concerned student who had insisted on an examination paper in Afrikaans, resigned from the service of the Department on the day before the case was to be heard in the High Court. In a main article of 2 May 2002, Volksblad expressed regret over the resignation of the concerned student, since this case could have served as a test case, in which another official language could have been handled on an equal footing with English. After the

student's resignation, his urgent application to the Pretoria High Court lapsed, since the grounds for such an application were no longer valid (Beeld, 30 April 2002)

We shall now turn to our analysis of the language rights complaints lodged with PanSALB. We shall firstly analyse the language rights incidents that prompted the complaints that were lodged. Our analysis shall focus on identifying the source of the incident, establishing what action prompted the complaint, and looking at the language(s) related to the incident. Secondly, we will establish which complainant lodged the complaint.

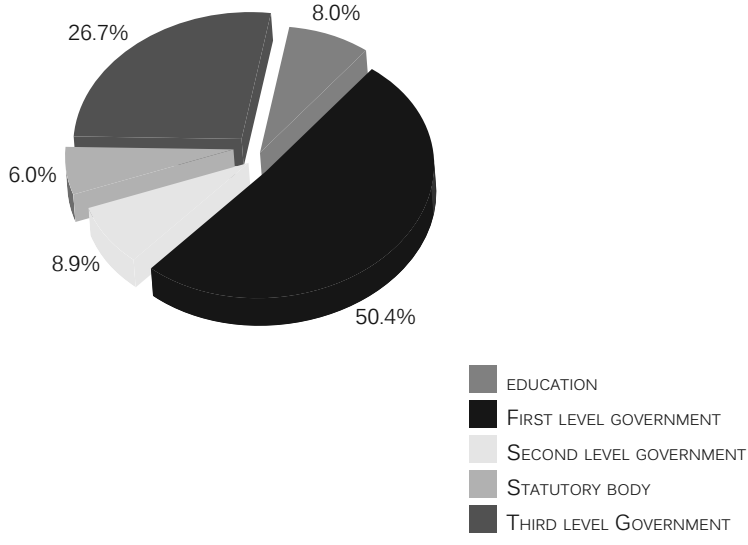
Table 4.13 contains the details regarding the sources of the complaints lodged with PanSALB. We note that the state is the source of at least two-thirds of the language rights incidents that prompted the complaints. The state is the source of 67,9% (36) of the 53 incidents recorded. Semi-state institutions are the source of 28,3% (15) of the incidents, while private institutions are the source of only 3,8% (2) of the cases.

Source	N	%
State	36	67.9%
Semi-state	15	28.3%
Private	2	3.8%
Total	53	100.0%

Table 4.13: Sources of language complaints lodged with PanSALB

Figure 4.7 displays details concerning state sources of language rights incidents.

Figure 4.7: State sources of language complaints lodged with PanSALB



The majority of language rights incidents that were reported to PanSALB arose from actions for which the first level of government was responsible, namely in 47,2% (17) of the state cases. The Department of Justice, specifically SAPS, was responsible for 3 incidents, the Treasury was also responsible for 3 (2 at SARS), and the following government departments were each responsible for 1 incident: the Department of Labour, the Department of Arts, Culture, Science and Technology (DACST), the Department of Public Works, the Department of Home Affairs, the Department of Defence (SANDF) and the Department of Water Affairs. There was a significant difference between the language rights incidents that occurred at the second level, and those that occurred at the third level, of government. Third-level government was responsible for 25,0% (9) of the reported language incidents.

Concerning semi-state and statutory bodies, 3 language rights incidents occurred in each case at the SA Weather Service, Telkom and the SAA; 2 each at the SABC, Spoornet and SANparks, and 1 each at the statutory bodies, Independent Communications Authority of South Africa (ICASA) and the Road Accident Fund, as well as at Eskom. Language rights incidents occurred at the SAPS in 3 of the cases, while 2 occurred at SANparks and 2 at SARS

The question as to which institutions or individuals lodged language rights complaints will be considered next. Table 4.14 contains details regarding the complainants who lodged complaints with PanSALB during 2002. The vast majority of language rights complainants who reported alleged violations of language rights to PanSALB were private persons. Of the total of 80 complainants who lodged complaints, 85,0% (68) were private persons. The largest number of language rights complaints lodged by persons in their private capacity included those of, inter alia, Mrs J.G. Steyn (Bloemfontein) with 12 complaints (M236 – M246), and 4 complaints each from Professors W.A.M. Carstens (M226, M256, M284, M301) and A.M Heyns (M289, M290, M291, M292), both of Potchefstroom. The large majority of language rights complaints (25) that were lodged by private persons, were directed at the Compensation Commission of the Department of Labour. Two of the complaints were lodged by agricultural unions, namely that of Postmansburg (M298) and that of Reitz (M261); and 1 was lodged by the church council of Roodepoort (M296). Cultural and other organisations (taxpayers' associations, church councils and private persons who lodged language rights complaints with PanSALB on behalf of a number of persons) accounted for 10% (8) of the complainants. Three organisations lodged 3 language rights complaints against the Department of Labour. The Vriende van Afrikaans [Friends of Afrikaans] were responsible for 2 language rights complaints, while Praag and the Mpumalanga

Language Board were each responsible for 1 of the language rights complaints. Political parties accounted for 3,8% (3) of the language rights complainants. The NNP submitted 3 language rights complaints to PanSALB and the Freedom Front submitted 1. Second level of government complainants were responsible for only 1,2% (1) of the language rights complaints - the Mpumalanga Language Board lodged a language rights complaint concerning the disregard of Xitsonga.

Complainant	N	%
First-level government	0	0%
Second-level government	1	1.3%
Third-level government	0	0.0%
Private persons	68	85.0%
Political parties	3	3.8%
Cultural and other organisations	8	10.0%
Total	80	100.0%

Table 4.14: Complainants who lodged complaints with PanSALB

It is possible that some of the information may have changed since the date of the investigation in July 2003 at the PanSALB head office.

We shall now look at the actions that prompted the complaints that were lodged by the complainants discussed above, and also which languages were involved in these actions. Our content analysis of the 53 language rights incidents (cf. Table 4.13) reveals a total of 122 references that relate to actions taken regarding an English-only policy or practice. A breakdown of these actions is provided in Table 4.15.

Administrative action	State		Semi-state		Private		Total	
	N	**%**	**N**	**%**	**N**	**%**	**N**	**%**
Assistance	1	100.0%	0	0.0%	0	0.0%	1	0.8%
Brochures	1	33.3%	2	66.7%	0	0.0%	3	2.5%
Circulars	3	100.0%	0	0.0%	0	0.0%	3	2.5%
Contracts	0	0.0%	1	100.0%	0	0.0%	1	0.8%
Correspondence	6	66.7%	3	33.3%	0	0.0%	9	7.4%
Disregard multilingualism	4	100.0%	0	0.0%	0	0.0%	4	3.3%
Documents	2	100.0%	0	0.0%	0	0.0%	2	1.6%
Editorial comments	0	0.0%	0	0.0%	2	100.0%	2	1.6%
Forms	49	92.5%	4	7.5%	0	0.0%	53	43.4%
General	15	78.9%	4	21.1%	0	0.0%	19	15.6%
Name boards	3	100.0%	0	0.0%	0	0.0%	3	2.5%
News reports	0	0.0%	1	100.0%	0	0.0%	1	0.8%
Number plates	2	100.0%	0	0.0%	0	0.0%	2	1.6%
Staff evaluation	1	100.0%	0	0.0%	0	0.0%	1	0.8%

Administrative action	State		Semi-state		Private		Total	
	N	%	N	%	N	%	N	%
Telephone usage	0	0.0%	4	100.0%	0	0.0%	4	3.3%
Training	8	72.7%	3	27.3%	0	0.0%	11	9.0%
Website	1	33.3%	2	66.7%	0	0.0%	3	2.5%
Total	96	78.7%	24	19.7%	2	1.6%	122	100.0%

Table 4.15: Administrative action favouring the use of English

The majority of these actions relate to the availability of forms in English only – 43,4% (53) of the references relate to such action. Furthermore, 15,6% (19) of the references relate to a general tendency towards English only and 9,0% (11) to the way in which the state deals with training issues (such as tuition, assessment, etc.). Complainants are thus concerned about administrative actions that favour the use of English in the institutions mentioned.

Figure 4.8 shows the relative spread regarding the administrative actions by state, semi-state and private institutions. It can be noted that proportionally, the state tends to err far more than semi-state institutions when it comes to supplying forms to citizens. Of the 53 references to English-only forms, 92,5% (49) relate to the state and only 7,5% (4) to semi-state institutions. A relatively similar proportion is noted in the case of the general references to an English-only policy, where 78,9% (15) of the references related to state institutions and 21,1% (4) to semi-state institutions. We note that this proportion is also reflected in the overall picture, where 78,7% (96) of the references are related to actions taken by the state, 19,7% (24) to actions taken by semi-state institutions and 1,6% (2) to actions by private institutions.

Figure 4.9: Administrative action favouring the use of English

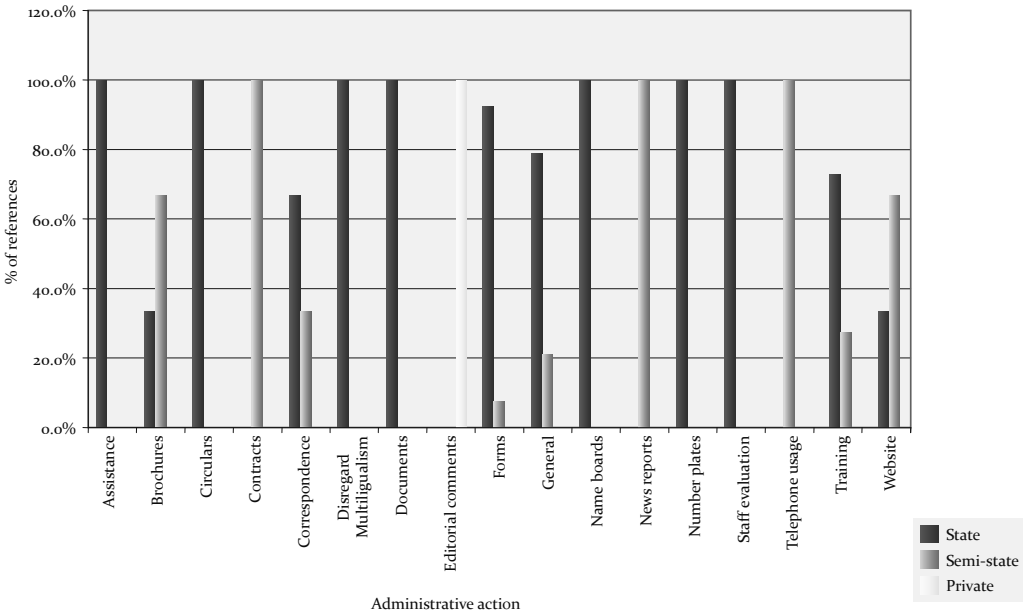


Table 4.16 reports on 100 references to administrative action that allegedly discriminates against languages other than English. It can be noted that 77% of these references refer to alleged discrimination against the use of Afrikaans and 23% to alleged discrimination against the use of other languages (specifically the African languages).

Language	State		Semi-state		Private		Total	
	N	%	N	%	N	%	N	%
Afrikaans	64	83.1%	13	16.9%	0	0.0%	77	77.0%
Other languages	17	73.9%	4	17.4%	2	8.7%	23	23.0%
Total	81	81.0%	17	17.0%	2	2.0%	100	100.0%

Table 4.16: Languages discriminated against

Table 4.17 contains details concerning administrative action discriminating against the use of Afrikaans. Most noteworthy is the unavailability of forms in Afrikaans. 57,1% (44) of the references relate to this aspect of language treatment in the respective institutions. It can furthermore be noted that the state is responsible for 83,1% (64) of the alleged discriminative actions against Afrikaans and semi-state institutions for only 16,9% (13).

Administrative action	State		Semi-state		Private		Total	
	N	%	N	%	N	%	N	%
Brochures	1	100.0%	0	0.0%	0	0.0%	1	1.3%
Circulars	1	100.0%	0	0.0%	0	0.0%	1	1.3%
Correspondence	5	100.0%	0	0.0%	0	0.0%	5	6.5%
Cultural programmes	0	0.0%	2	100.0%	0	0.0%	2	2.6%
Education	3	60.0%	2	40.0%	0	0.0%	5	6.5%
Forms	40	90.9%	4	9.1%	0	0.0%	44	57.1%
General	7	100.0%	0	0.0%	0	0.0%	7	9.1%
Music	0	0.0%	2	100.0%	0	0.0%	2	2.6%
Name boards	2	100.0%	0	0.0%	0	0.0%	2	2.6%
Name changes	2	100.0%	0	0.0%	0	0.0%	2	2.6%
Notifications	0	0.0%	3	100.0%	0	0.0%	3	3.9%
Number plates	1	100.0%	0	0.0%	0	0.0%	1	1.3%
Staff evaluation	1	100.0%	0	0.0%	0	0.0%	1	1.3%
Website	1	100.0%	0	0.0%	0	0.0%	1	1.3%
Total	64	83.1%	13	16.9%	0	0.0%	77	100.0%

Table 4.17: Administrative action discriminating against the use of Afrikaans

Table 4.18 contains details regarding administrative action that discriminates against the use of other languages. Of the 23 references excerpted from our records, 26,1% (6) refer to the general disregard of other languages. This perception is further supported by the 4 references (17,4%) to a disregard for multilingualism through administrative action. The unavailability of forms in other languages is related to 13,0% (3) of the references.

Action	State		Semi-state		Private		Total	
	N	%	N	%	N	%	N	%
Circulars	1	100.0%	0	0.0%	0	0.0%	1	4.3%
Correspondence	2	100.0%	0	0.0%	0	0.0%	2	8.7%
Cultural programmes	0	0.0%	2	100.0%	0	0.0%	2	8.7%
Disregard multilingualism	4	100.0%	0	0.0%	0	0.0%	4	17.4%
Editorial comments	0	0.0%	0	0.0%	2	100.0%	2	8.7%
Forms	3	100.0%	0	0.0%	0	0.0%	3	13.0%
General	6	100.0%	0	0.0%	0	0.0%	6	26.1%
Number plates	1	100.0%	0	0.0%	0	0.0%	1	4.3%
Telephone usage	0	0.0%	2	100.0%	0	0.0%	2	8.7%
Total	17	73.9%	4	17.4%	2	8.7%	23	100.0%

Table 4.18: Administrative action discriminating against the use of other languages

This kind of content analysis can provide invaluable information when advising on language policy matters in South Africa.

During 2002, a total of 82 complaints were lodged with PanSALB. February, July and October saw unusually high proportions of complaints-related activities in comparison to the other months. A decrease in complaints towards the end of the calendar year was noted.

Judging from language rights complaints lodged with PanSALB, it would appear that the so-called "language watchdog" has not been so successful in the resolution of problems relating to language rights. Of a total of 82 language rights complaints, a mere 4 (5%) were successfully settled. Only 1 out of every 20 complaints lodged with PanSALB is thus resolved successfully. Apparently, the biggest problem in dealing with language rights complaints is that the process of lodging a complaint loses momentum after further feedback is required from the complainant. In most cases, this process of providing feedback remained in abeyance, because the sustained interest in the case started to wane. As a result of the fact that PanSALB has not tested its legal enforcement power – in other words, as a result of its so-called "toothlessness" – PanSALB's decisions and proposals are simply ignored by violators. Moreover, a member of the PanSALB Board, Professor Hennie Strydom, stated, in evidence submitted before a Select Committee of Parliament dealing with legislative proposals of members and provinces, that the cause of PanSALB is actually "fruitless" without legal enforcement mechanisms (cf. *Beeld*, 20 September 2002). According to all indications, it would seem that the effort to amend the legislation so that PanSALB can function more effectively, may possibly only be finalised in 2005 (*Die Burger*, 23 September 2002).

It is apparently not so well known that PanSALB, in terms of its mandate, is able to financially assist language rights complainants in litigation (cf. section 11(5) (b) (iii) and (iv)). The fact that PanSALB is able, in this manner, to support valid cases concerning language rights violations through litigation, could – by means of wider publication – be brought to the attention of the ordinary man on the street, who is probably reluctant to engage in activism as a result of the financial burden that it could bring about.

We have established that the state is the largest source of complaints lodged with PanSALB. The biggest area of concern for the complainants is the non-availability of forms in languages other than English and a general trend towards the favouring of English. Afrikaans is, to a large degree, the language that is perceived to be most discriminated against.

4.5. A comparison of language rights complaints covered by the media and lodged with PanSALB

As indicated at the beginning, we shall conclude with a comparison between the complaints covered by the media and those registered with PanSALB.

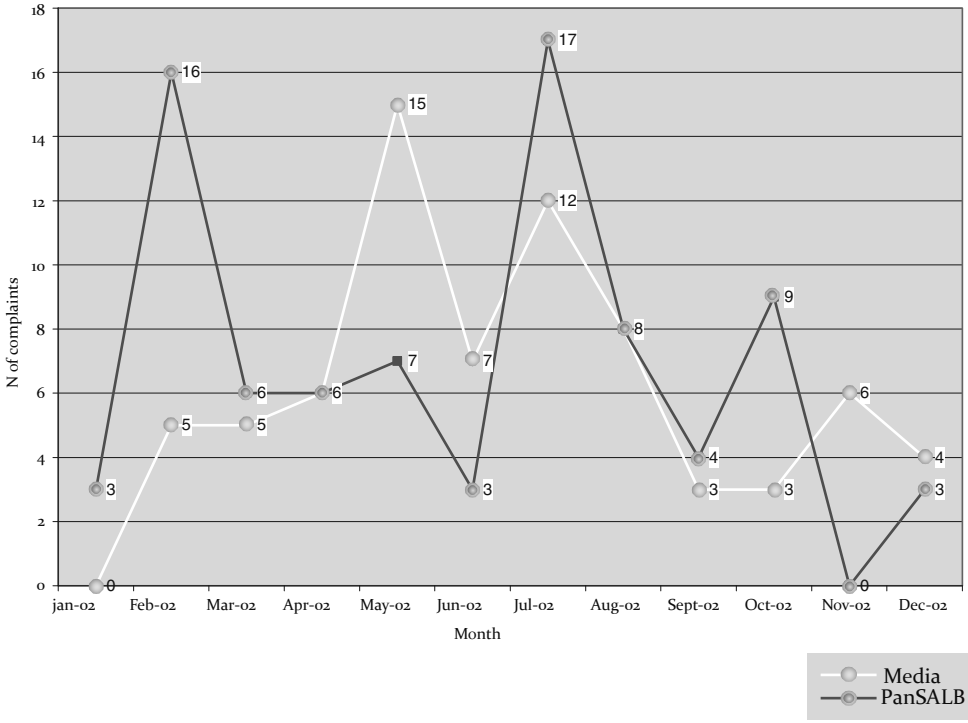
On the basis of most of the results discussed above, we shall make our comparison between the data on letters written to newspapers and the complaints lodged with PanSALB. These two sets of data would allow for a more equitable comparison. Table 4.19 contains details regarding letters of complaint published by the media and complaints actually lodged with PanSALB. Our results indicate that almost the same number of letters of complaint were published by the media as the number of complaints lodged PanSALB: 52,6% (82) of the total complaints were lodged with PanSALB and 47,0% (74) were published as letters in newspapers.

Month	Media		PanSALB		Total	
	N	**%**	**N**	**%**	**N**	**%**
Jan-02	0	0.0%	3	100.0%	3	1.9%
Feb-02	5	23.8%	16	76.2%	21	13.5%
Mar-02	5	45.5%	6	54.5%	11	7.1%
Apr-02	6	50.0%	6	50.0%	12	7.7%
May-02	15	68.2%	7	31.8%	22	14.1%
Jun-02	7	70.0%	3	30.0%	10	6.4%
Jul-02	12	41.4%	17	58.6%	29	18.6%
Aug-02	8	50.0%	8	50.0%	16	10.3%
Sep-02	3	42.9%	4	57.1%	7	4.5%
Oct-02	3	25.0%	9	75.0%	12	7.7%
Nov-02	6	100.0%	0	0.0%	6	3.8%
Dec-02	4	57.1%	3	42.9%	7	4.5%
Total	74	47.0%	82	52.6%	156	100.0%

Table 4.19: Comparison of the number of complaints covered by the media and lodged with PanSALB

Figure 4.9 illustrates the comparison concerning the flow of complaints during 2002 between letters of complaint published in newspapers and complaints lodged with PanSALB.

Figure 4.9: Comparison of letters of complaint lodged with PanSALB



The graph shows relative correlatives for the months of May and July 2002.

If we now further compare the sources that prompted the different sets of complaints, we shall note interesting differences. Table 4.20 contains details relating to such a comparison. Note that although 82 claims with PanSALB have been recorded, only 53 sources of complaint are mentioned. The situation is different in the case of letters of complaint. Consequently, 58,3% (74) of the total complaints registered relate to sources of complaints mentioned in the media, whilst 41,7% (53) of the complaints relate to sources mentioned in complaints directed to PanSALB. We furthermore note a stark difference between the sources mentioned in letters of complaint to the media and those mentioned in complaints lodged with PanSALB. 70,6% (36) of the complaints lodged about state sources were registered with PanSALB, whilst 29,4% (15) of these complaints were directed as letters of complaint to the media. Approximately the same situation can be observed regarding the mentioning of semi-state sources, where 65,2% (15) of these complaints were lodged with PanSALB, whilst 34,8% (8) were registered as letters of complaint to the media. The difference is even more defined when it comes to private sources, where quite the opposite is true: 96,2% (51) of the total

complaints about private sources were registered with the media, whilst only 3,8% (2) were registered with PanSALB.

Source	Media		PanSALB		Total	
	N	%	N	%	N	%
State	15	29.4%	36	70.6%	51	40.2%
Semi-state	8	34.8%	15	65.2%	23	18.1%
Private	51	96.2%	2	3.8%	53	41.7%
Total	74	58.3%	53	41.7%	127	100.0%

Table 4.20: Comparison between sources of language complaints in letters of complaint published in the media and complaints lodged with PanSALB

This sharp opposition confirms that complainants have a relatively clear understanding of PanSALB's role as language rights "watchdog" as far as the official language rights domain is concerned. They are also well aware of the fact that the state has little jurisdiction over language rights in the private domain and that the media are seen as a far better forum for alleged violations in this domain. Since most of the relevant complaints are related to business organisations, complainants are probably relying on the power of negative publicity to advance their cause.

Table 4.21 contains details regarding a comparison between complainants who wrote letters to the media and complainants who lodged a complaint with PanSALB. The numbers relating to the two sets of data are virtually the same. We note that in both cases, private persons comprised the majority of complainants: 87,4% (139) of the 159 complainants recorded in our data may be placed in this category. Of the 139, 51,1% (71) are recorded as complainants in the media and 48,9% (68) as complainants with PanSALB. These two sets of data thus correlate strongly. Cultural and other organisations were the second largest group, accounting for 7,5% (12) of the 159 complaints in our data set. Of these complainants, 66,7% (8) approached PanSALB and 33,3% (4) approached the media, through writing a letter to the editor.

Complainant	Media		PanSALB		Total	
	N	%	N	%	N	%
Second-level government	0	0.0%	1	100.0%	1	0.6%
Political parties	2	40.0%	3	60.0%	5	3.1%
Cultural and other organisations	4	33.3%	8	66.7%	12	7.5%
Media as complainant	2	100.0%	0	0.0%	2	1.3%
Private persons	71	51.1%	68	48.9%	139	87.4%
Total	79	49.7%	80	50.3%	159	100.0%

Table 4.21: Comparison of complainants mentioned in letters of complaint to the media and in claims lodged with PanSALB

A further in-depth comparison should reveal more interesting correlations; but a larger data set would probably be preferable.

We have established through our comparison that the letters of complaint published in newspapers and the complaints lodged with PanSALB only correlate insofar as the spread of complaints during the year is concerned. A stark difference exists between letters of complaint and complaints lodged with PanSALB in respect of the sources of alleged violations of language rights. We have noted that complainants in the media prefer complaining about violations in the private domain, whilst complainants approaching PanSALB tend to complain about violations by state and semi-state institutions. In our view, this justifies a vote of confidence in the role of the Board in mediating language rights violations. The media cannot fulfil such a role.

4.6. Conclusion

Our overview has confirmed what PanSALB has also repeatedly pointed out in successive annual reports, namely that the implementation of the new language policy seems to be problematic. The state seems to remain the largest perpetrator of language rights violations. Language rights accorded by the Constitution are apparently not being upheld in the eyes of aggrieved speakers, as the complaints lodged with PanSALB confirm. However, we have also noticed a certain expectation among the aggrieved, especially among the Afrikaans-speaking complainants, with regard to the supposed level of language treatment by the state. These speakers seem to be expecting a continuation of the 50/50 principle of the past with regard to the treatment of English and Afrikaans, a practice that no longer forms part of the new language dispensation. However, when it comes to elementary matters such as forms supplied by government offices, it is surely not unreasonable to expect such forms to be available in Afrikaans and the other official languages. The expectations are not unrealistic in all cases.

We have established that the Afrikaans media play an important role in raising language issues and in generally playing a language activist role. This role might serve the Afrikaans community well, but it is difficult to establish its effectiveness. Nevertheless, this branch of the media comes across as a potential partner of PanSALB in advancing the cause of language rights in the country. Out of the total number of language rights complaints in the media, PanSALB is mentioned 47 times in some or other manner – 40 times (85%) in Afrikaans newspapers and 7 times (15%) in English newspapers (also compare Chapter Three, Table 3.2).

It would, however, be important to make use of this positive assessment by the Afrikaans press of the role of PanSALB to help cultivate a contemporary language rights culture.

It would furthermore also be advisable to consider forging a stronger relationship with the English press regarding language matters, since speakers of African languages prefer these newspapers to the Afrikaans press. Strategies need to be considered in this regard.

The slow pace of the resolution of language complaints lodged with PanSALB also needs serious attention. If the current trend is continued, it could become detrimental to the image of the Board as the "watchdog" of language rights in South Africa.

5. An analysis of other instruments of language rights activism as reported in the printed media

5.1. Introduction

In his investigation concerning language policy in the community, Tollefson concludes by alleging that "a commitment to democracy requires a commitment to struggle for language rights" (Tollefson, 1991: 211). Martel, too, in a study on "Heroes, rebels, communities and states in language rights activism and litigation" (Martel, 1999), deems language rights activism to be essential, even inevitable, in a process aimed at democratising a multilingual society. She describes language rights activism as a rights-orientated process through which pressure is exerted to effect change in socio-political practices and structures (Martel, 1999: 47-48).

It is important that a distinction should be drawn between language activism and language rights activism. Steyn (1980: 74), as well as Du Plessis and Van Rensburg (1986), indicated that language activism is seldom concerned merely with language *per se*, but rather with a type of political pressure group. For example, Du Plessis' definition of a language movement is as follows:

> A language movement is a politically and/ or religiously inspired movement in which language is used very pertinently as a means to an end (1986: 14). [*Translated here from Afrikaans*]

In contrast, in the case of language rights activism, role-players attempt to bring about a change in social practices, ideologies and structures that influence the maintenance and development of linguistic communities.

Language rights activism can therefore be described as a form of activism in which role-players, by means of (or against the background of) language rights, play an active role to effect change in social practices, ideologies and structures influencing the preservation and development of language communities. Language rights activism can be a

> manifestation of a rising consciousness, and rejection of conditions of submission/ oppression/ control/ domination/ authority/ centralization/ monopoly. It can be a challenge to socio-political structures that reproduce non-equitable power relations (Martel, 1999: 49).

5.2. Language rights complaints versus language rights activism

Martel (1999: 47) distinguishes six instruments of language rights activism, namely *litigation, the formation of pressure groups* (*lobbying*), *research, community mobilisation, media coverage*, and the most extreme form, namely *violence*, as manifested in Northern Ireland, *inter alia* (Jenkins, 1991). Du Plessis (2004: 170) distinguishes a seventh instrument of language rights activism, namely *the lodging of complaints*, which entails the formal submission of a complaint to an official institution which has been specially designated for the purpose, for example, PanSALB in South Africa. The lodging of complaints can culminate in litigation, but need not necessarily do so. Thus, although related to litigation, it is a distinctive instrument of language rights activism. Lobbying is distinguished from community mobilisation in that an attempt is made to win over *influential* persons(s) (particularly politicians or public officers) and to persuade them to adopt a specific standpoint. In community mobilisation, an attempt is made to bring about change by making use of *numbers* – masses – in order to achieve a specific objective.

Five further sub-instruments can be identified under community mobilisation, namely i) physically active and verbal protests or demonstrations; ii) the withholding of financial support – boycotting; iii) petitioning, thus, the mobilisation of like–minded malcontents for a particular cause, thereby obtaining signatures for a petition; iv) activist media coverage, and v) pressurising the masses to achieve specific objectives.

The following hierarchy in respect of the seven instruments of language rights activism can be distinguished in terms of a scale ranging from moderation to violence:

- research,
- neutral media coverage,
- the lodging of language rights complaints,
- lobbying,
- community mobilisation,
- litigation and
- violence.

Under community mobilisation a further hierarchy is distinguished:

- activist media coverage,
- petitioning,
- boycotting,
- pressurising the masses,
- demonstrations.

Investigations concerning language rights issues, litigation, research and neutral media coverage are dealt with in separate chapters, and will not be discussed further in this chapter. The aspects that remain to be discussed are:

- lobbying,
- community mobilisation (all five sub-instruments mentioned above) and
- violence.

Concerning the last-mentioned instrument, fortunately there has been no incidence of violence reported in the printed media resulting from a language rights incident. Also, no incidence of lobbying has been reported.

An example of each of the five sub-instruments under community mobilisation will subsequently be briefly discussed.

i. Activist media coverage: From the classification, it can be seen that mediacoverage features twice, namely as one of the seven instruments of language rights activism (neutral media coverage), and as a subgroup of lobbying (activist media coverage). The difference between the two types of media coverage is determined by the nature, tone and, in particular, the language use of media coverage concerning language-related issues. In the lodging of complaints with the media, as already discussed in Chapter Three, neutral wording is used in reporting, for example, *mor, kla, langtand*

byt, besorgdheid uitspreek, betreur [mutter, complain, find it hard to accept, express concern, regret], *needle, inform, argue, mobilise the public*. Therefore, this is typified as neutral media coverage. In contrast, a more activist attitude is evident in the use of, *inter alia*, metaphors that are related to war/ struggle, such as *taalstryd* [language struggle], *mobiliseer* [mobilise] or *verdedig* [defend], *strydpunt verskaf* [provide the point of dispute], *doen vurige beroep* [make an impassioned appeal], *aanmoedig* [...] *te verset* [encourage [...] to offer resistance], *selfs tot in die hof as dit nodig sou blyk te wees* [even to the courts should this seem to be necessary], *moet vasstaan en daarop aandring* [must stand firm and insist on it], as well as utterances such as *gebruik die reg op sterk protes* [exercise the right to protest strongly], *organiseer sodat gehoor kan word* [organise in order to be heard], *breekpunt bereik* [reach breaking point], *Afrikaanse mense sal ook beskaaf moet wal gooi teen die verdere uitholling van hul taal* [Afrikaans people will have to take civilised action in order to prevent the further erosion of their language] and *Afrikaners moet sterk optree oor taal* [Afrikaners must take firm action regarding language], *harass, shock, don't be all angry and frustrated in private – go public and fight*! This type of media coverage is therefore characterised as activist media coverage.

A clear distinction can be drawn between opinion-formers and activists. Opinion-formers are individuals who, *inter alia*, are responsible for regular columns and articles in newspapers or in popular scientific journals, such as Dawie in *Die Burger*, Willem in *Volksblad*, Yolanda Mufweba in *Saturday Star* and *Pretoria News*, as well as Jaap Steyn, Hermann Giliomee or Leopold Scholtz. Likewise, the editorial comments in a newspaper are opinion-forming, and since these comprise a reflection of the policy of a newspaper, they would tend to exert a greater amount of influence. The mentioned opinion-formers, however, can also conduct themselves activistically on a different occasion, for example Hermann Giliomee, at the convocation meeting of the University of Stellenbosch (*Die Burger*, 24 June 2002).

ii. Petitioning: a second subcategory of community mobilisation is the compilation and distribution of a petition with signatures, for example a petition bearing more than 3 000 signatures in order to place pressure on the University of Stellenbosch to reconsider its language policy (*Die Burger*, 28 August 2002).

iii. Boycotting: The call for boycott actions is a third activist subcategory of community mobilisation. A good example of such action is the mobilisation of disgruntled television licence holders to refuse to pay licence fees to the SABC (*Rapport*, 15 May 1994).

iv. Pressurising the masses: An example of pressurising the masses is *Die Burger's* (16 November 2002) appeal, urging that "tienduisende" [tens of thousands] must vent their displeasure against a Western Cape radio station for refusing to play Afrikaans music.

v. Demonstrations: The physically active presence of a mass of like-minded malcontents demonstrating in front of an institution by dancing, singing and toyi-toying, for example the protest action of the trade union, Cosatu, in front of the SABC building in Johannesburg (*Weekly Mail & Guardian*, 19 September 2002), comprises a fifth subcategory of community mobilisation.

Before an analysis of language rights activism in South Africa is provided in terms of the investigation at the SA Media, a short overview will be provided concerning language rights activism in Canada. From this summary it will become evident how some of these language rights activities, including the previously mentioned demonstrations and boycott actions, were realised in Canada.

Language rights activism in Canada

Language rights activism is not limited to South Africa alone. The actions of the French minority language group in Canada, who comprise 26% of the population, demonstrate how effective language rights activism can be. In the first two decades of the twentieth century Francophone activism evolved in Canada, when Francophone minorities gradually began to form associations, thereby increasing their pressure group leverage in respect of their provincial or territorial governments regarding language issues. The ideology of homogenism, then prevalent, inevitably led to counterproductive measures because it "stimulated a defensive national response from the national minority", that is, the Francophone community (Kymlicka & Patten, 2003: 13). French activism in favour of the French language flourished. The result was that most provinces came to adopt a more conciliatory attitude towards French-language minorities and gradually modified some of their legislation so as to reinforce instruction in French.

A new ideology, the dual or compact ideology, developed alongside of the ideology of homogenism. Franco-Canadians, including Quebecers, interpreted the Canadian confederation as a negotiated pact between the two founding nations. Consequently, the French nation requested equality with the English nation. However, this dual theory was refuted in English-majority provinces, resulting in major clashes between the language groups. The Anglophones assumed that

making concessions relating to a bilingual "preserve" in Quebec would be sufficient and that French minorities in the rest of the country were no different from other immigrant minorities (Martel, 1999: 60-61).

A change was brought about during the second half of the twentieth century, especially as a result of successful litigation introduced by the Francophone community on behalf of their language. The following three main factors also contributed to the change: Firstly, the greater mutual knowledge and understanding of one another that developed between the Francophone community and the Anglophones during the two World Wars; secondly, a worldwide movement towards recognition and valuing of pluralism, entrenched in article 27 of the 1966 International Pact relative to Civil and Political Rights; and thirdly, the effective nationalist movement in Quebec, which forced the rest of Canada to change its strategies towards the Francophone community (Martel, 1999: 60-61).

However, the process of institutionalising minority language rights was difficult. It necessitated numerous negotiations between the federal and provincial governments on the one hand, and mobilisation of the community, including research, meetings, negotiations, agreements, social animation and information campaigns, as well as door-to-door canvassing, kitchen meetings, telephone campaigns, workshops, conferences, consultation of experts, surveys, use of the media, publication of brochures, political lobbying and even Christmas cards, on the other hand (Martel, 1999: 64, 67).

In 1982 the *Canadian Charter of Rights and Freedoms* was promulgated, enshrining the ideology of duality. Section 23 of this Charter was described in 1990 by the Canadian Supreme Court as "a linchpin in the nation's commitment to the values of bilingualism and biculturalism" (quoted by Martel, 1999: 58).

On being appointed in 1999, the Commissioner of Official Languages (OCOL) of Canada was mandated to promote change by simultaneously carrying out six key complementary roles. These include an ombudsman role, whereby the OCOL must respond to citizens' language complaints and to the day-to-day demands of linguistic duality and must make recommendations. Furthermore, the OCOL must fulfil an auditing role, a liaison role, a monitoring role, a promotion and education role and a court intervention role (*Annual Report*, 2001/2002: 32).

Language rights activism in South Africa

As evidenced by the foregoing, language rights activism is not limited to a few communities or isolated incidents in other countries. Language rights activism

is still "relatively underdeveloped" in South Africa according to Du Plessis (2004: 174). The total number of language complaints to PanSALB since 1997, namely 168, is half that of the average number of language complaints (140) that are submitted to the Commissioner of Official Languages of Canada every month, for example. The language rights complaints to PanSALB were statistically insignificant in 1997, with only 1 such complaint being lodged. In that same year, 1 762 language rights complaints were submitted in Canada.

However, in South Africa, too, a culture of stronger awareness and of the lodging of complaints is developing, as is evident from the following figures: 1 language rights complaint was lodged with PanSALB in 1997, 31 were lodged in 1998, 60 in 1999 and 70 in 2000. It can be confirmed, with a fair amount of certainty, that the great majority of the complainants were Afrikaans-speaking. For example, for the period 2000 – 2001, 61,5% were Afrikaans-speaking, 17,3% were speakers of African languages, while in 21,2% of the cases, the complainant could not be linked with certainty to a specific linguistic community (Du Plessis, 2004: 179). In 2002, 82 language rights complaints were lodged with PanSALB, of which 64 (78%) were probably from Afrikaans-speaking persons and 17 (22%) from speakers of other languages (compare Chapter 4, Table 4.16). In general, Afrikaans speakers, to a greater degree than other linguistic communities, experienced that the language rights that they had already acquired were being scaled down, and that Afrikaans was being placed at a disadvantage in a growing number of domains. However, Afrikaans speakers are not the only linguistic community in South Africa who have been agitating for language rights. Cosatu, a trade union with mainly black membership, "stage[d] [a] huge national protest", in the words of the *Weekly Mail & Guardian* (19 September, 2002), against the neglect of black languages by the SABC.

Afrikaans newspapers play a dynamic role in creating awareness of language rights and language-related complaints and activism, and are employed by language rights activists as an instrument in respect of language issues. As is clear from the foregoing example, a potential for more widespread agitation by other language communities does in fact exist, although according to Du Plessis (2004: 181), such agitation would probably not yet be on the same scale, as a result of the fact that these communities do not have the same language rights infrastructure.

The development of awareness concerning the downscaling or deliberate disregard of language rights is also evident from the actions of certain opinion-formers who adopted a neutral position in the past in respect of language-related matters. As a result of the actions of a local radio station, Kfm, in downscaling the use of Afrikaans in favour of English, despite the fact that 70% of the listeners

were Afrikaans-speaking, Max du Preez aired his dissatisfaction in the *Star* of 21 November 2002. In a strongly worded letter, Du Preez mobilises the community to protest, by means of activism, lobbying, protests and even boycotts, against what he regards as "outrageous and an insult [...] prejudice at worst [...] "the public downscaling of their language". Following the example of the activist group, the Treatment Action Campaign (TAC), in which "this small group of activists used every trick in the book to inform, needle, shock, argue, harass and mobilise the public and the authorities about Aids", he exerts pressure on those involved to take confrontational action:

> Bring back activism. It will not only strengthen our democracy, but it will make life a whole lot more interesting too [...] Don't be all angry and frustrated in private – go public and fight!

The fact that PanSALB (according to another opinion-former, Dan Roodt (Praag)) was not really able to make much difference in respect of language rights complaints, constrained Praag to place pressure on those who shared the same grievance in this regard to agitate actively. This pressure group, Praag, was thereby constrained to change its "strategy": henceforth, the media would be used more effectively (*Impak,* 15 March 2002). In a letter to the *Beeld* of 10 February 2002, entitled "Ons is dik vir skynheiligheid, minister" [We are tired of hypocrisy, Minister], Roodt sets out the reason why he is apparently regarded by some as an extremist defender of Afrikaans (cf. *Volksblad*, 6 August 2002). He bases his premise on the view that the government, ever since its coming into power, has made the suppression of Afrikaans a policy objective.

> The path of confrontation with Afrikaners that the ANC has followed in respect of the language issue is obviously based on an optimistic estimation of the government's ability to police, intimidate and oppress our community. [...] It is only their pragmatism and their old-South-African patriotism that prevent Afrikaners from moving over into violence to defend their language and their culture. [*Translated here from the Afrikaans*]

Roodt makes use of the statement of the Canadian expert on ethnic conflict, Michael Ignatieff, in whose opinion armed resistance is justified where people's language and culture are obviously being suppressed. Roodt feels justified in not "pleading" for favours for Afrikaans, but rather insisting on language equity and the implementation of the Constitution (cf. *Volksblad,* 6 August 2002).

English newspapers have referred to language-rights activist groups more approachably as "pro-Afrikaans pressure groups" (*Cape Argus,* 19 November 2002).

The fact that not everyone shares this point of view is evident from the actions of another opinion-former, Professor Willie Esterhuyse. The concept of "language activism" or "language rights activism" has a negative connotation amongst a large group of leading Afrikaans-speaking persons. In a letter in *Die Burger* of 25 June 2002, under the heading "Aggressie van taalaktiviste pla" [Aggression of language activists is disquieting], Esterhuyse writes:

[*The following quotation has been translated from the original Afrikaans*]

- The future of Afrikaans will depend, *inter alia*, on three interrelated forces:
- Language activism and mobilisation in all Afrikaans language communities
- Language negotiators – people with discernment and insight, and who have acceptable qualities in order to negotiate for the future of Afrikaans as a national asset
- Cultural mediators – people who are able to move from one culture to another and who are able to move with ease and communicate in the other culture without sacrificing their devotion to their own culture and language.

Afrikaans's primary problem is not Mr Kader Asmal. The problem is that there are activists, who are predominantly white, who create an aggressive image of Afrikaans, thus creating the impression that confrontation (even to the constitutional court) is being pursued. Language negotiators are extremely scarce among white Afrikaners. And the few cultural mediators who are available are an endangered species.

The negative connotation in respect of the concept of activism is shared by other influential opinion-formers who place such acts under suspicion. In their opinion, the language struggle is being conducted by persons with a political agenda; by "white men" who are politically disillusioned and disempowered (cf. *Beeld*, 12 July 2002). Because activists wish to campaign "only for the interests of Afrikaans-speaking persons" in an "exclusive manner", their motives are called into question by Sampie Terblanche, and the opinion is expressed that Afrikaans speakers were previously "guilty" of Afrikaner "group selfishness", and that they should refrain from taking action on behalf of their language (cf. *Die Burger*, 27 June 2002).

An analysis of language rights activism for the period of 2002 will be presented in the following section, on the one hand in terms of complaints as submitted to PanSALB (the lodging of complaints), and on the other hand, as reported in the press (activist media coverage), in order to determine which language rights

incidents were reflected, as well as the parties or persons who were responsible for the language rights complaints.

5.3. Analysis of language rights activism as reported in the printed media

Because language rights incidents cannot be activist as such, only alleged language rights violations may result in activist activities. Therefore, the division between incidents and complainants as in Chapter Three is not relevant here. Twenty-seven language rights incidents with an activistic slant as reported in the media, have been analysed.

As indicated previously, the following activist instruments will be discussed:

- lobbying
- community mobilisation: activist media coverage
    - petitioning
    - boycotting
    - pressurising the masses
    - demonstration
- violence.

Starting with the last instrument, fortunately no propagation of violence resulting from an alleged language rights incident was reported in the printed media. Also, no incidence of lobbying, as discussed previously, has been reported.

Pressurising the masses: Out of a total of 27 reported incidents, 12 are examples of attempts at pressurising supporters. Under the heading "Maak 'n voorbeeld van taalskenders" [Make an example of language violators] in *Impak* of 15 March 2002, the pressure group, Praag, mobilised like-minded language malcontents to voice their dissatisfaction per letter and fax to the Department of Correctional Services (DCS). To attain prominence for their cause this pressure group decided to utilise the printed media.

Two further examples of such attempts to exert pressure are mentioned. In the first example the chairman of Praag, Dan Roodt, convened a meeting with the alleged language rights transgressor, Parmalat, after the latter's refusal to include Afrikaans on their product labels (*Volksblad*, 6 August 2002). In the second example, one of the members of PanSALB, Professor Hennie Strydom, attempted to mobilise persons for a court suit on behalf of Afrikaans, thereby exerting political

pressure to change the situation concerning what he termed the politicians who guide the Constitution in a certain way which is "dikwels ongrondwetlik" [often unconstitutional] (*Rapport*, 28 October 2002).

Activist media coverage: In five of the reports the vocabulary used by the press had an activist undertone. The refusal of the DCS to allow examination papers in Afrikaans, led to reportage by *Beeld* (16 March 2002) making use of the prerogative of "coverage bias" not only in giving prominence to the incident but also by employing activist language ("strydbyl opgeneem [...] interdik" [take up the battle-axe [...] interdict]) in the report. The English press on the other hand used "gate-keeping bias" (D'Alessio & Allen, 2002: 135), giving no media coverage whatsoever to the same alleged language rights incident. In an editorial comment under the heading "Staan op [vir] taalregte" [Stand up for language rights], the same language rights incident received prominence in *Die Burger* (4 April 2002). Using activist vocabulary ("Afrikaans- en Xhosa-sprekendes sal moet vasstaan en daarop aandring [...] te alle tye ferm [...] op jou taalregte moet aandring" [Afrikaans and Xhosa speakers must stand firm and insist on language rights]), the Afrikaans media mobilised the community on behalf of the language rights of two of the languages entrenched in the Constitution.

Petitioning: Two cases of petitioning are reported. This sub-instrument in mobilising the community has been used with great effectiveness at the University of Stellenbosch. To protest against alleged language rights violations at the tertiary institution, at least 3 000 signatories brought their discontent to the knowledge of the authorities in a petition (*Die Burger*, 28 August 2002). In the second case the staff of Zulu Studies at the University of Natal in Pietermaritzburg urged the KZN education department in a letter to the *Natal Witness* to make funds available for the training of Zulu teachers (12 November 2002).

Demonstration: A further sub-instrument of community mobilisation appears in six reports. One example occurred when Afrikaans-speaking students at the DCS Zonderwater training college refused to comply with an English-only directive for writing their examination papers. In the face of physical and mental intimidation and with the added threat that their examination papers would not be marked, the students refused to comply. Giving full coverage and using activist rhetoric: "bang [...] steurend" [scared [...] disturbing] (*Rapport* (17 March 2002)), the media brought the alleged language rights violation to the attention of their readers. The dissatisfied students thereupon brought their complaints to the attention not only of Praag but also of the language ombudsman of the NNP, Adriaan van Niekerk. A language rights complaint was lodged with PanSALB. Once again

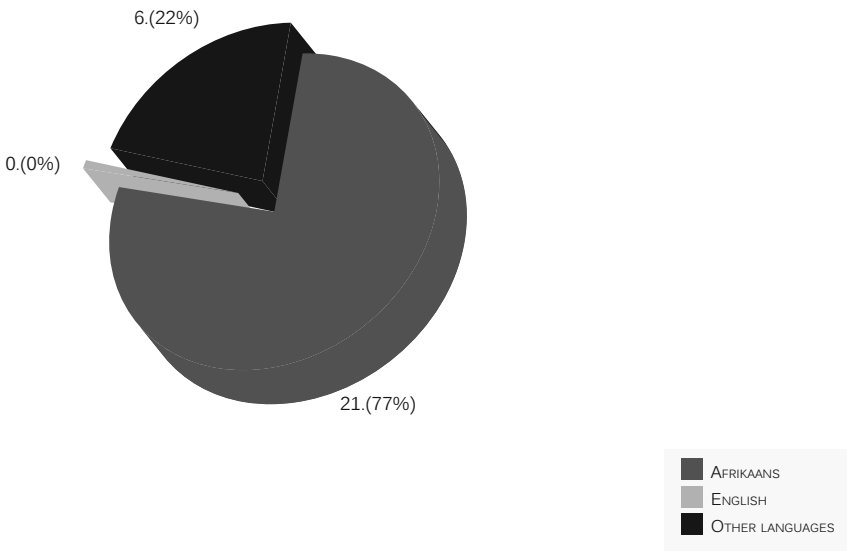
litigation was envisaged. Owing to the demonstration the Minister in question undertook to reconsider the language policy of the DCS. A further example of the effectiveness of this kind of community demonstration was Cosatu's march on the SABC building and their voicing of their discontent about the language policy by physical demonstrations. Their activism was a direct result of the SABC language policy of marginalising African languages on the public broadcaster and using few African languages on a national level (*Citizen*, 20 September 2002).

Boycotting: Two reports on the implementation of the further sub-instrument of community mobilisation, namely *boycotting,* are cited. Using this method of boycotting, the pressure group, Praag, suggested a system of blacklisting organisations and or/ businesses that disregarded Afrikaans, and green-listing those furthering the cause of Afrikaans (*Beeld*, 18 July 2002). In a further example of boycotting, reported under the heading "2 000 trade unionists march on SABC", Cosatu exhorted the public broadcaster "to change its cultural ways or face a Cosatu-inspired TV licence boycott" (*Star*, 25 September 2002).

The deductions made in this regard are dealt with in comparison to those concerning neutral language rights complaints, as set out in Chapter Four. In comparison with the 251 neutral media reports recorded there, the numbers in respect of activism are insignificant: that is to say, only 27 (10,8%) of the reports were related to activist reporting. Since the comparison in the case of activism has a bearing on such a small number, too much weight should not be imputed to the differences in all the comparative deductions.

In this case, too – as in the case of language rights complaints analysed in Chapter Four – the greatest number of reports on activism are centred around supposed discrimination against Afrikaans, namely 21 (77,8%). Six (22,2%) of the reports have a bearing on African languages, classified under *other languages*, while there are no incidences of activist reportage concerning English (see Figure 5.1).

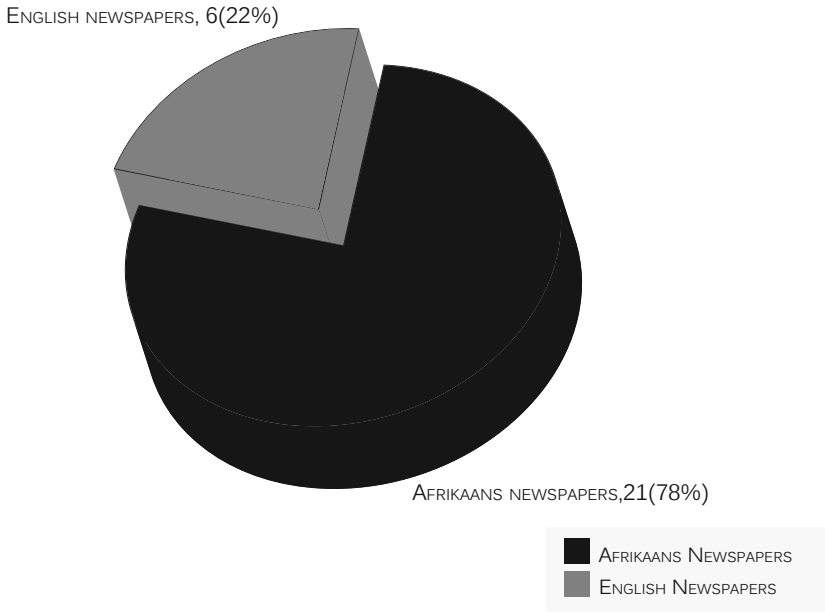
Figure 5.1: Records on language rights per language



A comparison with regard to the language rights incidents per language group (Chapter Four, Figure 4.1) shows that Afrikaans-speaking persons, in the context of activism, experienced a somewhat higher number of incidents of the disregard of language rights, namely 77,8% as against 66,5%. In contrast, speakers of African languages experienced somewhat fewer incidents of the disregard of language rights, namely 29% as against 24%.

The activist reportage according to the language medium of the paper is schematically illustrated in Figure 5.2.

Figure 5.2: Records on language activism according to language of newspaper

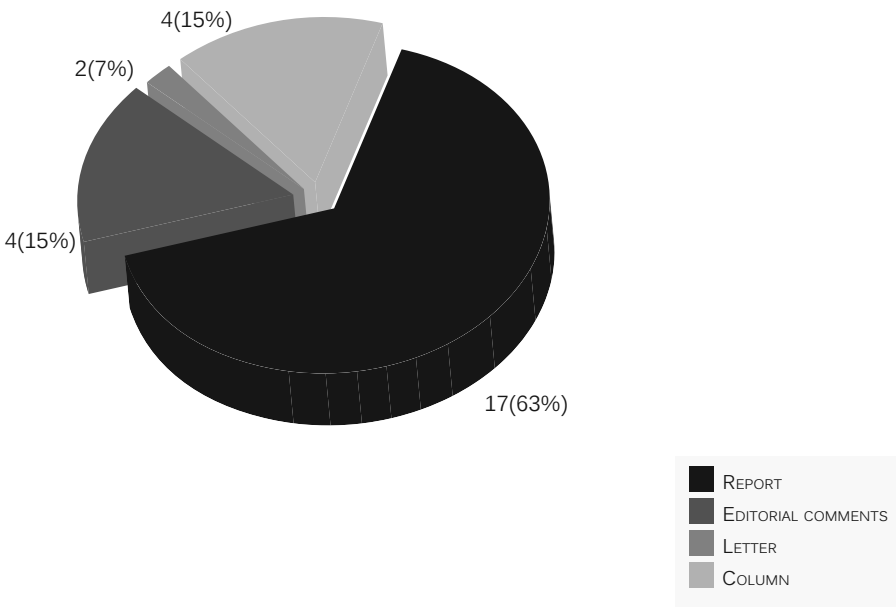


As can be seen in the graph (Figure 5.2), out of a total of 27 records, 21 (78%) were reported in Afrikaans newspapers and 6 (22%) in English newspapers.

A comparison of language rights incidents as reported in Afrikaans and English newspapers (Chapter Four, Figure 3.2) with those incidents related to activism (Figure 5.2), reveals that Afrikaans newspapers accorded a somewhat higher degree of prominence to language rights incidents related to activism (69,9% as against 78%). In contrast, English newspapers accorded the same prominence to language rights incidents related to activism (22% as against 21,2%).

The type of media reportage is schematically illustrated in Figure 5.3.

Figure 5.3: Type of media records on language activism

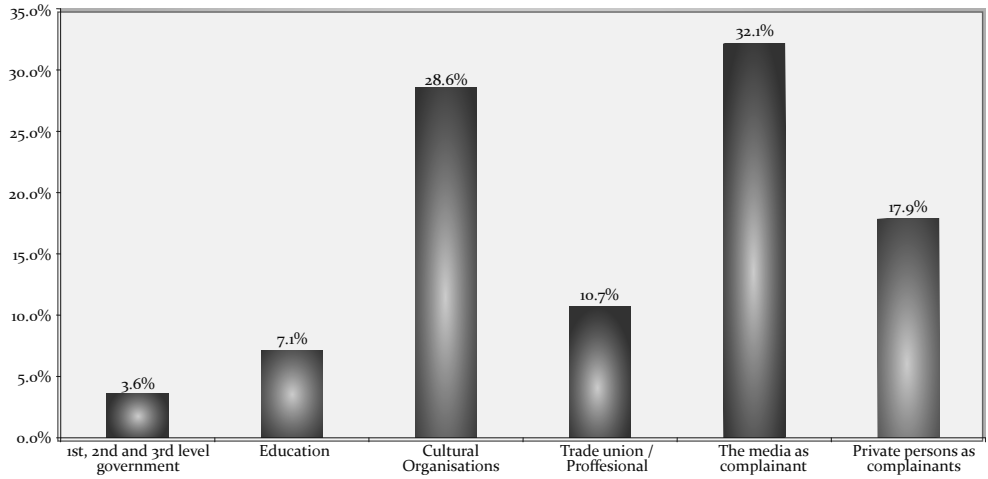


As far as the type of media reporting is concerned, out of a total of 27 incidents, 17 (63%) were recorded in the form of news reports. Comments from the public, as reflected in letters to the editor, comprised only 7% (2) of the total. The official policy of the newspaper is reflected in the editorial commentary, accounted for by 4 articles (15%). Colleagues' columns in newspapers, which do not necessarily reflect the policy of the newspaper, also accounted for 15% (4) of the total.

A comparison of the types of media report in respect of reported language rights incidents (Chapter Four, Table 4.2) with the types of reports related to language rights incidents in the context of activism indicates that there was quite an increase in one type of reporting in particular, namely reports (from 43,4% to 63%). The figures for comments of the editorial staff are similar (15% and 14,3%), while there was a reduction in reported language rights incidents in the context of activism, in the case of letters (7% as against 29,5%).

Groups responsible for the activist reportage are schematically illustrated in Figure 5.4.

Figure 5.4: Activism: Report of language rights complainants (government, organisations, media and private persons)



Of the mentioned total of 27 reported language rights complainants in the context of activism, in the government, organisations, in the media and with regard to private persons as complainants (Figure 5.4), the majority of complaints were lodged by the media, namely 9 (33,3%), followed by cultural organisations with 8 (29%), private persons with 5 (18,5%), trade unions/ professional organisations with 3 (11,1%), the government (first-, second- and third-level government) and education with 1 each (3,7%), while there were no language rights complainants in statutory bodies and political and business organisations. Of the cultural organisations or pressure groups, all 8 were Afrikaans-speaking, with Praag accounting for 5 complaints, the Group of 63 for 2 and the Convocation of the University of Stellenbosch for 1. Out of the total of 9 media complainants in the context of activism, 7 aired their language-related complaints in Afrikaans newspapers and 2 in English newspapers.

A comparison of the number of neutral language rights complainants (government, organisations, the media and private persons) (Chapter Four, Table 4.6) with the number of complainants in the context of activism (Figure 5.4) indicates that in three institutions, there was an increase in the number of complainants: in cultural organisations (29,6% as against 16,1%), in trade unions (11,1% as against 1%) and in the media as complainants (33,3% as against 25,7%). At five institutions, there was a reduction in the number of complainants: in political organisations (9,2% as against 0%), statutory bodies (7% as against 0%), government (4,1%

as against 3,7%) business organisations (2% as against 0%), and private persons (31% as against 18,5%).

The most noteworthy reduction in the number of complainants in the media with a neutral vocabulary, and of complainants with an activist tone, occurred amongst private persons, where the decrease amounted to 13%, followed by political organisations with 9%, and statutory organisations with 7%. The 9% drop in respect of political organisations can probably be explained by the fact that these organisations were not eager to become involved in language rights incidents, and in particular, did not wish to take activist steps within the framework of the political system. According to Truter and Lubbe (2002: 203), it gradually became clear that Afrikaans-speaking persons would have to learn to mobilise outside of the political leadership, since they could not expect any assistance from that quarter; and that these were the circumstances that were forcing Afrikaans-speaking persons to take action for themselves. At the same time, private persons probably preferred to have recourse to trade unions and cultural organisations, including pressure groups such as Praag, because they felt that the latter could take *action* more successfully. This probably explains the significant increase of 8% in the number of complainants at cultural organisations. The fact that the number of complainants at trade unions increased by 9%, could possibly be ascribed to the same reason. The increase of 6% in respect of the media as activistic language complainants could possibly be ascribed to the fact that editors of Afrikaans newspapers in particular expressed themselves more strongly than their English counterparts, by means of the use of strong language or a call to action and mobilisation, in their comments in main reports or in the editorial columns.

5.4. Analysis and interpretation

Media coverage, as already mentioned, is an important subcomponent of democracy; and as such, it is indispensable for the consolidation and development thereof. Comparative details are currently lacking for the purpose of determining whether there has been an increase or decrease in language activism over the past five years, for example, and whether the increase or decrease in this phenomenon could be connected to the neglect of Afrikaans, in particular, during this period. There is enough evidence of language rights incidents prior to 2002 which fit the definitions of language activism and in which the media, for example, attempted to mobilise persons who were dissatisfied about language issues to air their dissatisfaction concerning the SABC language policy (*Rapport*, 5 June 1994).

The Afrikaans press gave more prominence to reports on language issues than the English press did. In the case of the language rights complainants the respective percentages were 69,9% as against 21,2% (and 8,9% in bilingual publications). This is illustrative of aloofness, and even a prejudice, towards language-related matters on the part of the English press - an attitude that is referred to as a "gate-keeping bias" and "coverage bias" by D'Alessio and Allen (2000: 135). In this chapter, this aspect of prejudice will not be further explored.

From the investigation, it appears that Afrikaans-speaking persons, in particular, tend to agitate in connection with language issues, since they perceive that it is their language rights, in particular, that have been neglected, more than those of other groups, in comparison with their privileged position prior to 1994. African-language speakers, on the other hand, tend to employ activism as an instrument in respect of issues other than language, for example, the Treatment Action Campaign; and they apparently feel less strongly, in general, about the non-consolidation of their respective mother tongues. The probable explanation for this is that they do not necessarily have similar media instruments at their disposal for the purposes of agitation for language rights, or do not have them to the same extent as the Afrikaans speakers. Contemporary events that were initiated by Afrikaans speakers further demonstrated just how effectively activism can actually be employed in order to achieve a specific objective.

It further transpired from the media investigation that Afrikaans-speaking persons also lodge complaints in the media on behalf of other language groups. According to Truter and Lubbe (2002: 204), Afrikaans-speaking persons had already become aware, as from 1994, that an "alliance with indigenous languages" would offer them a better chance of making a substantial impact. Afrikaans speakers are also less inclined to agitate for language rights on an individual basis, and prefer to have recourse to Afrikaans cultural organisations or pressure groups. Almost a third (32,1%) (Figure 5.4) of the activism on behalf of Afrikaans was initiated by the media, which clearly demonstrates that newspaper editors realise the value of media coverage and activism. In an article in *Zuid-Afrika*, under the heading "Kultuurimperialisme: 'n bedreiging vir 'n pluraliteit van kulture en tale" [Cultural imperialism: a threat to a plurality of cultures and languages], the philosopher, Johan Degenaar (2000: 93), points out that the state does not bear sole responsibility for the protection of languages, but that residents must share co-responsibility for this goal:

> Dit moet voortdurend met 'n volgehoue stryd verower word. Binne 'n multikulturele situasie soos Suid-Afrika is hierdie saak des te dringender." [It should continually be

achieved by means of a sustained struggle. In a multicultural situation such as that of South Africa, this matter is all the more urgent].

Language rights activism is an important component in the process aimed at democratising a multilingual society. Martel (1999: 48) views such an approach as essential, even inevitable. The struggle of non-dominant language groups in South Africa was discussed by Hermann Giliomee in a column under the heading "Taalstryd bepaal SA demokrasie" [Language struggle determines SA democracy] in *Beeld* (20 August 2002). He views this as "'n deurslaggewende toets vir ons demokrasie" [a defining test for our democracy]. He encourages like-minded malcontents and activists to wage a democratic struggle for the right of strong protest, the right to opposition and the right of non-dominant language groups to organise so that cognisance can be taken of their language grievances.

In the same manner as that in which the French-speaking minority in Canada succeeded, by means of purposeful language rights activism, in shaking off the label of a minority group that had to be satisfied, at best, with the granting of language-rights "alms", the minority language groups in South Africa can increasingly have recourse to similar methods. PanSALB can play a more dynamic role in having meritorious cases in respect of language rights complaints placed on the roll, after the example of the facilitating role fulfilled by the Commissioner of Official Languages (OCOL) of Canada for the benefit of language litigation. In comparison with OCOL in Canada, the lodging of complaints with PanSALB concerning the violation of language rights is strikingly insignificant in extent. The culture affirming that agitation can take place on behalf of a language, is still relatively underdeveloped and under-utilised in South Africa. The hope is cherished that, should language neglect and discrimination against languages come into play in this multilingual and multi-cultural country, language rights activism – in whatever form – will be effectively utilised.

6. Linguistic rights litigation

6.1. Introduction

In an article on "Heroes, Rebels, Communities and States in Language Rights Activism and Litigation", Martel (1999) sees litigation as one of the most important instruments of language activism. In this chapter, the role of litigation in obtaining linguistic rights is discussed. In the first section the importance of litigation in general is discussed. Constitutions contain broad principles on certain concepts rather than detail, and it is the task of courts to give content to the principle, in the

light of cases before them. The procedure is illustrated with reference to litigation in America, showing the development and interpretation of the First Amendment which guarantees freedom of speech. The same principle holds for linguistic rights litigation. Before linguistic rights litigation in South Africa is discussed, the role of linguistic rights litigation in Canada is shown. In contrast to Canada, where court decisions have done much to promote Canadians language rights, in South Africa linguistic rights litigation is an under-utilised instrument of language rights activism. In the period 1994 to 2001, only eight cases of linguistic rights litigation occurred, and in 2002 only one. The last mentioned case is discussed in more detail. Lastly, certain conclusions are drawn and recommendations made.

6.2. Importance of litigation

Litigation (word derived from the Latin *lis, litis*: lawsuit) is to take a claim or dispute to a court of law in order to force a judgement. In general, constitutions state broad principles rather than specific details. It is the task of courts to give substance to a principle on a case-by-case basis, handing down interpretations. Over time these interpretations build up a body of precedents that form the case law on the subject. Future legal advice and arguments is based on the constitutional clauses as interpreted in those cases. The advantage of the fact that constitutions state broad principles rather than specific detail, is that a constitution is flexible to adjust to changing circumstances over time, and is not fixed to a limited vision of a particular time.

The American Constitution's First Amendment (1791) guarantees freedom of speech. Freedom of speech, however, is a relative concept. Nobody is free to commit blackmail or perjury, and a government cannot be prohibited from making laws to punish such acts.

The evolution of interpretations of the American First Amendment illustrates how the principle (free speech) was applied over time in fresh ways to challenges unforeseen by its creators.

Already in 1798 the American Congress passed a Sedition Act that made criticism of the federal government a crime. During the First World War it passed an Espionage Act what made it a crime to criticise the government and the armed forces. Many people were imprisoned under both laws. Even a monthly journal, *The Masses*, was closed because of its opposition to the war.

It was only after the First World War that the American Supreme Court incrementally widened its interpretation of the First Amendment. Reference to only two cases will be made.

In an early case under the Espionage Act, the defendants had equated conscription with slavery. Judge Holmes concluded that, while comments could be made in peacetime that would not be tolerated in a time of war, the test should be whether the words used were of such a nature as to create "a clear and present danger" (as quoted by Sparks, 2003:74) to the safety of the state. These words became a litmus test in American case law on freedom of speech. In a later judgement Holmes elaborated on the phrase:

> I think that we should be eternally vigilant against attempts to check the expression of opinions that we loathe and believe to be fraught with death, unless they so imminently threaten immediate interference with the lawful and pressing purpose of the law that an immediate check is required to save the country (as quoted by Sparks, 2003: 74).

The second case to be referred to, is that of Commissioner Sullivan, police commander in Montgomery, Alabama. He sued *The New York Times* for libel in 1961. The local jury awarded him $1 000 000 because the newspaper had published an advertisement critical of the city's brutal response to civil rights protests. The case was referred to the US Supreme Court. The judgement laid down a new set of rules to prevent critics of official conduct to be silenced. It declared that sovereignty was vested in the people, and not the government. Critical comment need not even be true, because to obtain proof of the truth, would inhibit would-be critics. Judge Brennan declared erroneous statement is "inevitable" if the freedom of expression is to have the "breathing space" that it needs (cf. Sparks, 2003: 75). The only exception was if an official could prove that a false statement had been made with "actual malice."

In spite of the aforementioned discussion, there are conflicting opinions concerning the question of whether law is an effective instrument of activism. Legal systems are often criticised for their inadequacies and their inability to achieve justice for individuals and groups. The Justice system contains loopholes, as are portrayed, for example, in detective stories. The complaint was raised that the effect of the Canadian *Charter of Rights and Freedoms* actually was to strengthen the already great inequalities in Canada. This was the case because the Charter has weighed in on the side of power, and undermined popular movement (Martel, 1999: 51). Therefore law is, according to some, "a blunt instrument for effecting change"

(Martel, 1999: 52), and less efficient than, for example, economic power and political mobilisation.

6.3. Language rights litigation as an instrument of change

Courts have the same function if the right to use a certain language is threatened, or not recognised. In such a case the matter had to be tested in court. Language rights as a legitimate field of legal study, and as another pillar in the civil rights world, together with the traditional areas of education, housing and voting rights, does not generally exist, at least not in the US. (Del Valle, 2003: 4). As a matter of fact, civil rights law in America was, in a significant sense, born in 1954 with the school desegregation decision, *Brown v Board of Education (ibid.).*

It is a fact that language rights law will become of increasing importance, as language minorities each day increase in number in nearly all countries worldwide. The combined effects of improved transport and the political and economic displacement of populations have produced linguistic diversity and fragmentation. Except for the right to education, which is usually referred to, linguistic diversity also poses a problem for a just hearing in court (Storey, 1998). Crime is an inevitable part of the human condition, and communication is an essential part of criminal investigation or prosecution. The result of linguistic dialectal and cultural miscommunication is misunderstandings, obstacles, even in some cases impenetrable barriers.

More litigation on language rights matters will result in more decisions, and only so an established and more coherent body of language rights law can be attained. The importance of litigation from various perspectives are mentioned by Del Valle (2003: 5):

> [I]n the development of civil rights law generally; for their impact, either [positively] or [negatively], on language rights activism, and for their reflection of the national temper at an historical moment.

Del Valle (2003) devotes a whole book on legal matters regarding language rights in the US, and discussed topics as language rights in the workplace, language rights in litigation, and commerce and language minorities. One case referred to is the Arizona State Constitution which required that all civil servants had to use English only (also cf. Kibbee, 1998: 7). Spanish speaking workers wondered if they could be arrested for speaking Spanish on the job. Would a bilingual police officer be subject to dismissal for speaking Spanish with a Spanish monolingual? The law was therefore immediately challenged.

Especially to international statutes and constitutional measures a growing importance is accorded, also for matters relating to language. In 1992 the constitutions of 120 sovereign states, i.e. 75% of the states then recognised by the United Nations, contained one or more linguistic measures pertaining to language matters like language status, usage in courts and public administration, education, and rights for linguistic minorities:

> Consequently, the law, and particularly litigation and rights activism, are prominently effecting a legalization and judiciarization of the political sphere around the world (Martel, 1999: 53-54).

In the next two sections linguistic rights litigation as an instrument of change in two countries, viz. Canada and South Africa, will be discussed.

Linguistic rights litigation in Canada

In 1774, the British Parliament passed the Quebec Act by means of which, amongst other provisions, linguistic rights (the language French) and religious rights were guaranteed to French Canada. The *British North America Act* (1867), whereby Canada gained its independence, entrenched the guarantees of 1774 for Quebec with its French-speaking majority. Canada is a federation comprised of ten provinces (Quebec, and nine others with English-speaking majorities), where the federal and provincial governments have equal status. Since language is not mentioned in the articles of the *Constitutional Law* of 1867, the federal and provincial governments jointly enact legislation concerning language-related matters. In contrast to Belgium, where the two main languages, Flemish and French, both have an approximately equal number of speakers, French is a minority language in Canada (spoken by only 26% of the population) in relation to English. In North America, French is the mother tongue of a mere 2% of the population, and the language is under pressure to assimilate:

> In spite of the rights obtained by the people of Quebec the fear of cultural erosion persisted throughout Canada's first century. The strong economic influence of the Anglos in the province, their 'we-'re-no-minority!' attitude, reinforced by location and situation, and a steadfast resistance to learn and to use French entrenched the fears of the francophones (Cartwright, 1988: 238).

A whole series of legislation was promulgated after 1867, all of which was aimed at satisfactorily resolving the linguistic rights of both language groups. In the process the autonomy the communities originally possessed gradually diminished as the provinces got more authority, including the question of the language of

instruction. The most important ideology at this stage was one of homogenism, i.e. an ideology which believes in a single identity marker for nation-building,

> [a] view of society in which differences are seen as dangerous and centrifugal and in which the 'best' society is suggested to be one without intergroup differences [therefore] the ideal model of society is monolingual, mono-ethnic, monoreligious, mono-ideological (Blommaert & Verschueren, 1998: 14.).

This ideology of homogenism has resulted that the right of French as a language of instruction was questioned, and that English as the only language of instruction was justified. Three court cases between 1870 and 1917 confirmed the dominant ideology. At this stage litigation bore little fruit for the Francophone minorities.

Between 1910 and 1920 the political theorists, Kymlicka and Patten (2003), observed a process, namely that an ideology of homogenism can be counterproductive, and as a result they "almost invariably stimulate a defensive nationalist response from the national minority" (Kymlicka & Patten, 2003: 13). French activism in favour of their language came to the surface, and pressure groups were formed. The result was that most provinces adopted a more open attitude to their Francophone communities and gradually modified some of their legislation so as to reinforce instruction in French. A new ideology, the duality ideology, developed opposite the ideology of homogenism. The federation was viewed as a negotiated pact between the two founding nations of Canada. Consequently, the French nation requested equality with the English nation:

> This ideology influenced the role that Francophone minorities were to play in the new nation, since they were to be protected coast to coast as part and parcel of one of the founding nations. In fact, they were seen as the very cement that united the country (Martel, 1999: 61).

For decades the two opposite ideologies clashed, and the English-majority provinces refuted the compact theory. As was already shown in the previous chapter, three factors were responsible for the fact that the duality theory eventually dominated: i) an increased mobility which led both main groups to acquire a greater knowledge of one another; ii) a world-wide recognition of pluralism, and iii) the nationalist movement in Quebec, which forced the rest of Canada to change its strategies towards Francophones (Martel, 1999: 61).

The institutionalisation of minority rights was not such an easy task as the above summary may suggested. Recognition of minority rights in education was preceded

on the one hand by long and difficult negotiations, and on the other hand by mobilisation of the community.

The duality hypothesis underpinned the well known *Canadian Charter of Rights and Freedoms* of 1982, and specifically section 23, which was described in 1990 by the Canadian Supreme Court as "a linchpin in this nation's commitment to the values of bilingualism and biculturalism" (as quoted in *Annual Report*, 2002: 13).

The language-use in laws is not always clear and unambiguous. That is also the case of section 23, which contained instances of polysemy (Martel, 1999: 58). It is precisely cases of polysemy which lead to litigation in order to clarify meaning. That was also the case regarding section 23. The attitude of provinces with Anglophone majorities regarding section 23 was lukewarm, if not negative, and, faced with inaction or even refusal, Francophone minorities went to court. Between 1982 and 1997 twenty decisions were handed down in cases related to section 23. Financial support was given by the federal government, "attempting to fulfil the role of guardian of the Charter" (Martel, 1999: 63).

In the process to obtain more (linguistic) rights, litigation is *inter alia* – in comparison with lobbying, community solidarity actions, research and media interventions, – an important instrument for advocating change:

> In effect, litigation remained a final strategy and a sword of Damocles in negotiations with the state (Martel, 1999: 65).

The positive judgements of the litigation processes resulted in a new sense of confidence among the Francophones (Paquette, 1998: 325). They got rid of the label *minority group*, and call themselves "Canadian Francophone and Acadian Communities". This more dynamic identification is symptomatic of the rejection of the power structures which underpin the concept *minority*.

Language actions by the Francophone minority group in Canada demonstrated that litigation is an essential tool towards the institutionalisation and legitimisation of the linguistic rights of a minority group. The law and the judiciary construct the ideologies that guide community perceptions and decisions:

> In democracies, founded by definition on the presupposed majority consensus, law acts as an intervenor, capable of counterbalancing the tendencies of majorities to impose their hegemony in political and institutional spaces (Martel, 1999: 74).

On the value of litigation on linguistic rights issues, the Commissioner of Official Languages of Canada observed: "Court decisions have done much to promote Canadians' language rights" (*Annual Report*, 2003: 36).

However, the same Commissioner would have preferred that solutions rather be found through negotiations, because

> court challenges often create an adversarial atmosphere that may damage relationships between governments and official language minority groups (*Annual Report*, 2003: 37).

Unfortunately, however, in the face of the indifference displayed by their governments, language minority communities often have no choice but to turn to the courts to ensure that their rights are respected. This constant need to reaffirm their constitutional rights undermines their confidence in the government, and as a result, "democracy is weakened" (*Annual Report*, 2003: 37). The solution is the granting of equal language rights which will guarantee the maintenance and development of the official languages.

(Literature on Canada: Macmillan (1983), Gardner-Chloros and Gardner (1986: 47-48, 52-53), Braën (1987: 25-58), Cartwright (1988), Cartwright (1996), Nelde (1997), Edwards (Ed.) (1998), Paquette (1998), Martel (1999), *Annual Report* (2000); (2001); (2002).)

In the next section, litigation in South Africa for the period 1994 to 2002 is discussed.

Linguistic rights litigation in South Africa

The 1993 Constitution (Act no. 200 of 1993), confirmed in the 1996-Constitution (Act no. 108 of 1996), brought a most significant development to the South African legal system, viz. the principle of constitutional supremacy (Malherbe, 1998: 86). According to this the constitution became the supreme law, in contrast to the previous system in which the political system was dominated by parliamentary sovereignty. The power to test parliamentary legislation against the provisions of the constitution was conferred on the courts.

A significant consequence of the constitutional supremacy, and pointed out by Malherbe (1998: 87),

> is that the positivist outlook of our courts in the past has been replaced by a normative approach. In the past parliament was supreme [,][...] and all the courts were called upon to do was to apply [...] the law as laid down by parliament. Now the duty of the courts is to ask: What does the constitution say and how do we give effect to the norms and values of the constitution, even when interpreting and applying other laws of parliament?

In these circumstances linguistic rights litigation became even more important. As was previously the case in Canada, the perception exists among certain groups that the present South African government, *de facto*, supports the ideology of homogenism. Although the language clause, in section 6, recognises eleven official languages,

> it is probably correct to state that the evolving pattern of official language policy in South Africa reveals a trend towards English, thus in effect towards official monolingualism (Du Plessis and Pretorius, 2000: 506).

As is demonstrated by Du Plessis and Pretorius (2000), section 6 contains an inherent ambiguity. It is composed of three distinct parts, viz. an official language declaration (6(1)), normative guidelines for language policy (6(2) and 6(4)), and a number of practical considerations (or factors) to be considered in the choice of language(s) for official use (6(3)(a) and (b)). Interpretation of section 6 is thus dependent on which part is stressed:

> Those stressing the practical considerations will approach official multilingualism as a directive ultimately requiring only a symbolic gesture. On the other hand, those more committed to the promotion of multilingualism tend to emphasise the importance of the official language declaration and the normative guidelines of parity of esteem and equitable treatment of official languages (Du Plessis & Pretorius, 2000: 508).

How a clause is open for different interpretations is evident from the next two cases, both which have a bearing on the choice of a language in a court case. In *State v Matomela 1998 3BCLR 339 (CK)*, the case deals on the court procedures, which was in Xhosa because all those concerned could speak the language, and it was argued it was in accordance with the spirit of sections 6 and 35(3)(k). The revision court upholded the conviction and sentence, and stated that the Constitution allows people who speak the same language, provided it is one of the official languages, to conduct a case in their language.

In *Mthetwa v De Bruin NO 1998 3BCLR 336 (N)*, however, it was stated that the accused, in terms of section 35(3)(k), had not the right to demand that the court procedure had to be in Zulu, but that he had a right on interpreting facilities.

6.4. Linguistic rights litigation 1994 – 2001

In comparison with Canada, linguistic litigation in South Africa is an under-utilised form of linguistic activism. As was noted in the previous section, twenty rulings concerning section 23 were given in Canada between 1982 and 1997. For the period 1999-2000, the Commissioner of Official Languages was involved in

fifteen litigations, five for the period 2000-2001, and four for the period 2001-2002 (*Annual Report* 2000: 101; 2001: 121; 2002: 37). For the period 1994-2001, only eight cases occurred in South Africa, an average of one per year. Du Plessis (2004) gives a list of these cases (Table 5.1).

Litigation	Tenor of the case	Finding	Language in favour of which litigation was conducted
Chweu & Others v Pretoria Technical College (1994) 15 ILJ 892 (IC)	The applicant in a case in terms of Section 43 of the Labour Relations Act (Act 28 of 1956), requested the court to order the respondent to prepare his defence in the language of the applicant's choice (English), or to translate it from Afrikaans into English.	The Industrial Court refused to grant the order and gave the applicant an opportunity to prepare his answer for submission. By way of motivation, the Industrial Court found that a respondent is not obliged to use the language of the applicant's choice in the preparation of court documents. The respondent is entitled to use the language of his choice. Also, no obligation rests with the respondent to provide a translation of documents into the language of the applicant's choice. The task of, and the costs related to, the translation of court documents into the language of a party's choice rest with that party.	English

Litigation	Tenor of the case	Finding	Language in favour of which litigation was conducted
In re: The School Education Bill of 1995 (Gauteng) 1996 4 BCLR 537 (CC)	Request by the Speaker of the Gauteng Legislature to resolve a dispute concerning the constitutionality of certain provisions of the School Education Act of 1995 (Gauteng) regarding the provision and control of education. The request was submitted after a petition by various members of the provincial legislature. The petitioners alleged, inter alia, that the disputed provisions restricted the right of persons to be admitted to schools that utilise language testing as an admission mechanism. (The petition also dealt with provisions relating to the religious education policy of schools.)	The Constitutional Court found that the disputed provisions of the concerned provincial act were not unconstitutional. By way of motivation, it was found that the challenge of finding a balance between corrective actions concerning the systemic inequality of the past, on the one hand, and protection against legally enforced assimilation, on the other, is not a constitutional matter, but that it must be resolved through democratic processes.	Mother tongue
Louw v Transitional Local Council of Greater Germiston 1997 8 BCLR 1062 (W)	The applicant requested a court order from the High Court (Witwatersrand Local Division) to set aside a decision of the Transitional Council of the Greater Germiston, in terms of which English was declared to be the written and spoken language of the concerned council; and requested the Court to declare the mentioned decision to be in conflict with the fundamental rights contained in Chapter 3 (the so-called language clause) of the 1993 Constitution.	The application was turned down, with costs. In motivation, it was found that the applicant was not able to prove the existence of a language right in this context; and it was also found that the concerned resolution should not be regarded as legislation or official policy or practice.	Official languages

Litigation	Tenor of the case	Finding	Language in favour of which litigation was conducted
Mthetwa v De Bruin NO and Another 1998 3 BCLR 336 (N)	The applicant requested a court order from the High Court (Natal Provincial Division), to declare a regional court's refusal to provide a hearing in Zulu to be unlawful and unconstitutional, and requested the Court to issue an order to the effect that he should be heard in the official language of his choice, namely Zulu. The concerned regional magistrate had ruled that the case would continue in English or Afrikaans. The applicant requested that the court case should be held in Zulu at the Vryheid regional court, in terms of section 6(1) (one of the provisions of the language clause) of the 1996 Constitution.	The application was turned down, with costs. In motivation, it was found that, Constitutionally speaking, the applicant did not have any right to insist that the court proceedings should take place in Zulu; but that he did, in fact, have the right to have the proceedings translated into Zulu by an interpreter.	African language
S v Matomela 1998 3 BCLR 339 (Ck)	A criminal review case conducted by the Bisho High Court, in respect of a case in which the court proceedings had been conducted exclusively in Xhosa, since all participants were fluent in the language and it was argued that this would be in keeping with the spirit of the provisions of section 6 (the language clause) and section 35(3)(k) of the 1996 Constitution.	The court of review upheld the conviction and sentence, but ordered that its finding should be referred to the Minister of Justice for his urgent consideration. In motivation, it was contended that, from a Constitutional point of view, the absence of national language legislation which could regulate the situation in question, did not in any way prohibit the use of any official language during court proceedings in cases where the concerned persons all spoke the same language.	African language

Litigation	Tenor of the case	Finding	Language in favour of which litigation was conducted
S v De Villiers, Case Number A612/98, 10 March 1999	The accused was on trial in the magistrate's court in Virginia on a charge of the violation of a specific Road Traffic Regulation that had been promulgated on 26 April 1990, in terms of which the FS acronym was proclaimed to be the official registration mark for the Free State province. The accused had applied the Afrikaans acronym, VS, as a registration mark to one of the vehicles in his possession.	The accused was acquitted because the State was unable to prove its case against the accused beyond reasonable doubt. In motivation, it was contended that the concerned court was unable to establish an awareness of unlawfulness on the part of the accused, on the basis of the evidence. The finding did, in fact, confirm that VS number plates, as such, remained unlawful.	Afrikaans
S v Van Wyk, Case Number RCK 89/99, 15 June 1999	The accused was on trial in the Regional Court for the Northern Cape Division, and was charged with the violation of a provision contained in the Civil Aviation Offences Act (Act 10 of 1972), owing to his refusal to fasten his seat belt on landing in Kimberley, during a flight of SA Express. His defence argument was that the safety announcement had only been made in English, and that his insistence on an announcement in Afrikaans had been refused.	The accused was sentenced to five years of imprisonment, suspended for five years. In motivation, it was contended that the accused had acted unlawfully by insisting on the use of his language, and thereby creating a hazard on the concerned flight. He had used an incorrect method, as well as the wrong forum, in order to insist on his language rights.	Afrikaans

Litigation	Tenor of the case	Finding	Language in favour of which litigation was conducted
S v Pienaar, Review Case 77/2000, 18 May 2000	A review case by the High Court of the Northern Cape Division in respect of a criminal case in which an Afrikaans-speaking person had conducted his own defence and had been found guilty after he had requested that his English legal representative should withdraw, since she was unable to speak Afrikaans.	The conviction and sentence were set aside. In motivation, it was contended that the accused had been deprived of a fair hearing, owing to the fact that an English legal representative had been assigned to him, which boiled down to a violation of his right to a fair hearing, since he was unable to communicate with her. He had been entitled to a hearing in Afrikaans.	Afrikaans

Table 5.1: Record of litigation concerning language in South Africa, April 1994 to 2001

Strictly speaking, only the first four of the eight cases are instances of linguistic rights litigation. Of these four cases, two were litigation on a specific language, viz language rights for English (*Chweu & Others v Pretoria Technical College (1994)15 ILJ 892 (IC)*, and for Zulu (*Mthetwa v De Bruin NO and Another 1998 3B CLR 336 (N))*. The other two cases did not refer to a specific language, but discuss with fundamental language questions.

The other four cases were introduced by the State against individuals for alleged unlawful deeds concerning language matters. As shown by Du Plessis (2004: 171), these are instances of negative linguistic litigation with the aim to suppress linguistic rights. In three of the cases, the litigation were against Afrikaans speaking citizens (De Villiers, Van Wyk and Pienaar), and in one instance, against a Xhosa speaker (Matomela).

6.5. Linguistic rights litigation 2002

The tendency not to use litigation as an instrument of language activism continued in 2002, and only one case occurred. In *Laerskool Middelburg v Departementshoof:*

Mpumalanga Departement van Onderwys (2002) 4 ALL SA 745 (T) (*Primary School Middelburg v Head of Department: Mpumalanga Department of Education (2002) 4 ALL SA 745 (T)),* in the Transvaal Provincial Division, an application was made by the Middelburg Primary School to set aside a decision by the Mpumalanga Department of Education to declare the school a dual-medium institution.

Until the end of 2001 the Middelburg Primary School was an exclusively Afrikaans-medium institution. In November 2001, a member of the Mpumalanga Department of Education instructed the school to admit in January 2002 twenty learners who wished to be enrolled at the school, and which were to be taught in English. In January 2002, after the school's power to admit learners was withdrawn, eight learners were admitted to the school, to be taught in English. The school refused to be a dual-medium school and began with a lawsuit.

In his judgement (in Afrikaans), Judge Bertelsmann rejected the application of the school to set aside the decision of the Mpumalanga Department of Education to declare the school a dual-medium school. In his judgement he stressed section 28(2) of the Constitution, Act no. 108 of 1996, which stated:

> 'n Kind se beste belange is van deurslaggewende belang in elke aangeleentheid wat die kind raak.
>
> [A child's best interest is of paramount importance in every matter concerning the child.]

The Judge was even of opinion that this section established a fundamental right.

If the learners were shown away, the best interests of them would be affected. These interests included e.g. the fact that the concerned school is the best school in Middelburg, academically as well as his sport and cultural activities. Forced removal could have a negative impact on the learners, because they could feel rejected, and also because close friendships with classmates had been formed. Furthermore, the school is the nearest school to their homes.

However, the judgement must not be interpreted as a blueprint that all future applications would receive the same judgement. The Judge stressed it that, if the application served before him on the day that the "gewraakte besluit" [contentious decision] was taken, "sou ek nie gehuiwer het nie om die beslissing tersyde te stel. Nou, tien maande later, kan hierdie weg nie sonder benadeling van die minderjarige kinders gevolg word nie" [he would not have hesitated to put aside the decision. Now, ten months later, this path could not be followed without damaging the minors].

Judge Bertelsmann also questioned with biting critique the *bona fides* of the respondents, and ordered them to pay all the costs.

> [Die respondente het] bestaande administratiewe voorskrifte verontagsaam wat onder andere daargestel is ter beskerming van taal- en kultuurbelange wat vir baie mense kosbaar is. Hulle het die onderhawige aansoek met mag en mening bestry, al moes hulle *ab initio* geweet het dat hul administratiewe optrede verkeerd was. Die houding wat die respondente inneem, gaan nie net mank aan 'n erkenning van die applikante se regte nie, maar ook aan respek vir die applikante se menings, aan eerbied vir die applikante se verknoghteid aan hulle eie taal en kultuur en verontagsaam die belange van die individuele leerders wat deur die respondente by hierdie proses betrek is.
>
> [The respondents disregarded all the standing administrative directions which, *inter alia,* are there as protection of language and cultural interests which are of importance to many. They opposed the present application with might and main, although they *ab initio* must have known that their administrative behaviour was wrong. The attitude of the respondents disregarded the applicants' rights and the views. The respondents had no respect for the applicants' devotedness to their language and culture, and also ignored the interests of the individual learners, who became involved in the process by the actions of the respondents) (p 756 (2002) 4ALL SA 745 (T)].

Also elsewhere in his sentence, Judge Bertelsmann refers to the ideological driveness of the respondents:

> Uit die houding wil dit voorkom asof die respondente in beginsel besluit het om met Afrikaans enkelmedium-skole in Mpumalanga weg te doen, ten spyte van die bepalings van artikel 29(2) van die Grondwet en van die Nasionale Taalbeleid. Die optrede word klaarblyklik nie net deur die eise van praktiese noodsaak gemotiveer nie, maar in 'n veel groter mate deur die beginsel dat sodanige skole getransformeer moet word. Ek het hierdie punt tydens betoog by herhaling aan mnr Dreyer SC genoem: Dit was uiteindelik gemeensaak dat dit die benadering van die respondente is.
>
> [The attitude of the respondents suggest that they principally decided to do away with Afrikaans-medium schools in Mpumalanga, in spite of the provisions of section 29(2) of the Constitution and of the National Language Policy. Apparently the behaviour was not only motivated by the demands of practical necessity, but in greater degree, by the principle that these schools must be transformed. I stressed this point repeatedly with Mr. Dreyer SC: Ultimately, it was common knowledge that this was the approach of the respondents) (p 754 of (2002) 4 ALL SA 745 (T)].

Ironically, the repeated attempts - and probably future attempts if this application succeeds – was one of the reasons why the application was rejected:

> Daar is 'n verdere oorweging wat my noop om die aansoek van die hand te wys. Dit is duidelik dat die eerste en tweede respondente reeds sedert 1996, met klaarblyklike verontagsaming van die administratiewe voorskrifte, poog om die eerste applikant tot 'n parallelemediumskool te omskep. Mnr Dreyer het toegegee dat dit hoogs waarskynlik is dat die eerste en tweede respondente hierdie poging sal hervat indien die onderhawige aansoek sou slaag. Dit is in niemand se belang om die applikante en die leerders aan 'n herhaling van die proses bloot te stel nie.
>
> [There is a further consideration which compel me to reject the application. It is clear that the first and second respondents since 1996, with evidently disregard for administrative stipulations, try to change the first applicant to a dual-medium school. Mr. Dreyer admitted that most probably the first and second respondents will continue with their efforts if this application will succeed. It is in nobody's interest to expose the applicants and the learners to the process) (p 756 of (2002) 4 ALL SAL 745 (T)].

The sentence was reported in *Beeld* on 13 November 2002. The chairman of the school's governing body, Mr. Meiring, commented: "'n Streep is deur Afrikaanse enkelmediumskole getrek" [A line is drawn through Afrikaans-medium schools].

Also the Pan South African Language Board (PanSALB), was disappointed, because the sentence clipped the wings of the Department of Education's policy to promote multilingualism (*Citizen*, 14 November 2002). The spokesperson of the Democratic Alliance, Sandra Botha, also deplored the judgement because English was promoted at the expense of Afrikaans (*ibid*.).

A second, nearly similar case was settled. On the last day of the academic year, 13 December 2001, the Gauteng Department of Education declared the High School F H Odendaal (FHO) to be a dual-medium school with the re-opening on 16 January 2002. It was a one-sided declaration without any predetermined assessment of the needs, without motivations, negotiations and/or spirit of partnership (thanks to the chairman of the governing body of FHO, Mr. Louis Smuts, who supplied the correspondence relating to the matter). Thirty-two learners were moved to the school to begin a grade eight class. All the learners were approximately 20 to 25 km from the school, and passed three other schools where vacancies exist. They were transported by bus at a cost of R200 per child. In the same period, two other Afrikaans-medium schools accepted the declaration to become dual-medium institutions in the same area. Therefore there would be three Afrikaans-medium schools, with one grade eight class with English learners in each.

An urgent application to put aside the decision served before Judge Van der Westhuizen. Rights and powers entrenched in the Constitution and regulated in various acts, like as the School Act, were discussed:

1. The right of present learners and parents to exercise the language of their choice in instruction, without interference from outside;
2. The rights, powers and competence of governing bodies to decide on matters like finances and language policy;
3. The right of a school community to uphold an existing ethos, culture and discipline in a school in their area;
4. The right of teachers to teach unrestrained in the language of their training and conditions of appointment; and
5. The right of the English-speaking learners to receive instruction as near as possible to their homes, in the language of their choice.

The legal representatives of the Department agreed on most of the arguments, and asked the court to adjourn so that they could negotiate for a settlement. The settlement was made an order of court with the following contents:

1. The declaration by the Department of Education for the FHO to be a dual-medium school is set aside;
2. The Department of Education pay all court and legal costs;
3. FHO undertakes to house the present group of English-speaking learners to the end of the 2002 school year; and
4. The Department of Education undertakes to move these learners to an English-medium school.

An important implication of the putting aside by Judge Bertelsmann of the initial one-sided declaration by the Gauteng Department of Education was highlighted in an editorial in *Beeld*, 6 May 2002, namely that a governing body can appeal to the Constitution if a department of education wants to force, or already has forced, certain decisions.

In an interview with Judge Arthur Chaskalson, Chief Justice of the Constitutional Court (*Rapport*, 4 April 2004), Judge Chaskalson admits that language is a complex and difficult issue, and that principles relating to language should be tested as directive for future judgments. He finds it odd that relatively few such cases have appeared before the Constitutional Court. According to Chaskalson

om jou in iets anders as jou moedertaal uit te druk, is ontmagtigend. En as jy, omrede jou taalgebruik, ontsê word om deel te neem aan sekere aspekte van die samelewing, is dit ontmagtigend. [It is disempowering to express yourself in a language other than your mother tongue. If you are prevented from taking part in certain aspects of society because of language, it is disempowerment.]

6.6. Role of PanSALB to initiate litigation

In the previous sections the importance of litigation was shown. In general, Constitutions contain broad principles rather than detail on certain concepts. This holds true for section 6, the official language clause, of the Constitution. Because, as was shown, section 6 is open for different interpretations, , it is imperative for the courts to give content to the principle of linguistic rights.

It is in this respect that PanSALB can play a more important role. Section 11 of the PanSALB Act, Act no. 59 of 1995, deals with procedures and mediation, conciliation or negotiation by the Board. Subsections 4 and 5 read as follows:

(4)The Board shall on its own initiative or on receipt of a written complaint investigate the alleged violation of any language right, language policy or language practice.

(5)(a) The Board shall, after an investigation of the alleged violation in terms of subsection (4), and if it is of the view that there is substance in the allegation, by mediation or conciliation or negotiation, endeavour -

i. to resolve and settle any dispute; or

ii. to rectify any act or omission,

arising from or constituting a contravention or infringement of legislation or alleged contravention or infringement of legislation, language policy or language practice, or a violation of or threat, or alleged violation of or threat to any language right.

(b)If any endeavour in terms of paragraph (a) fails and provided that the Board is of the view that there are good reasons to address the matter further, the Board shall assist the complainant or other persons adversely affected to secure redress by -

i. referral of the matter, with a recommendation, to the organ of state against which the complaint was lodged;

ii. recommending that the organ of state against which the complaint was lodged provide the complainant with financial or other assistance with a view to redressing any damage;

iii. providing, in its sole discretion, the complainant with financial or other assistance to redress any damage; or

iv. making arrangements for or providing the complainant with financial or other assistance to enable him or her to obtain relief from any other organ of state or a court of law.

It is important to note that subsection 4 makes provision that PanSALB on its own can investigate a matter of violation of linguistic rights, and that it is not necessary to wait for complaints from outside bodies or persons. Of importance is also subsection (5)(b)(iv), which opens the possibility of financial or other assistance to enable complainants of violations of linguistic rights to carry on with their efforts.

6.7. Conclusion

Litigation is one of the most effective forms of activism for obtaining linguistic rights, and it provides the greatest guarantee for their maintenance. In the South African situation it must be utilised to a greater extent. In the words of Martel (1999: 65), "litigation remained a final strategy and a sword of Damocles in negotiations with the state".

Litigation is an expensive process, and the implication of the costs is a stumbling block which inhibits the decision to litigate, in spite of the merits of a case. If sufficient cases of litigation, however, do not take place content can not be given to the principle, in this case the principle of linguistic rights with the result that uncertainty on the linguistic rights of language users, and the powers of the authority, will continue.

In this regard the Canadian attitude is an inspirational example. In spite of the fact that French in North America is the mother tongue of only 2% of the population, and the pressure to assimilate is huge, the linguistic rights of the minority group in Canada is recognised after a series of litigation processes. Financial support for all the litigation processes was supplied by the Federal government.

The words of the Canadian Commissioner of Official Languages are relevant to South African users' attempts in obtaining linguistic rights: "Court decisions have done much to promote Canadians' language rights" (*Annual Report*, 2002: 36).

7. Research on linguistic rights in South Africa

7.1. Introduction

Research on linguistic rights is a component of research on language planning in general. Language planning researchers are faced with particular problems. In the first place language planning is one of the most interdisciplinary domains in Linguistics, in which fields such as Sociology, Politics, Law, Psychology and Pedagogy intersect. Secondly, researchers are confronted with a research field in which any single variable is related to a wide variety of other variables, in which any variable is influenced by others, and in turn, influences them.

Research on Sociolinguistics and the Sociology of Language is a dynamic research area. A selected bibliography from 1970 to 1996 on the Sociology of Language (Cluver, 1996) comprises 644 pages. In the next section research on only one sub-discipline, namely language rights in South Africa, or referring to South African linguistic questions, is explored.

7.2. Research on South African linguistic matters

Matters concerning linguistic rights are related to linguistic rights of minority groups. In contrast to speakers of a dominant language (not necessarily a dominating language; cf. Ridge (2000: 151-152) for this distinction), minority groups often complain that their linguistic rights are not guaranteed (sufficiently).

In Chapter Two it was shown how the concept *linguistic human right* became associated with that of *fundamental human right* from the eighties of the previous century. To implement the concept *linguistic human right*, or its weaker form *linguistic right*, a government must have a language policy, and ensure that specific linguistic rights are statutorily regulated. Therefore, in Chapter Six, the role of linguistic rights litigation in some multilingual countries, including South Africa, was considered.

Actually, it is obvious that South Africa, with its linguistic diversity, should have attracted the interest of the public as well as researchers. Speakers of Afrikaans especially, but not exclusively, were troubled about their rights in the new political dispensation.

7.3. Research before 2002

Studies on linguistic rights and other related matters received a strong impetus with the publication of J.C. Steyn's *Tuiste in eie taal* [*Homeland in own language*]

in 1980, that is, well before the political changes of the 90s. Steyn (1980) alerted people to language-related problems, specifically matters related to Afrikaans. In fact, a discourse on (the future of) Afrikaans was initiated by his work. The media gave much coverage to aspects of Steyn (1980), and saw it as an important contribution. Du Plessis and Van Rensburg (1986) presented an investigation into the reception of the book in the media as well as by academics.

At least six well-known linguists took Steyn (1980) as the basis for their own research (Du Plessis & Van Rensburg, 1986: 11-12). Some of these studies and papers were published in *Afrikaans: Stand, taak, toekoms* [*Afrikaans*: *Position, responsibility, future*] (Prinsloo & Van Rensburg (Eds)., 1984). The latter contains fourteen contributions, about half of which are a direct or indirect result of Steyn's (1980) work. On the influence of Steyn (1980) on this publication, the editors commented: "'n Mens kan eintlik veralgemeen en beweer dat *Stand, Taak, Toekoms* 'n direkte reaksie op *Tuiste* is" [One can generalise and state that *Position, Responsibility, Future* is a direct result of Steyn's *Homeland*] (Du Plessis & Van Rensburg, 1986: 45).

The changed attitude concerning language matters is also the result of a shift in Linguistics. Up until the eighties of the previous century, leading linguists worked within a Saussurian or Chomskyan tradition, with its emphasis on system and homogeneity, and less interest in heterogeneity (in its dichotomy *language vs parole/ competence vs performance*). For Chomsky, social diversity is theoretically irrelevant, and the task of a linguist is the study of speakers' abstract knowledge of the rules of a language.

Labov, especially, raised fundamental objections against what was termed the "linguistic *apartheid* policy" (Labov, 1974: 825). Labov's contribution is that he demonstrated that homogeneity does not equal structure, and that variability is not only normal, but also systematic, and that language rules also take this into consideration.

In the official organ of the Linguistic Society of Southern Africa, the *South African Journal of Linguistics/ Suid-Afrikaanse Tydskrif vir Taalkunde*, proof can be found of this changing attitude towards sociolinguistic matters, and specifically language planning, language and politics, and linguistic rights. Initially (because of its chronologically earlier democratisation), the attention was focused on South-West Africa/Namibia (Prinsloo, 1984; H. du Plessis, 1985; L.T. du Plessis, 1985). Soon the language situation in South Africa was receiving the attention (Prinsloo, 1985; Reagan, 1985, 1986, 1990; Steyn, 1990). Specifically, the position of Afrikaans, in particular, was discussed by Stander and Jenkinson (1993). In various contributions

Steyn discussed aspects of earlier questions concerning Afrikaans (Steyn, 1986a; 1986b; 1986c; 1987a; 1987b), while Du Plessis (1987) demonstrated the influence of a certain ideology on two decisions on standardisation of Afrikaans. The work by Lubbe and Du Plessis (2001) is a content analysis of the debate in the printed media on the interpretation of the official linguistic principles of the Interim Constitution. Van der Merwe (1990) offers a general overview of what to expect from language planning, and who ought to take responsibility for it.

In the behavioural sciences in general the measuring of attitudes is important. With such results, a profile of a community can be compiled and predictions can be made, for example, on socio-political behaviour patterns. The benefit of such surveys for the sociolinguist and language planner is obvious. Language attitudes are discussed by Kotze (1987), Louw *et al.* (1990), Louw-Potgieter and Louw (1991), Gräbe and Webb (1992), De Klerk and Bosch (1994), Smit (1996) and Verhoef (1998).

In accordance with international tendencies, code-switching and language shift received much attention. Kamwangamalu (1999; 2000) gives an overview of research on code-switching in the international context. In the South African context, however, code-switching and language shift did not receive much attention. Finlayson and Slabbert (1997) discuss code-switching in a South African urban setting, while Ramsay-Brijball (1999) reports on the motivation and attitudes concerning code-switching of Zulu L1 speakers. Language shift is also the subject of De Klerk and Bosch (1998) and Schaberg and Barkhuizen (1998).

Language policy in a democratic South Africa is discussed by Ridge (1996). Ridge (1996) forms part of a publication discussing language policy in English-dominated countries (Herriman & Burnaby (Eds). 1996). The golden thread in all the contributions is English hegemony. In a discussion of six countries where English is the dominant language, it is stated that in all these countries, the dominance of English had "involved conquest of indigenous populations and denial, suppression or neglect of the language spoken by them in favour of English" (Herriman & Burnaby, 1996: 1).

Neglect of the indigenous languages and hegemony of English (and other colonial languages) are warp and woof on the African continent, as is shown by Erasmus (1999). Non-African languages are used throughout Africa as the languages of education, commerce, and government, while African languages are regarded as incapable of expressing the ideals of higher civilisation. If this demotion or loss of traditional indigenous languages is not resisted, it will

> eventuate in the death of the authentic national culture, the end of our deeper intellectual and spiritual life and reduce us to perpetual copycats, having missed out on our historical mission in the world (Erasmus, 1999: 45).

Some practical suggestions towards the realisation of a well-functioning multilingual dispensation in South Africa are made – including, *inter alia,* more involvement from sociolinguists.

Pieterse (1995) also touches on aspects of linguistic rights.

Research on linguistic rights in South Africa is also receiving attention in a colloquia series of the Unit for Language Facilitation and Empowerment (previously the Language Facilitation Programme) at the University of the Free State. In the proceedings of the first colloquium (Lotriet (Ed.). 1997), Hertog and Lotriet (1997) stressed the fundamental right of each citizen to equal access and treatment before the law. It is therefore government's obligation to make the judiciary system linguistically accessible to those concerned:

> Because of the fundamental human right stipulating that everyone - also, or perhaps particularly the non-native speaker - has to have equal access to and treatment before the law, it is a country's duty to make its legal system linguistically comprehensible to any party [who] happens to become involved in it and therefore to provide interpreting services. Equally[,] because of jurisprudence in both international and various national courts[,] such non-native defendants, witnesses or parties have the right not only to an interpreter, but indeed to a qualified (i.e. good) interpreter (Hertog & Lotriet, 1997: iii).

Other studies concentrating on different areas of interpreting training, are Erasmus (Ed.). (1999) and Mathibela (Ed.). (2000). Initial contributions on the study and practice of interpreting in South Africa are compiled in Du Plessis (Ed.). (1997).

From the colloquia series evolved the Van Schaik publication series, Studies in language policy in South Africa. This series deals with different aspects of the management of multilingualism in South Africa and Belgium and offers a comparative perspective. The first volume discussed multilingualism and government (Deprez & Du Plessis (Eds). 2000), the second, multilingualism and the judiciary and security services (Deprez, Du Plessis & Teck (Eds) 2001), and the third, multilingualism and education and social integration (Cuvelier, Du Plessis and Teck (Eds). 2003). A fourth number, currently in preparation, will cover aspects of multilingualism and electronic language management.

Du Plessis was the supervisor of Zietsman (2000) and the promoter of Ferreira (2002), both of whom discussed aspects of language planning, and by implication, linguistic rights.

Ferreira's (2002) point of departure is that terminology is an instrument of empowerment, and that systematic terminology management is thus of the utmost importance for all the official languages. Terminology is looked upon as a strategic resource.

The international publishers, John Benjamin, are publishing a series, *Impact studies in language and society*, which also includes studies on language rights. Ricento (Ed.). (2000), one of the numbers in this series, investigates the way ideologies and politics influence language policies. Pennycook (2000: 114) characterises the threat posed by English to minority languages, as "English imperialism". A strong argument in favour of the maintenance of language diversity or language ecology is the notion of a *fundamental human right*. This notion adds an important *moral* viewpoint to existing arguments.

In the same volume Ridge (2000) discusses ideological elements favouring English in South Africa.

7.4. Research in 2002

Various contributions discussing aspects of language planning and language rights appeared in 2002 in *Southern African Linguistics and Applied Language Studies* (the new name of the mouthpiece of the linguistic society). Kamwangamalu (2002) is a review of Deprez *et al.* (Eds). (2001), a volume discussing problematic aspects of the administration of justice and minority rights in South Africa and various officially multilingual European countries. One conclusion to be drawn is that in the judiciary, South Africa's multilingual policy is, strictly speaking, not being implemented, and that in South Africa the judiciary and security services are moving gradually but steadily towards English unilingualism (Kamwangamalu, 2002: 125).

De Kadt (2002) pinpoints the same tendency in a review of Du Plessis and Van Gensen (Eds). (2000). According to her, the value of the compilation of the papers, originally delivered in 1989, is that it:

> challenges us to ask to what extent the dominance of Afrikaans (and English) in 1989 has simply been replaced by the dominance of English in 2002 - and this in spite of the proclamation of a multilingual language policy and more or less vigorous attempts to implement this policy (De Kadt, 2002: 352).

The dominance of English is also highlighted by Pienaar (2002). She investigates the attitude towards simultaneous interpreting services in the Northern Province and the Gauteng Province. Her conclusion is that the primary use of English has almost become the norm.

A quantitative analysis, on the basis of reports in the media, of the reactions of Afrikaans speakers regarding changes to the language policy and supposed lack of recognition of their language in the Free State for the period 1994 to 1998 was carried out by Truter (2002). The lack of a clearly formulated language plan in terms of Section 6 of the Final Constitution for the Free State province, and the absence of clearly formulated legislation on provincial and local government level, have led to various incidents with regard to language.

In the journal of the Suid-Afrikaanse Akademie vir Wetenskap en Kuns [South African Academy of Science and Culture], *Tydskrif vir Geesteswetenskappe* [*Journal for Human Sciences*], two contributions on linguistic rights appeared during 2002. On the basis of reports in the media, Truter and Lubbe (2002) conducted an analysis of the debate around the status of Afrikaans in the South African Broadcasting Corporation (SABC) during the interim period (1994 - 1996). It is shown that this semi-state institution apparently does not feel obliged to uphold the language clauses of the Constitution. Section 3(2) of the language clause of the Interim Constitution states: "Rights relating to language and the status of languages existing at the commencement of this Constitution shall not be diminished". Decisions by the SABC, especially regarding Afrikaans, however, show that language choice can be politically motivated, and that in a multilingual country recognition of linguistic rights is not necessarily dependent on a constitution.

In the second contribution Scholtz (2002) gave an overview of international developments relating to human rights, minority rights and linguistic rights. The rights of minorities, which include linguistic rights, are stressed. In the light of these developments a strong case is made for compliance in respect of minority rights and minority linguistic rights in South Africa. An obligation rests on the authorities of all three governmental levels to fulfil the clauses on linguistic rights in the Constitution. Speakers of minority languages have the right to communicate with government in their own language. As a matter of fact, government violates the rights granted to it by the Constitution and international stipulations regarding human rights if it insists that communication at all levels must be in English, or if its covert promotion of the use of English places limitations on the use of minority languages (Scholtz, 2002: 300).

Another conclusion drawn by Scholtz (2002) is that speakers of minority languages have the right to be educated in their own language. To be specific: speakers of Afrikaans have this right at two (or even more) universities where Afrikaans is a medium of instruction. This right, of course, goes hand in hand with the right to education and the prohibition of discrimination. Afrikaans-medium schools, universities and other institutions thus have no right to refuse non-Afrikaans speakers. Likewise, it is argued, these institutions can in all fairness expect non-Afrikaans speakers to respect the language ethos of the particular institution (Scholtz, 2002: 301). We note that this position can easily be misused by language activists with the wrong intentions.

In John Benjamin's series on topics in sociolinguistics, *Impact studies in language and society*, Webb (2002) concentrates on the language situation in South Africa. The role of language in national transformation, reconstruction and development is discussed. Of course, attention is paid to linguistic rights. It is shown that issues of linguistic rights are of fundamental importance. The mere acceptance of the principle of linguistic rights is meaningless, however, if it is not shown in concrete terms what these linguistic rights imply. Practical instruments which enable government to make these rights meaningful in the lives of their subjects must be made available. It is therefore important that laws should be defined precisely, clearly identifying those on whom they have a bearing, and which lawful steps can be taken if they are violated; and it is also necessary to ensure that funds are available for eventual litigation. Webb's monograph is an important contribution to the language debate in South Africa.

Part III of Mesthrie (2002), an important work on language and society, discusses "Language planning, policy and education". In his historical analysis of language planning and language policy in South Africa, Reagan (2002) touches on the thorny notions of *ethnic* or *group rights* and *language rights*. In South Africa, as a result of past events, many see *ethnicity* as a euphemism for *apartheid* (or even *race*). Reagan (2002: 429) does not think that this ought to be the case, and argues for ethnicity, interpreted in the correct sense, to be recognised. He quotes Adam and Moodley (*South Africa without Apartheid*, 1986: 220) in this connection:

> Liberalism has for the most part failed to recognise the legitimate aspects of mobilised ethnicity, by associating ethnicity solely with unfair advantage or the height of irrationality. But insofar as ethnicity expresses cultural distinctiveness and the quest for individual identity through group membership, it may fulfil desires that liberalism ignores. People do not necessarily want to be the same [...] Cultural ethnicity only

> becomes problematic if it is transformed into economic and political ethnicity for the advantage of its members at the expense of outsiders.

In the development of a language policy the question of specific language rights is pivotal. If a just community is planned, the question of linguistic rights must be solved. Likewise, Heugh (2002) touches on the issue of linguistic rights. She doubts whether the government is committed to empowering the indigenous language communities through the use of their languages in education, because in Africa "there have been no examples of the successful implementation of a rights-based language policy" (Heugh, 2002: 468). The basis of her argument is that the uplifting of the various South African languages, especially in education, is imperative to prevent (English) monolingualism in practice.

An important work dealing specifically with the position of Afrikaans, but which implicitly contributes to the broader debate on language issues in South Africa, is that of Giliomee and Schlemmer (Eds.) (2002). In this contribution, it is shown that it is contra-productive, and not in the national interest, to continue to cherish the idea that English is the premier public language, and as such should be the only language of instruction at universities.

In the same collection Neville Alexander argues that the maintenance of Afrikaans at universities is of vital importance for the establishment of democracy in South Africa. In his contribution Giliomee shows how the description of the South African situation could benefit by comparing the status of Afrikaans-speaking scholars with that of their English-speaking and black colleagues. As a matter of fact, a meaningful contribution to the Africanisation of the tertiary sector could be furnished through Afrikaans. In his review of the book in *Beeld* (4 March 2004), Theo du Plessis concludes:

> Dit sal werklik 'n nasionale ramp wees indien Afrikaans as universiteitstaal op intimiderende wyse uitgewerk word deur magbelustes en hedendaagse Toring van Babel-bouers in die regering. Suid-Afrika sal só sy voorsprong in die Afrika-renaissance-beweging kwyt wees. [It would definitely be a national disaster if Afrikaans were to be discarded in an intimidating manner by power-hungry persons in government and builders of a contemporary Tower of Babel. In such a case, South Africa would lose its advantage in the African Renaissance movement].

7.5. Analysis and interpretation

Various themes in the research on linguistic rights in South Africa can be identified.

Theme 1: Linguistic rights are a fundamental human right

Scholtz (2002) illustrated that a focus on minority rights, which includes linguistic rights, is a position gaining acceptance. Pennycook (2002) calls this argument a *moral* support in favour of language diversity or language ecologies. Contributions referring to specific areas of equal access and treatment before the law, are Lotriet (Ed.). (1997), Erasmus (Ed.). (1999), Mathibela (Ed.), (2000) and Ferreira (2002). The fact that government does not (always) comply with the language clauses of the Constitution is illustrated by Truter and Lubbe (2002). Champions for functional multilingualism can appeal to the concept *linguistic right*.

Theme 2: Statutory provisions in respect of linguistic rights

As is shown by Webb (2002), the mere acceptance of the principle of linguistic rights in a constitution is meaningless if it is not shown in concrete terms what these rights imply in practice. Litigation plays an important role, as courts give content to a certain principle. Champions of linguistic rights can take cognisance of this principle. Webb (2002) also pleads for funds to be made available for eventual litigation.

Theme 3: South Africa is on the road to English monolingualism

Various contributions, for example, Erasmus (1999), Deprez *et al.* (Eds) (2001), Kamwangamalu (2002), De Kadt (2002), Pienaar (2002), and Giliomee and Schlemmer (Eds) (2002), stress the point that the multilingual language policy envisaged by the Constitution is not being strictly adhered to, and that South Africa has embarked on the gradual road to English monolingualism, as in the case of English-dominated countries in general (Herriman & Burnaby, 1996). Some ideological elements responsible for this scenario are discussed by Ridge (2000).

Theme 4: Decreased status of Afrikaans

Since 1980, with the publication of Steyn (1980), the problems of a multilingual South Africa, and specifically problematic aspects relating to Afrikaans, have constantly received attention. A quantitative analysis of reactions of speakers of Afrikaans to specific issues, on the basis of reports in the media, was undertaken by Truter (2002) and Truter and Lubbe (2002). Webb (2002) repeatedly discusses the position of Afrikaans. Giliomee and Schlemmer (Eds.) (2002), a volume with various contributions, specifically highlights the implications of the downgrading of Afrikaans as a public language and as the language of instruction at universities.

7.6. Conclusion

Very few of the studies discussed above have specifically focused on language rights issues in South Africa, or endeavoured to explore local issues in more detail. Since research is an important aspect of language activism and plays an important role in providing information for the purposes of language policy, this could be seen as a serious shortcoming. Our data on language complaints, for instance, suggest that more research needs to be conducted on people's understanding of their language rights within the framework of the current language dispensation. In our view, too much focus is placed on the problems relating to the non-implementation of language policy and too little research is conducted on the sociolinguistic reality of South Africa, also regarding issues such as language rights.

It is also disturbing that so much research focus is placed on the position of Afrikaans. Although we do not underestimate the importance of this language, the lack of studies on the position of the African communities on language rights issues in South Africa is alarming.

Finally, we find that developments in the field of language rights in the international arena are not adequately finding their way into South African research endeavours. This might contribute to the continuation of an isolationist approach to language rights research, and might result in a failure to stimulate new and innovative research in the field.

Policy-makers can only benefit from taking cognisance of the findings of research on language planning in South Africa in general, and linguistic rights in particular. PanSALB is the obvious institution to take care that these findings are disseminated to the right channels, insofar as they have relevance. However, PanSALB could also consider ways to stimulate relevant research on language rights in the country.

8. Conclusions and recommendations

8.1. Conclusions

The conclusions reached in the various chapters may be summarised here.

In Chapter Two, where the theoretical considerations regarding the linguistic rights of minority groups were discussed, it was demonstrated that the recognition of the linguistic rights of minorities is not a privilege that may be bestowed according to the discretion and graciousness of the authorities. The linguistic rights of minorities are in actual fact a human right, a standpoint widely accepted and

propagated today. We have also seen that all language groups in South Africa may be treated as "minorities" in the international sense of the word, but that it might be argued that the English community could be treated somewhat differently, given the dominating role of English. A distinction was drawn between linguistic human rights and (political) language rights. It was established that the state may indeed recognise certain linguistic human rights, i.e. the right to speak one's own language, the right to associate with other speakers of this language, the right to have this language respected, the right to education in one's language, etc. The South African Constitution indeed recognises such rights, and in the widest possible sense. However, we have also seen that not all linguistic human rights are necessarily guaranteed as language rights by the state. These rights are limited and granted as the state deems fit, and as required by the sociolinguistic environment. The state may decide to accord official status to a specific language for the purposes of government, may decide which languages to support in education, etc. These rights are not to be confused with linguistic human rights and are thus not to be considered as universal rights. The South African constitution guarantees such rights regarding the eleven official languages. Finally, we have seen that the granting of such language rights does require a commitment from the state to make good on its undertakings. The kind of legal foundation for language rights allows for, and actually even requires, litigation in order to coerce the state into action.

Chapter Three presents an analysis of media coverage of language issues. Media coverage on language issues is an important aspect of the cultivation of language rights activism. Most of the 2108 media records that we collected for this report, deal with reviews and name changes. The latter have prompted a fair amount of publication. In this case the English press produced more records than the Afrikaans press even though the name changes (especially in Limpopo) affected erstwhile Afrikaans place names. Language rights issues were the third largest category of coverage. PanSALB also secured coverage, particularly in the Afrikaans press. Our conclusion is that the Afrikaans press is prepared to cover language rights issues although it no longer takes the front seat when it comes to language issues. However, the continued interest in the changing of names, a process that has obviously not been concluded, presents an opportunity that could be exploited. The name-change issue could be used as a springboard to campaign for a more informed understanding of the real language rights issues.

Chapter Four contains an analysis of linguistic rights complaints, both aired in the printed media and lodged with PanSALB. Although eleven of the South African languages are recognised for official purposes and although certain rights regarding

their status and use are guaranteed by the Constitution, in practice these rights are not accorded full implementation.

We have treated the reporting of language rights issues that are related to the alleged violation of language rights as language complaints aired in the media. The Afrikaans media, although proportionally smaller than their English counterpart, have carried more reporting on language complaints. We have also established that this branch of the media actually plays an activist role regarding language rights issues by "driving" complaints coverage.

Our analysis has established that state institutions (which include first-, second- and third-level government, education and statutory bodies) were the source of the greatest number of language complaints stemming from alleged language rights violations. The highest portion of alleged language rights incidents occurred at the first level of government. Government departments that were responsible for the majority of these language-related incidents were the Department of Justice, the Department of Correctional Services (DCS), the Department of Labour and the Department of Education. The single language-related incident that caused the greatest number of complaints to PanSALB was the attitude of the Compensation Commission of the Department of Labour, as displayed by its insistence on English-only forms. In reaction, 36 private persons lodged complaints.

Our analysis furthermore shows that the complainants, both in the media and with PanSALB, were predominantly Afrikaans speakers. This confirms that the level of language awareness in the Afrikaans community is probably relatively high. However, it also suggests that the expectations within this community regarding the new language dispensation are informed by the previous practices of equality. Whereas complainants about the situation regarding the African languages were relatively absent in the media reports (or represented by non-African language speakers), it is encouraging to note that such complainants were involved, to a somewhat larger extent, in the complaints records lodged with PanSALB. This should be seen as a vote of confidence in this body.

Most language rights incidents centred on supposed discrimination against the use and status of Afrikaans. Complainants generally reacted against the establishment of an English-only practice at state and semi-state level. Practical matters such as the non-availability of forms in other languages than English, internal/external communication that is not conducted in the other languages, documents not available in the other languages, etc., are examples of the kind of administrative actions that prompted the complaints.

Judging from language rights complaints lodged with PanSALB, it would unfortunately appear that the so-called "language watchdog" has not been so successful in the resolution of problems related to language rights. Its current success rate is 5%, implying that only one out of every 20 complaints stands a chance of being resolved. Apparently, the biggest problem in dealing with language rights complaints is that the process of lodging a complaint loses momentum after further feedback is required from the complainant. In most cases the process of providing feedback remained in abeyance, because the sustained interest in the case apparently started to wane.

Chapter Five deals with language activism, excluding neutral media coverage and language complaints. We have noted that community mobilisation is one of the activist techniques that is mostly used by language activists from the Afrikaans community. However, in comparison to countries such as Canada, where a high level of language activism is present, South Africa still has a far way to go.

Chapter Six deals with language litigation. Litigation remains one of the most effective forms of activism in obtaining and securing linguistic rights. This form of language rights activism in South Africa, however, is not utilised to the maximum potential, in contrast to the situation in Canada, for example. The case of *Laerskool Middelburg v Departementshoof: Mpumalanga Departement van Onderwys (2002) 4 ALL SA 745 (T.)* was discussed. An application was made by the Middelburg Primary School to set aside a decision by the Mpumalanga Department of Education to declare the school a dual-medium institution. The application was denied. Another case, involving the Gauteng Department of Education and the F H Odendaal (FHO) High School, was settled. The school was compelled to become dual-medium, as from the date of its re-opening on 16 January 2002. An urgent application to put aside the decision was lodged and the matter was settled, with the settlement being made a court order. In the case of Middelburg Primary, the existing need in the immediate feeder area constituted a motivation for the change to a dual medium school, while the same was not true in the latter case. In both cases, the litigation has strengthened the right to education in the language of one's choice for minority speakers.

Chapter Seven deals with research on linguistic rights in South Africa. An overview was provided, displaying four main themes:

- Linguistic rights are a fundamental human right;
- Statutory provisions in respect of linguistic rights are necessary;
- South Africa is on the road to English monolingualism;

- The decreased status of Afrikaans has received most attention.

We have noted an absence of research on language rights issues at a practical level in South Africa, as well as on the perceptions of different language communities regarding their rights.

A government is displaying short-sightedness when it alienates the speakers of minority languages by failing to respect their language rights. The government would benefit more by ensuring that every citizen's constitutional language rights are upheld. Knowledge of the attitude and disposition of the speakers of minority languages in respect of the disregard of language rights is important in order to enable a government to take pro-active steps, on a timely basis, so as to prevent friction related to language. The findings in connection with the relationship between English and French in Canada, are also valid for South Africa:

> There is a need to create an environment where dialogue, mutual respect, and a proactive approach are encouraged in order to defuse linguistic tensions. Integrating both official languages means being open to diversity and allowing differences to find expression. While it will sometimes be necessary to turn to the courts to ensure that language rights are respected, it will always be best to avoid conflicts by seeking to solve problems before they escalate (*Annual Report*, 2002: 37).

8.2. Recommendations

Methodological

At the end of the first year of the envisaged three-year monitoring period, certain methodological shortcomings had become evident:

a. The database should be extended.

- SA Media does not excerpt material from newspapers in the African languages. At least the Zulu newspaper in KwaZulu-Natal, *ilanga lasa Natal*, and the Seswati newspaper available in Limpopo and Mpumalanga, *Unokhethwako*, should be included.
- Only mainstream, national newspapers were excerpted, and no local and regional newspapers. In many rural communities these local publications provide the only means of accessing local trends and prevailing views.
- The newest daily newspaper concentrating mainly on black readers, the *Daily Sun*, must be included in the list of subscription publications and should be excerpted.

- SA Media provides only clippings according to key words provided to them. With these findings, however, it is not possible to compare the space allocated to linguistic matters with that allocated to other topics, for example, sport, foreign news, travelling, health issues and political issues. For this information, it is naturally quite impossible to take all the papers into account. However, it is suggested that on a monthly basis a few representative papers be obtained in order to make a comparative analysis possible.
- The inclusion of the electronic media as published on the Internet could also be considered.

b. The relation between political and other relevant events and language complaints should be investigated. Thus, in order to ascertain the correlation between language complaints and broader political incidents, the initial reason for the complaint must be taken into account, to find out which incident causes the greatest dissatisfaction linguistically.

c. A sociolinguistic component could also be added to the report, testing some on-the-ground perceptions regarding language rights issues in South Africa.

d. In order to prepare for longitudinal comparisons, it might be advisable to build up a database on the period 1994 to 2001. The analysis of these data could be included in a future report and could form the basis of all future analyses. In this way, important trends could be monitored.

e. More detailed descriptions of or narratives on language complaints could also be included, space allowing.

Role of PanSALB

a. The Board should consider utilising the printed media more in raising awareness regarding language rights issues. It is proposed that the current name change process be utilised as a springboard to communicate the message of a new language rights dispensation in South Africa.

b. It is recommended that PanSALB should not, in the main, follow a reactive role when investigating language rights complaints, but rather of its own accord initiate complaints in respect of language rights violations. Coverage

of language rights issues in the media may be utilised as an important resource in this regard. PanSALB plays an indispensable role in monitoring and implementing the official language policy. The fact that PanSALB is able, amongst other things, to financially assist complainants in respect of language rights violations in order to initiate a litigation process to obtain redress for alleged language violations, must be brought to the attention of the broader public. Also, the Legal Aid Board is financially able to assist in meritorious cases. The process of litigation is relatively expensive, and the cost implication could be regarded as a stumbling block inhibiting the decision to litigate, in spite of the merits of a case. If sufficient cases of litigation do not take place, however, content cannot be given to the principle of linguistic rights, with the result that uncertainty on the linguistic rights of language users, and the powers of the authority, will continue. Regarding the importance of litigation, Judge Chaskalson, Chief Justice of the Constitutional Court, in an interview with *Rapport* (4 April 2004), also stressed the need for testing certain principles relating to language before the court. Language is, according to him, a complex and difficult issue, and he finds it odd that relatively few cases have appeared before the Constitutional Court.

c. PanSALB should put measures in place that would shorten the time span between the occurrence of a language rights incident, the lodging of a complaint and the process of investigation and conclusion. In *Primary School Middelburg v Head of Department: Mpumalanga Department of Education (20002) 4 ALL SA 745 (T)*, Judge Bertelsmann stressed the fact that if the application to set aside a decision by the Department declaring the Middelburg Primary School to be a dual-medium one, had been served before him on the day that the contentious decision had been taken, he would not have hesitated to put the decision aside. However, ten months later, this path could not be followed without damaging the interests of the learners of the school.

d. The Board should continue its efforts to obtain more legal powers of enforcement.

e. The Board should investigate ways to disseminate research findings on language rights issues more widely, and should also consider more active stimulation of research in this area. PanSALB is clearly the obvious institution to disseminate research results on language planning in general, and linguistic

rights in particular, to the right channels. Policy-makers can only benefit by taking cognisance of these findings.

f. PanSALB should publish this report of the *South African Language Rights Monitor* (in current or revised form), perhaps in collaboration with an established publisher, thus establishing it as a prestigious publication.

g. The Board should further give consideration to the popularisation of the *South African Language Rights Monitor*, thereby enabling the broader public to access and disseminate the information more readily.

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LANGUAGE RIGHTS MONITOR 02

The South African Language Rights Monitor (SALRM) Project surveys the mainstream newspapers of South Africa with a view to compile annual reports on the developments on the language front in the country. While the main focus is on language rights and language (rights) activism, the yearly Monitor also covers other language-related problems, including name changes, as well as aspects of language promotion.

For anybody interested in subjects ranging from the medium of instruction at schools (Middelburg Primary School, FH Odendaal High School) to the renaming of universities (Potchefstroom University for Christian Higher Education to North-West University and Rand Afrikaans University to the University of Johannesburg), and from the (proposed) renaming of Louis Trichardt, Pretoria and Warmbad to the status of African language in public broadcasting, the SALRM 2002 provides a rich source of information.

The SALRM Project is housed in the Department of Language Management and Language Practice at the University of the Free State.

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