

## LAW-LANGUAGE: THE CHALLENGE OF THE CAVEAT 'WHENEVER REASONABLY PRACTICABLE' IN LANGUAGE POLICIES

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Received: 2023-11-04

Accepted: 2023-12-08

Published: 2024-06-29

### Abstract

The challenge of escape clauses in various policies has been a longstanding issue for policy scholars worldwide. This challenge is also prevalent in South African institutions, particularly in their language policies. This article reports on the findings of a desk-based investigation into the escape clause "whenever practicable" as found in various language policies. A textual analysis of language policies from specifically selected institutions was conducted. The research argues that language planning agencies in these institutions have inadvertently or deliberately included escape clauses as a mechanism to allow for flexibility in case of difficulties in implementing certain provisions of the policies. Data were collected from the language policies of seven universities and three government departments using convenient sampling. Discourse analysis was employed to analyze the data, focusing on the linguistic meaning of the selected extracts containing escape clauses. The analysis revealed several key findings: the language policies examined confirmed the presence of various escape clauses expressed in different ways; these escape clauses contribute to the lack of implementation of these language policies; and the absence of non-compliance clauses also contributes to the lack of implementation. The findings clearly indicate that escape clauses are a critical pivot around which the escape mechanisms in these selected language policies revolve. Therefore, we argue that the use of escape clauses should be limited and highly regulated.

**Keywords:** *discourse analysis; escape clause; higher education; language planning; language policy; state owned enterprises.*

### 1. Introduction

The challenge of escape clauses in Language Policies (LP's) is a perennial challenge. There are various discursive approaches to policy analysis and the use of Discourse Analysis theory is one such lens particular when one analyses a LP. This view is also shared by researchers such as Hult (2017) and Nguyen and Bui (2016). As far as higher education is concerned in South Africa in 2020 the Department of Higher Education (DHET) promulgated the new Language Policy in Higher Education Framework (LPHE) which took effect from January 2022. It is stated that the aim of the policy is "[...] to promote and strengthen the use of all official languages across all functional domains of public higher education including scholarship; teaching and learning; as well as wider communication in line with

Section 29(2) of the South African Constitution.” Some scholars view this policy as a unique policy since it does not contain escape clauses. However, there exist a plethora of LP’s in various institutions of higher learning (particularly universities) which still contains escape clauses. Most often than not, these escape clauses are a justification for inaction or lack of implementation. It is observed that “the journey of language policy for transformation and social inclusion in South African higher education has considerably failed to achieve the ideal order of social redress...” (DHET, 2017: 4).

Language Policies in SOE’s and institutions of higher learning is intended to achieve provisions espoused in the SA Constitution such as parity of esteem and equity. LP raises the Language Policy Developers awareness of the community (i.e. be it in an organisation or SOE) expectations and thus inform the Language Planning strategy. Language Policies has been said to be one of the distinguishing elements of language development and control as opposed to unorthodox strategies that were used pre-democracy era in SA. It has been argued that the proper use LP’s has the potential to leads to higher achievements in an organisation. However, in SA, LP development can be said to be overwhelmingly troublesome due to incessant use of the escape clauses. Thus, in this investigation, we argue that the quandary brought by the use of these escape clauses must come to end. We further argue that the predominance of escape clause/s usage in various LP’s is a direct or indirect consequence of the inadequate monitoring and evolution of Language Policy developments in various SOE’s and perhaps universities. This investigation was done with the aim to ascertain and identify the escape clauses as contained in the chosen LP’s. The other vital aim is to contribute in lessening the unabated and growing trend of utilising escape clauses in the LP’s because we believe that data from this research can add to clarity on whether the recent LP’s in the selected SOE’s and universities contain escape clauses.

We would like to demonstrate that the selected various LP’s contain escape clauses even if they are covertly expressed. We would also further like to demonstrate that these escape clauses can be used to stifle implementation of some of the provisions that these LP’s purport to support. We thought it important to carry out this investigation to illuminate this negative element engulfing most LP’s in various institutions and SOE’s particularly in SA.

## **2. Literature Review**

### **2.1 Mapping the National onto the International**

Our aim to do this investigation at the specifically selected SOE’s ad institutions is related to two major documents that have recently been promulgated in South Africa. The first one is from the Department of Higher Education and Training (DHET) Language Policy in Higher Education framework (LPHE) which took effect in 2022 which serves to guide multilingual policy in higher education institutions in SA. The second one is the Chapter on Bill of Rights in the constitution of the Republic of South Africa (1996). The first of these documents, the LPHE 2020 is guiding tool regarding language practices in institutions of higher learning such as universities and colleges. It provided us with the initial impetus to carry out our own investigation regarding the escape clauses in various LP’s. The latter is regarded as the supreme law of the country in SA. Since our article engages mainly with these two documents we will also share other perspectives expressed by various scholars in this field. The first of these documents, the LPHE guide the educational practices in SA as far as language matters are concerned and it calls for universities to establish their own LP’s based on various circumstances where those institutions found themselves. The SA Constitution, particularly the Bill of Rights is a document that we began to relate our project

to at a much earlier in this article because it serves as a base for our arguments. Thus, our main reason for connecting with this document is for that reason.

## 2.2 Language Policy and Language Policy Analysis interface

The new Language policy in higher education report just like with the Constitution of the Republic of SA (1996), we believe, correctly argues for a massive campaign to promote equitable use of all the SA official languages against the growing threat of 'the monolingual trend' caused by the popularity and use of English. However, the various researches about LP' that have been carried are based on Language policy planning and not the actual content of these LP's. We argue that this is one-sided view of the problem. The concern is why most LP's are still rattled with escape clause despite many scholars indicating the disadvantage of these clauses. For example, according to Chürr (2015: 2413) the state has the following obligations in terms of section 29 of the Constitution:37

- (a) *"to ensure, where reasonably possible, that a course of education is conducted in the official language or languages of the learners' choice in public educational institutions..."*

It is clear from the above assertion that even the constitution itself also contains escape clause and this is probably the basis upon which most of the LP's develop or come up with their escape clauses. They follow what the supreme law of the country has laid as a foundation. In higher education various organisations, for example, Afriforum in 2015 (Du Toit 2016) have litigated universities about changes to their language policies. This indicates the seriousness of how certain content/s of an LP should be seriously looked at. This is also supported by Masinga (2015: 4) who argued that "...language policies in South Africa have complicated the provision of education in various ways". According to scholars such as Docrat and Kaschula (2015), Namyalo and Nakayiza (2015), it is argued that 'language rights are often intended to protect languages spoken by the minority groups in Africa, including South Africa (See, Mkhize and Balfour,2017: 135). We argue that LP's should be one of the better instruments to 'protecting languages spoken by the majority of the people against dominant languages, such as English' but unfortunately they are not used adequately. The bane regarding this matter is expressed by Prah (2017: 216) when he said the following:

*"The primary stumbling block is the inhibiting effect of cultural neo-colonialism in contemporary Africa which causes many to believe that if something is not done in the Western way, specifically the way the colonialists did it, it is doomed to failure".*

Furthermore, by linking our work with the debates on methodology on Policy Analysis, we base our foundation on what Cele (2021: 26) alluded to when he said the following, 'policy analysis is a form of policy evaluation that seeks to determine the effectiveness of the policy to establish whether a policy should be upheld, prolonged, or reviewed'. This assertion is also supported by van der Merwe (2016: 10) who argued that "Language policies should not be taken at face value..." By doing so, we hope to locate our own position on the national literature and international map that these scholars are providing. The value of the above mentioned documents is that they provide a good foundation and they go beyond just providing foundation but also advise on the issue of practice. They also go towards opening up a debate on research about how LP's can be

better developed. We hope to thus extend the debate started by various scholars in this area of Language Planning. More perspectives on these key documents follow.

Pennycook and Makoni, (2020: 08) talks about “how can we deal with the inequalities in global knowledge production, lack of inclusion of scholars from outside the dominant regions, the imposition of inappropriate frameworks to address language and education...”. We argue that some of these inequalities alluded to above are perpetuated by LP’s that are not well developed (in other words, among other things the ones that contain escape clauses). Escape clauses can be viewed as constraining forces within LP’s. In support of the above, Bamgbose (2004: 66) writes that “...expect a decision made at the top to trickle down to the bottom, they discover contradictory policies are adopted at different levels and what is implemented at a lower is often different from what is prescribed at a higher level.” This is so true in SA where a Constitution of the country pronounces something and an LP at a lower level pronounces something different. Bamgbose (2004: 67) further says “when we say that a Language policy is feasible, it means that, all things being equal, such a policy has a reasonable chance of being implemented, not all Language Policies are feasible. In fact, making a Language Policy that is not feasible is a well-known avoidance strategy”. Bamgbose (2004: 68) maintained the following: “Escape clauses are a clever device of making it possible for the implementation of a policy to be avoided”. Some examples of escape clauses provided by the Bamgbose (ibid) are:

- The requirement that Nigeria’s three major languages should be used for conducting business in the National Assembly, “*when adequate arrangements have been made therefor*”.
- The teaching of the same languages in secondary schools, *subject to the availability of teachers*”.
- The adoption of any official language by the national or any provincial government of South Africa for government business, “*taking into account usage, practicality, expense, regional circumstances and the balance of the needs and preferences of the population as whole or in the province concerned*”.
- The educational language policy of South Africa which gives the right to receive education in the official language or the languages of one’s choice in public educational institutions “*where that education is reasonably practicable*”.

Cele (2021: 26) maintains that ‘policy analysis is a form of policy evaluation that seeks to determine the effectiveness of the policy to establish whether a policy should be upheld, prolonged, or reviewed’. Taylor et al. (1997) writes that when evaluating policy, the purpose for the development of the policy and reflection on its espoused ideals have to be understood by asking various important key questions such as the following two:

- What is the policy responding to? Understanding the purpose of the policy helps to evaluate whether the policy has achieved the desired effect.
- Is policy as a transformation tool feasible beyond its text and rhetoric?

The above questions are very crucial in helping the reader understand our perspectives better in this article. Lo Bianco (2009) asserts that “language policy consists of three dimensions, and they are”:

1. “Language policy as discourse”
2. “Language policy as text”
3. “Language policy as practice”.

Lo Bianco (2009: 14) explain that “Language policy as discourse refers to the contestations and debates that precede and form part of the language policy development process, while ‘Language policy as text’ represents the actual document”. “Language policy as practice” deals with how the policy is implemented. In this research, the researchers focused mainly on “Policy as text” and “Policy as practice” simply because we wanted to analyse the content (using discourse analysis principles) and also to indicate the reality out there regarding what is practiced in the various institutions (i.e. from the institutions where these Language policies come from). According to van der Merwe (2016: 10), “Language policies should not be taken at face value”.

Language policy is one kind of many structural forces with which individuals discursively engage across levels and scales (Hult, 2017). Thus, this research is anchored on Discourse Analysis (DA) theory and this theory takes a linguistic position with respect to how words are selected and used in a text. The investigation reported in this article focus on escape clauses in various LP’s (i.e. in universities and SOE’s). This theory was deemed relevant because it provides perspectives on how discourse can be analysed. Therefore, what is expressed in the LP’s constitute discourse. Researchers such as Willig (2015: 146) postulates that “what people say tells us something about what they are doing with their words (disclaiming, excusing, justifying, persuading, pleading, etc.) rather than about the cognitive structures these words represent”. We argue that some clauses in legislative documents such as LP’s can be covertly used to stifle certain provisions pretended to be encapsulated in a document like an LP. Mavunga and Kaguda (2016: 176) is also in agreement with the above researcher maintaining that DA can be used to respond to a multiplicity of questions associated with language questions such as:

1. “What meaning is created by the arrangement of words in a particular way?”
2. “How are listeners likely to interpret what they hear?”
3. “How do speakers use their utterances to perform certain functions?”
4. “What is the influence of language on human relations?”

Given the fact that LP’s are increasingly becoming an important part of the management of these institutions (e.g government departments and Universities), the interdependent relationship between the use of these LP’s and institutions can no longer be ignored. Whether one’s view is aligned to the assertion that escape clauses in LP’s threatens successful implementation of any LP, or subscribes to the idea that the use of escape clauses represents an advanced level of creativity and clear awareness of issues how modern LP’s should be developed, the use of escape clause in LP’s remains an indispensable factor as far as successful implementation of any LP is concerned. Drawing from DA, the researchers were thus capable to pay a careful attention into various caveats and sections in the selected LP’s with the aim of attaining in-depth understandings of how the interplay of these problematic caveats provide opportunity for inaction without fear of repercussions.

### 3. Research Method

A research methodology captures what is usually referred to in investigative environments as ‘research design’. The design of the research must be attuned to the objective of the investigation. In agreement with the focus of this investigation (i.e., to ascertain if LP’s contain escape clauses, identify the escape clauses and critique them with specific reference to the selected institutions and SOE’s), numerous investigative

methodology facets were embarked upon. This was a pure desk-based investigation in nature of textual analysis.

### 3.1. Sampling Method, Procedure and Data Collections Instruments

A convenience sampling method was applied in this investigation. This is the use of readily available and accessible texts or persons in a research. Thus, in this investigation used the public and readily accessible online LP’s to harvest data for analysis. LP’s from seven (7) universities and three (3) SOE’s were selected using random sampling. Data was collected using a computer which was connected to the internet (i.e. online) and that was the only data-collecting instrument utilised in this investigation. The softy copies of the LP’s were stored in the laptop of the researchers. Random and convenience sampling was utilised. This was the only primary source of data in this investigation. In other words, the textual analysis that occurred in this investigation used the principles of critical discourse analysis as a guide lens. In the context of the current research, the implication of the DA theory would be that the utilisation of escape clauses in LP’s could provide opportunity or even interfere with the successful implementation of the LP itself. The reason why the SOE’s were selected in this investigation is that in comparison with language rights in the education system, which are continually debated, language rights in the government departments receives relatively little attention.

### 3.2 Data Analysis

The researchers utilised the ideologies advocated by theorists of DA to create a conceptual framework to analyse the data in this investigation. Philips and Jorgensen (2002: 21) writes that “the role of a discourse analyst is to ‘work with what has been said or written, exploring patterns in and across statements and identifying the social consequence of different discursive representations of reality.” The researchers realised that this statement is very important in shaping the analysis of the data in this investigation, particularly when it comes to analysing the caveats contained in the different LP’s. This tactic was then heightened by the solicitation of principles from DA theory, wherein the analysis was directed by questions such as the ones below.

1. What meaning is created by the arrangement of words in a particular way?
2. How are listeners likely to interpret what they hear?

The researchers also borrow from Inferential Analysis (IA) to comprehend and analyse some of the statements and caveats selected in this investigation. This was done because at times a qualitative analysis pursues “to find “all” instances... including subtle instances that require human interpretation of the text” (cf. Vaismoradi, Turunen, Bondas, 2013: 13).

The table beneath illustrates an example of some the actual caveats harvested from the LP’s and analysed in this investigation.

Institution or SOE	Extract from the Language policy	Page
1. South African Police Service (SAPS):	(c) ‘The Service may, when <u>reasonably practicable</u> , adopt working languages based on the preferences of the employees, while at the same time honouring the spirit of the Constitution, by making provision for the use of additional languages in particular domains of use,...’	9

	(3) The Service will provide for the needs of people with language disabilities or language barriers...this may happen where <u>practicable assistance</u> will be provided for in collaboration with the Component: Employee Health and Wellness, Division: Human Resource Development and Section: Disability Management of the Service	10
2. University of Limpopo (UL)	3.5 Instruction, research and publications in African languages and English and through translation will, as a matter of policy, <u>where practicably reasonable and possible</u> form the thin edge into the University's larger policy of multilingualism.	12
	3.6.4 'Compilation of University records such as minutes of meetings, calendars, research materials (save those in the Indigenous African languages programmes), etc. be created, developed and made available in languages other than English, but <u>where possible and practicable</u> ,...'	48
	3.6.5 Notwithstanding English as the official language of communication, best efforts shall be made to ensure that the University website and other communication platforms provide information in other languages <u>as practicable and as possible</u> ,	48
	In addition to the abovementioned stipulations, <u>where practicable</u> , each Faculty should identify at least one fundamental module, be offered to the students in all the African Official languages of the Institution wherein a student uses their preferred language for research (L1)...	48
3. Tshwane University of Technology (TUT)	The University may use any other official South African languages for communication and teaching purposes where <u>it is reasonably practicable</u> : Provided that such use should not violate the language rights of other people.	2
4. Department of Arts and Culture (DAC)	The following factors will be taken into account in arriving at the choice of official language(s) the DAC will use in each context/situation: <ul style="list-style-type: none"> <li>• Usage</li> <li>• <u>Practicality</u></li> <li>• Expense</li> </ul>	4
5. Vaal University of Technology (VUT)	1.5 Apart from collaboration, the university will strive to cater for all the languages, including sign language, <u>once there is capacity and resources</u> to develop and promote them.	3

	9.2 Multilingual assessment will <u>be possible</u> once Sesotho, Sepedi, other African languages and sign language have been established as languages of teaching and learning.	6
	The Department of Education will offer Sepedi, Sesotho, Xitsonga and isiZulu modules for communication in Bachelor of Education and Diploma Programmes. Other indigenous languages modules will be introduced <u>as time goes on</u> .	7
	11.3 Interpreting/ sign language during ceremonies will be offered when in demand and <u>when it is possible</u> for the Language Unit to offer the service.	7
	12.1 The Language Policy, vision, mission and core values of this institution will be in English and translated into Sesotho and Sepedi; all other languages will be offered when possible.	7
6. University of Johannesburg (UJ)	6.2.1 All approved modules and programmes are offered in English, and wherever possible and <u>reasonably practicable</u> , will also be offered in the other three designated languages.	5
	6.3.2 The use of the other three designated languages in these areas will be promoted as far <u>as reasonably practicable</u> with due consideration of the nature of the target audience, and the availability of human and other applicable resources.	6
	6.6 A student who is a primary language speaker of any of the other designated UJ languages other than English will be assisted as follows <u>where necessary and practicable</u> in any of the other three languages:	6
7. University of Pretoria	English is the language of official communication and administration, on all campuses and in residences with services being provided in other South African languages where requested <u>and feasible</u> ;	2
8. University of Pretoria	Where the class size remains <u>practically feasible and academically justifiable</u> , existing students (2018 first-time enrolments and pre-2018 enrolments) will continue to receive their tuition (lectures and tutorials), research guides and assessment materials (tests, examinations, assignments and the like) in Afrikaans...	3
9. University of South Africa	<u>Where there is capacity</u> , a selected number of modules and programmes will progressively be offered in more than one official South African	3

	language in order to support relevant national policies.	
	Advertising should be in the language of the target audience concerned. <u>Where possible</u> all eleven official languages should be used in at least one of the media channels used that is radio, television or newspapers.	4
10. Gauteng Provincial Government	The Gauteng Provincial Government, as required by the Constitution and because it considers multilingualism vital, will respect and uphold the language rights of all the citizens in the province. <u>As far as practically possible</u> (taking into consideration both the resources available and the imperatives of the Constitution), everyone will be afforded the opportunity to use his or her own language of choice when speaking to or corresponding with officials	11-12
	The language of written internal record in GPG will be English and translations into other official languages and Braille will be made available on request <u>where practically possible</u>	
11. University of Stellenbosch	For undergraduate modules where it is <u>reasonably practicable</u> and pedagogically sound to have more than one class group:	6
	Where <u>reasonably practicable</u> and where there is a pedagogical need, isiXhosa and other languages are used to further reinforce concepts...	7

Table 1. Examples of extracts from the LP's that are problematic

#### 4. Results and Discussion

After having carefully examined the LP's from various selected institutions in this investigation, the following were observed. Based on the data and the sample presented above, it is without any shadow of doubt that the LP's scrutinised indeed are riddled with escape clauses and that is why SOE's and institutions of higher learning are mired in language policy implementation challenges and other related issues since the dawn of democracy in SA. As far as SOE's are concerned it is stated that "wherever practicable a person shall have the right to use and be addressed in his or her dealings with any public administration at the national level of government in any one of the official languages of his or her choice". However, the reality is that most people in various SOE's are addressed in English. Furthermore, it looks like there is a challenge within SOE's and institutions of higher learning and that stems from trying to strike a balance between the constitutional imperatives and the operational needs of these SOE's and institutions.

#### 4.1 Tracing the Caveat(s) 'Reasonably Practicable' or 'Whenever Reasonable' from the SA Constitution

In the South African Constitution, Chapter 2 (Bill of Rights), Section 29, Point 2, it states: "Everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable." This clause presents a problem because language policy (LP) developers exploit it by using escape clauses, which can be traced back to the Constitution itself. Additionally, Section 6(2) mandates the state to "take practical and positive measures to elevate the status and advance the use of these languages." The Constitution emphasizes practicality, which poses a significant challenge for implementation. Section 6(3) outlines criteria for language use by national and provincial governments and municipalities, considering "usage, practicality, expense, regional circumstances, and the balance of the needs and preferences of the population." Critics argue that the SA Constitution's vague declarations can undermine strategies to address past injustices related to indigenous languages. Van der Walt and Klapwijk (2015: 295) contend that the existence of a language policy does not ensure its implementation. Our investigation illustrates that escape clauses are the 'poison within' these policies, undermining their effectiveness. This issue must be addressed and stopped. We argue that policy developers did not anticipate the extent to which escape clauses would be used when they were first introduced. Our research shows varying degrees of escape clauses in different LPs. For example, the University of Limpopo's LP contains approximately 23 sentences with escape clauses, while the University of Pretoria's LP contains only 3. Beukes (2004: 3) argues that little progress has been made, with English still predominantly used in academic institutions while indigenous languages are overlooked. We assert that LP developers continue to covertly circumvent the use of indigenous languages in various institutions and state-owned enterprises through these escape clauses.

Karjalainen (2016: 133) noted, "To respond to the requirements of LPHE, UCT revised the existing official policy from 1999 and adopted a language plan developed by an eight-member Task Team comprised of language specialists, academics, and student representatives." We question why legal experts or professionals with legal acumen in LP development were not included, considering that an LP is a legal document. Additionally, it is important to note that indigenous languages are under siege, not only in the US but globally. One instrument contributing to 'this siege' is the use of escape clauses in various LPs. In an ENCA interview during the Truth to Power program, the CEO of OUTA, Wayne Duvenage, lamented the SA government's approach, stating, "Government must get out of the habit that if they just legislate something, everything else will fall into place." This assertion also applies to LPs. The Constitution places clear emphasis on African languages as the medium of instruction in schools. However, it also uses escape clauses such as "where reasonably practicable" when it comes to indigenous languages. Thus, we argue why so many LPs in institutions of higher learning qualify that statement or clause. That is our contention.

The Constitution, as the supreme law of the country, also uses escape clauses such as "where reasonably practicable." We argue that LP developers follow or draw from the Constitution because it is considered the perfect example of good law. In an interview titled "Remember Steve Biko" with Sizwe Mpofu-Walsh during the SMWX program, Aubrey Matshiqi lamented the situation in South Africa by stating, "Our neo-apartheid government has no shame in imposing policies, economic and otherwise, on our people that it has already seen cause suffering instead of ameliorating their poor social and economic

conditions.” We argue that the use of escape clauses was prevalent even during the apartheid regime in South Africa and continues in the current democratic government’s policies. There is currently no legal recourse that the watchdog on language matters in SA, PanSALB, can invoke to halt the use of escape clauses in various LPs. Thus, both the government and PanSALB face a formidable task in ensuring that escape clauses become obsolete. We contend that the government and PanSALB should formulate a strategy to encourage various state-owned enterprises (SOEs) and higher education institutions to comply. Escape clauses are now weaponized for inaction, dampening the spirits of language activists in various institutions.

We argue that PanSALB as the SA watchdog should develop various permutations with respect to ensuring that the government imperative on language (i.e. particularly on indigenous languages) is implemented successfully. This is so because the enigma around the mysterious use of escape clauses in LP’s is no longer baffling. Furthermore, we argue that SOE’s, institutions of higher education and DHET should ensure that they are not implicit in the quagmire brought by the use of escape clauses in various LP’s by making sure that they discourage the use of escape clauses in LP’s. These escape clauses renders most LP’s inept as far as provisions contained in the constitution of SA are concerned. Furthermore, in institutions of higher learning (e.g. a university) ought to be ideational space where a contestation of ideas is encouraged and sustained. This cannot happen successfully if employees language of choice such as mother tongue is not afforded space to used due to the justification enabled by the use of these escape clauses. It looks like these escape clauses have usurped the real function of these LP’s. Creation or development of a LP that is predominately awash with escape clauses is self-defeating.

LP’s should ensure that they do not create a loophole for a human right to be violated or create an opportunity for a human right to be violated. We argue that escape clauses in LP’s create an opportunity for a human right (i.e. Right to speak or be taught or addressed in a language of your choice). Policy developers must see to it that such opportunities are eliminated or lessened. We argue that the silence of PanSALB (as the watchdog of the languages in SA) as far as the abuse of these escape clause in LP’s are concerned is a tacit endorsement of this farce process of LP development. This cannot be left to perpetuate. We further argue that language is not only about communication, but also about identity, respect and human right. Thus, we argue that why the human right of those speaking these indigenous languages is provisioned with conditions (i.e. with escape clauses). LP reforms focusing on the elimination or lessening of the use of escape clauses can lay a steady foundation for the revival of the government imperative which is the parity of esteem among all the official languages in the country. According to Drummond (2016: 71), there is some evidence that the current educational system in South Africa is not operating equitably with regard to all of its citizens. This is also clear indicated by the plethora of statements containing escape identified in this investigation. According to Drummond (ibid) “the 2002 Higher Education Policy is a text envisioned to transform language use in universities”. However, we argue that this ‘transformation in language use’ is not exclusive to universities alone. This policy also applies to SOEs because they too are service delivery institutions to the people of SA.

The issue of consultation when ‘these’ LP’s are developed should be seriously looked into. It is no secret that SA is plagued with high illiteracy. Thus, how can one expect people who cannot read and write to contribute fully and meaningfully to a legal document riddled with legal stylistics and jargon. Therefore, another way should be found for citizens to be

fully involved in the development of LP's before they are finalised and implemented. The good intentions of the LP's are overshadowed by the excessive use of escape clauses.

## 5. Conclusion

This research corroborates Bamgbose's (2004: 68) assertion that "some policy formulations are riddled with escape clauses." The selected LPs reveal that escape clauses are indeed used, leading to uncertainty about whether some provisions will be implemented. We argue that the use of escape clauses exacerbates the persistent 'chronic language challenge' in South Africa and amounts to deception. LPs significantly influence public opinion and should be developed with care. The researchers believe that this study, although small, can serve as a foundation for further investigation into SAPS policy effectiveness regarding the teaching of English in SAPS academies. This investigation, despite being a modest effort, is expected to prompt further research in this area. The notion that 'policies are in place but practices are flawed' is inaccurate. History has shown that despite the noble intentions of the analyzed LPs, these policies have failed to address the South African language situation, largely due to the use of escape clauses. The findings in this investigation may not eliminate these escape clauses but could trigger further research on addressing their use for inaction. The ineffectiveness of current LPs should remind us of the precarious state of indigenous languages in the hands of those lacking expertise and those who arbitrarily decide on the expression of LP clauses. This deplorable practice of using escape clauses should not continue.

In the realm of higher education and language policy planning, several recommendations are crucial for fostering effective implementation and evaluation. Firstly, universities and colleges should mandate annual reviews of implementation activities across faculties, with reports submitted to the Senate for scrutiny. Establishing Language Resource Centres or Units within universities is also recommended to bolster language learning initiatives. Any proposed Language Policy (LP) should undergo rigorous testing, similar to Stellenbosch University's Centre for Social Justice's social justice test. This mechanism should examine the LP's commitment to fostering equality among official languages and scrutinize the judicious use of escape clauses, which, if minimized, could enhance implementation compliance. Collaborative interdisciplinary research between linguists and legal experts is encouraged for developing robust LP frameworks. Monitoring and evaluation units should be introduced within institutions and state-owned enterprises (SOEs) to ensure ongoing oversight of LP implementation efforts. Lastly, a targeted awareness campaign led by PanSALB is proposed to address the proliferation of escape clauses in LPs across institutions and SOEs, aiming to mitigate their potential misuse and promote greater adherence to language policy objectives. These recommendations collectively aim to strengthen the foundation for effective language policy planning and implementation in South Africa.

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