The government needs to get its tongue around language legislation

DAVE STEWARD

SOUTH Africa’s multilingual nature is of such importance to our character as a nation that language rights were entrenched in the founding principles of the constitution. Nevertheless, the government has done little since 1994 to carry out its constitutional responsibilities relating to language policy.

In 2003, it tabled a comprehensive South African Languages Bill, which would have provided a rational framework for language policy but inexplicably withdrew it. Its lack of action prompted Cornels Lourens, a private citizen, to approach the courts to force the government to adopt a proper language act in accordance with its responsibilities in terms of S.6(4) of the constitution.

In March last year, the North Gauteng High Court found that the national government had, indeed, failed to carry out its responsibilities and ordered the Minister of Arts and Culture to adopt appropriate legislation within two years.

The result is the South African Languages Bill, 2011. However, a cursory reading reveals that the government has done the absolute minimum to comply with the court order and that the bill still falls far short of meeting the requirements in S.6.

Last week, the FW de Klerk Foundation submitted comments to the Parliamentary Portfolio Committee on Arts and Culture. It observed that language rights had been included in the founding principles because they are indispensable to the achievement of other founding values in the constitution.

Human dignity was closely linked to people’s perception of the worthiness and value of the language in which they perceived the world and expressed their innermost views and opinions. Equality could not be achieved if the language in which people expressed themselves did not enjoy parity of esteem. The rights assured by the constitution would be seriously limited if the government did not communicate about them and provide the services on which they depended, in languages that people could understand best.

In the foundation’s view this year’s bill did not meet the requirements of S.6 because, in particular, it made no provision to promote South Africa’s indigenous languages as required by S.6(2) of the constitution and because it made no provision for the adoption of language policies by provinces and municipalities in terms of S.6(3).

The foundation noted that whereas the first object of the 2003 bill was “to give effect to the letter and spirit of section 6 of the constitution”, the first object of the 2011 bill was simply “to regulate and monitor the use of official languages by the national government for government purposes”.

The bill did not include a language policy but postponed this critically important constitutional requirement for another 18 months. It recommended the 2011 bill should be withdrawn and the 2003 bill re-introduced with a number of additions. It supported the guiding principles of the 2003 bill, but felt that they should be strengthened by including recognition of the rights, wherever practicable:

- To communicate with, and to be served by, national, provincial and municipal government in the official language of choice.
- To use the official language of a person's choice in court proceedings.
- The right of everyone to receive education in the official language or languages of their choice in public educational institutions.

In addition to the practical entrenchment of South Africa's 10 indigenous languages as languages of government, the foundation recommended steps to promote their further use and development.

The government should, in consultation with the relevant universities, appoint a university, or universities, to promote the use and development of each of South Africa's indigenous languages with a view to their development as academic languages of tuition; the training of teachers, journalists and language practitioners in the languages; and the development of literature, books and publications.

The Foundation recommended the monitoring function required in S.6 (4) should be carried out independently by the Pan South African Language Board.

Finally, the foundation recommended the legislation should be amended to ensure that everyone has the right to receive education in the language or languages of their choice in public educational institutions in accordance with S.29 (2) of the constitution. It recommended that all provincial languages should be taught in schools to the level of Grade 12 and that mother tongue, wherever practicable, should be used for the first six years of education.

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