

A Critical Discourse Analysis of the Zimbabwean Education Amendment Act, 2019

Ndlovu Eventhough¹

Department of African Languages, University of the Free State

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Makomborero Allen Bowa²

Department of Philosophy, Religion and Ethics, University of Zimbabwe

Abstract

In 2013, Zimbabwe adopted the *Constitution of Zimbabwe Amendment (No.20) Act*. This *Constitution* has dedicated Sections 6 and 63 which regulate language use, and in the absence of a written language policy, the two Sections serve as the *de facto* language policy. The inclusion of the two Sections is a major milestone in the history of language planning, policy, and management in Zimbabwe, especially given that the previous *Constitution* was completely silent on language issues. In 2019 the Ministry of Primary and Secondary Education adopted the

¹Ndlovu Eventhough holds a Doctor of Philosophy in Linguistics from the University of the Free State, South Africa and a Master of Arts Degree in African Languages and Literature as well as a Bachelor of Arts Honours Degree in Ndebele both from the University of Zimbabwe. He is a Senior Lecturer in the Department of Languages, Literature and Culture at the University of Zimbabwe. He is also a Research Fellow in the Department of African Languages at the University of the Free State, South Africa. His research interests are in Language Planning, Policy and Management, Language Rights, Terminography, Lexicography, Editing, Translation and Interpreting. Email: eventhough@yahoo.co.uk ORCID: <https://orcid.org/0000-0002-5526-0518>

²Makomborero Allen Bowa is a Zimbabwean academic and analyst. Presently, he is a DPhil candidate in the Department of Philosophy, Religion and Ethics at the University of Zimbabwe. His research interrogates the nexus between disability and poverty in contemporary Zimbabwe from a Biblical perspective. As an emerging Biblical scholar, Makomborero is interested in the appropriation of Biblical/Old Testament themes in addressing contemporary issues relating to poverty, social justice, disability, climate change, social death, politics, sustainable development, and human rights particularly in the context of African countries. Email: mbowa@arts.uz.ac.zw ORCID: <https://orcid.org/0000-0002-0616-9996>

Correspondence concerning this article should be addressed to Ndlovu Eventhough, Department of African Languages, University of the Free State. Email: eventhough@yahoo.co.uk

Education Amendment Act, 2019 in order to align the *Act* with the *Constitution*. Against this background, this article provides a Critical Discourse Analysis of this *Act* in order to examine the adequacy or lack thereof of its language provisions. The study employed a multi-method approach to data collection in order to ensure triangulation of results. The main source of data was document analysis of the *Act* and other related policy frameworks to determine the adequacy or lack thereof of its language provisions. This was complemented by semi-structured interviews and focus group discussions with purposively sampled key participants in the education sector. Findings of this study show that the *Act* does not mark a departure from the past trilingual language-in-education policy. In covert, overt, and subtle ways, the *Act* reproduces, maintains, perpetuates, entrenches and sustains the hegemony of English, Shona and Ndebele.

Keywords: right to education, educational linguistic human rights, persons with disabilities, access, success, hegemony

The *Constitution of Zimbabwe Amendment (No.20) Act* attempts to mark a radical departure from the trilingual language policy which regulated language use in Zimbabwe since the colonial period until 2013. It attempts to provide the principal legal framework for multilingualism and multilingual service provision. It also attempts to foster the development and promotion of respect and tolerance for Zimbabwe's linguistic diversity. It exhibits a strong awareness of the need to intensify efforts to develop the previously marginalised indigenous languages (Ndlovu, 2017). The *Constitution* is the supreme law in the nation, and all policy documents should be aligned with it to engender a

culture of constitutionalism as well as be the vanguards and champions of the constitutional ethos. Thus, the amendment of the *Education Act* was premised on the following key Sections of the *Constitution of Zimbabwe Amendment (No.20) Act*, Sections 27, 75 (1) (a) and (4); 75 (1) (b); 19 (1); 81 (1); 22; 83 (e) and (d); 51; 53; 56; 6 and 63 to ensure that it embraces the constitutional duty to treat all the officially recognised languages equitably and take into account learners' language preferences.

Against this background, this article therefore employs Critical Discourse Analysis (henceforth: CDA) to examine the adequacy of the language provisions of the *Education Amendment Act, 2019 (henceforth: Act)* in relation to language use in primary and secondary education. It highlights the strengths and limitations of the *Act* in view of best practice and global trends in language-in-education policies. It also proffers suggestions for improvement in cases where inadequacies are noted.

Literature Review and Theoretical Framework

The engagement with the literature and the theoretical framework adopted for this study makes clear the debates around language-in-education planning, policy, and management.

In multilingual settings, the education sector is a significant site for the production and reproduction of linguistic, economic, and social (in) equality. It is evoked as a primary site wherein all forms of (in) equality are reproduced as well as challenged (Ndlovu, 2013; 2011; Paulston & Hiedemann, 2006;

Tollefson, 2002). Governments view the education sector as a primary means of linguistic and social control. Education is thus, a direct political activity, regarded and utilised as a key instrument by policy makers (Cooper, 1989). The choice of the language of instruction accounts for the lion's share in language-in-education planning. Decisions on the language of education are status planning decisions, which are most commonly subject to strong political and economic considerations. These decisions are often driven or clouded by national pride and nationalism.

Among competing agenda, it is always the political agendum that takes priority. Other agenda only come to the fore if they converge with the political agendum, but it is these agenda that are used as public justification for policy making. Behind educational agendum are political, social and economic agenda that protect the interests of particular political and social groups. Language-in-education policies are therefore an essential means of power (re)distribution and social (re)construction. They are also key arenas in which political conflict among linguistic, social, and political groups manifest. They determine which linguistic communities have access to socio-political and economic opportunities and which are disenfranchised and denied their linguistic rights (Abdelhay et al., 2011; Bamgbose, 2000; 1991; Cooper, 1989; Fairclough & Wodak, 1997; Lo Bianco, 2009; Ndlovu, 2013; 2011; May, 2006; 2001; Paulston & Heidemann, 2006; Shohamy, 2006; Skutnabb-Kangas, 2006; 2000; Spolsky, 2009; Tollefson, 2006; 2002; Wodak, 2007).

Language-in-education policies regulate the relative access to power that different groups within society have. They delineate a power divide, not only culturally and linguistically, but also economically, socially, and politically.

Those whose languages are supported by the policy have better access to cultural resources and education, and implicitly to upward social mobility. The advantaged language serves as the appropriate linguistic capital through which its speakers are able to access the education market and operate more effectively linguistically within the various institutions of the state (Bamgbose, 2000; Cooper, 1989; May, 2006; 2001; Ndlovu, 2013; 2011; Paulston & Heidemann, 2006; Shohamy, 2006; Skutnabb-Kangas, 2006; 2003; 2000; Skutnabb-Kangas & Dunbar, 2010; Spolsky, 2009; Tollefson, 2006).

Based on this discussion, language-in-education policies therefore represent a critical arena in which a society's expectations for the success of its future members are expressed, enabled, and constrained. The education sector thus, maintains privileges by taking the form and content of the dominant culture and defines it as legitimate knowledge to be relayed. Schools are in this way agents in the creation and the re-creation of the effective dominant culture. They legitimate new knowledge, new classes, social strata, and generally establish or entrench forms of imposition, domination and deepen (in) equality, (in) equity and injustice or justice. Informed by these submissions, the article presents, interprets, analyses, and discusses the Zimbabwean context.

Theoretical Framework

According to Mwaniki (2012), CDA is an essential analytic and interpretive framework in language planning, policy, and management. It is a useful tool for examining texts, discursive and socio-cultural practices integral to multilingual language planning, policy and implementation and for predicting different kinds

of actions and identities. Lo Bianco (2009, p. 113) observes that in language policies, power, politics, ideologies, and status differentials are played out in texts. Consequently, language policy documents often carry concealed agenda. Based on this observation, Lo Bianco concludes that language policies are ideologically laden and clouded by political ideology and they reflect the ideologies of those who control them. Given such observations, this study seeks to ascertain whether this is also the case in the *Act* in question.

Ndlovu (2013) also submits that language policies do not stand alone, but they are connected to political, social, and economic dimensions. They are a form of imposition and manipulation of language used by those in authority to implement ideology or turn practice into ideology through formal education. In this regard, language-in-education policies create, perpetuate, and sustain systems of social and linguistic (in) equality, and policy makers usually promote their interests through such policies. Language policies are therefore governmental strategies meant, mostly consciously to promote and entrench the interests of specific classes and other social groups. A language policy is never neutral. In this light, an understanding of language policies without an evaluation of the background from which they arise, is probably futile; if not simply trivial (Abdelhay et al., 2011; Fairclough & Wodak, 1997; Lo Bianco, 2009; Ndlovu, 2013; 2011; Novak-Lukanovič & Limon, 2012; Pelinka, 2007; Shameem, 2004; Shohamy, 2006; Spolsky, 2009; Tollefson, 2002; 2006). Against this background, this article ascertains the extent to which the above-mentioned issues are reflected in the said *Act*.

The diction used in language policies reflects a particular way of talking about and perceiving the world or any aspect of it. Language indicates and expresses

power; it is involved where there are power struggles and a challenge to power. Language is a useful instrument for establishing, maintaining, perpetuating, and entrenching power. It is also useful in challenging, subverting and altering distributions of power. It provides a finely articulated vehicle for difference in power in hierarchical social structures. Language is therefore a medium of domination and social force and it serves to legitimate power relations, and it is ideological (Abdelhay et al., 2011; Wodak, 2007).

Informed and guided by these submissions, this article therefore examines the (in) adequacy of the language provisions of the *Act* in line with the global trends and best practices in language-in-education policies.

Methodology

This study largely relied on document analysis of the *Act* in question to gather its data. CDA was used to examine the adequacy or lack thereof of the language provisions of the *Act*. This was also done in order to identify and indicate the discursive sources of power, dominance, exclusion, inclusion, (in) equality and bias and how these are initiated, sustained and reproduced in this *Act*. In texts, discursive differences are negotiated, and they are governed by differences in power. Texts are often used as sites for struggle, and they often reflect traces of differing discourses and ideologies contending and struggling for dominance. In this regard, CDA becomes a useful tool in examining the structural relationships of dominance, hegemony, discrimination, exclusion, power, and control as embedded and manifested in language. It helps in examining covert

and overt ways of empowering, assimilating and annihilating linguistic minorities (Abdelhay et al., 2011; Fairclough, 1995; Fairclough & Wodak, 1997; Makoni, 2011; Ndlovu, 2013; 2011; Wodak, 2007).

In order to triangulate the data, semi-structured interviews were conducted with thirty purposively sampled teachers and three education officers. This was complemented by ten focus group discussions with parents, including members of the School Development Committees. Other semi-structured interviews were conducted with two purposively sampled language-in-education policy studies experts and three officials from organisations which represent the Deaf and hard of hearing. All these methods were employed in order to gather these participants' views on the language provisions of the Act.

Participants in this study were the purposively selected education officers, teachers, School Development Committees, parents, language policy experts and organisations representing the Deaf and hearing impaired. The study was carried out with full adherence to all the ethical requirements for conducting academic research. The researchers sought clearance from all the relevant authorities and observed research ethics; namely treating the participants with respect and dignity, seeking informed consent from all the participants, voluntary participation, strict adherence to confidentiality and anonymity, communicating results honestly and credibly and avoiding plagiarism as well as fabrication of data.

Results and Discussion

General Observations

The Ministry of Primary and Secondary Education (*henceforth: Ministry*) should be commended for being among the few ministries, institutions and agencies of government which have amended their legislative instruments to align with the *Constitution*. However, some education officers and language-in-education policy studies experts noted that the amendment was long overdue, especially given that it came almost six years after the adoption of the *Constitution*. These practitioners expressed concern over the delay and slow pace by government ministries, institutions, and agencies to align their legislative instruments with the *Constitution*. It was noted that there is, therefore, an urgent need to address this widespread problem in Zimbabwe.

It was stressed that the Parliament of Zimbabwe should enforce and monitor compliance with the *Constitution* as required in Section 119. The participants highlighted that the Parliament should audit government ministries, institutions, and agencies to assess the extent to which they have aligned their legislative instruments with the *Constitution*. This was said, especially given that all laws inconsistent with constitutional provisions are invalid to the extent of the inconsistency (*Constitution of Zimbabwe Amendment (No.20) Act*, Section 2(1)). It was also revealed that it is now long overdue for the Parliament, institutions, and agencies of government at every level to conduct a devoted study to monitor and evaluate the nation's progress in implementing the language provisions of the *Constitution*. Failure to conduct this exercise will

certainly confirm the submission that Section 6 of the *Constitution* is a case of declaration without implementation.

Some participants of this study expressed concern over the limited circulation of the *Bill* during the public hearings and consultations and noted that it was only available in English. The majority of the parents and some teachers indicated that there were no wider consultations with all critical stakeholders during the public hearings. The overwhelming majority of the parents indicated that they did not hear about the public hearings for the *Bill* in their districts. Teachers argued that there is need for such policies to be arrived at through all-inclusive wider stakeholder consultations and to be informed, shaped, and inspired by research.

Confirming the lack of wider and meaningful public participation and involvement in the crafting of the *Bill*, the two interviewed language experts and officials from organisations representing persons with disabilities also noted that the government's failure to avail the *Bill* in local languages and forms of communication suitable for persons with disabilities constitutes a breach of the principles and values of good governance espoused in Section 141 of the *Constitution*. They argued that this constitutes a gross violation of the citizens' right of access to information and their right of public access to and involvement in Parliament in terms of the public's involvement and participation in the legislative processes and in the processes of the Committees of Parliament. They noted that the Parliament failed to ensure that all interested parties take part in the formulation of this *Act*. Some concluded that the failure to avail the *Bill* in the local languages and forms of communication suitable for persons with disabilities means that there was no informed discussion and participation

for those who cannot understand English; hence there was no greater public participation.

Interviews with officials at the Parliament confirmed this oversight and this meant that members of the public who do not understand English were denied the opportunity to effectively scrutinise the *Bill* and participate in its crafting. This explains why some parents phoned in on Star FM and Capitalk FM the day after the *Bill* was assented questioning the contents of the *Act* and citing lack of wider and meaningful public consultations and engagements.

The majority of the participants said that the Ministry should develop an inclusive mother tongue-based multilingual language-in-education policy which will give effect to the provisions of Section 62 of the *Act*. They also stressed that the policy should be accompanied by detailed implementation guidelines and be supported by the requisite resources. These participants indicated that the *Act* cannot be a substitute for a language-in-education policy. They argued that the *Act* must be supported by all the necessary institutional support structures and policy frameworks; namely the watchdogs to oversee and enforce policy implementation and the language-in-education policy which will give effect to Section 62 of the *Act*. A sizeable number of teachers and education officers stated that if non-observance of the policy does not attract any sanctions, the *Act* is as good as dead, and it remains as a mere statement of intent and constitutes a case of declaration without implementation.

Most of the participants mainly teachers, education officers and a few parents who indicated that they were members of the School Development Committees expressed the need for a culture of an all-inclusive and regular monitoring as

well as evaluation of policy implementation progress. They expressed concern that there seems to be an entrenched culture of not having dedicated follow-ups on declared policies to assess their implementation progress. This was cited as one of the main reasons for the non-implementation dilemma of policies which bedevils the country. These participants also said that most of the policies are invisible and inaccessible physically and linguistically such that most stakeholders, including parents who are members of the school governing bodies and teachers depend on hearsay. This made clear the dire need to avail these policies in all the officially recognised languages and forms of communication suitable for persons with disabilities. Some teachers and education officers also indicated that they have never seen the *Act* which was being amended and they stressed that there is need for this *Act* to be made available to them given their centrality in its implementation.

Specific Comments on the Act

Section 4: Children's Fundamental Right to Education in Zimbabwe

The relevant amendment to this Section is the inclusion of language on the list of grounds for outlawing discrimination. It is commendable that this amendment outlaws discrimination on grounds of language. Ndlovu (2013) criticised the previous Section of the *Act* and Section 56 of the previous *Constitution* for not outlawing discrimination on grounds of language. In the previous provisions, language was left out, yet it is an important human attribute that warrants separate mention because attributes such as race, place of origin, national or ethnic origin and colour do not always presuppose one's language.

However, the major limitation of this Section is that the right to education is not guaranteed in the learner's language of choice. Research is unequivocal that the right of access to education is null and void if there is no implication or reference to it in the learner's language of choice. Researchers in language-in-education studies and educational linguistic human rights argue that any language-in-education policy that guarantees the right to education but does not guarantee access to such education in the learner's mother tongue or language of choice fails to ensure access to the right to education. Language in the education sector is central in the realisation of the right to education. There cannot be universal access to education, inclusive access to quality education and education for all without a serious consideration and careful choice of the language of education (Henrard, 2003; May, 2001; 2006; Ndlovu, 2011; 2013; Paulston & Hiedemann, 2006; Skutnabb-Kangas, 2000; 2003; 2006; Skutnabb-Kangas & Dunbar, 2010; Skutnabb-Kangas & Heugh, 2010). This is also a major limitation of Sections 27 and 75 of the *Constitution of Zimbabwe Amendment (No. 20) Act*, which require an amendment to guarantee the right to education in one's language of choice.

The other major limitation of Section 75 of the *Constitution of Zimbabwe Amendment (No.20) Act* is the use of the technical justification or internal modifier, *within the limits of the resources available to it*. This internal modifier weakens the case for this right. The right is contingent on the availability of resources and weakened by the discretionary phrases *within the limits of the resources available to it*. As a result, the actual implications of this provision are not as far-reaching as they appear. The internal modifier creates an alibi for non-implementation. Technical justifications, internal modifiers, alternatives,

and opts-outs permit reluctant government officials and policy implementers to meet the requirements of the policy in a minimalist way which they can legitimate by claiming resource unavailability. The internal modifier heavily qualifies the stipulations of this Section and merely encourages the State to provide this basic service if resources so permit. At least the South African Constitution guarantees access to education in one's language of choice (See Section 29 (2), but it also unfortunately carries the internal modifier ...*where that education is reasonably practicable*.

Section 5: Compulsory Education

This Section states that all children are entitled to compulsory basic state-funded education, but no reference is made to language. In fact, language disappears completely, and this right to education is not guaranteed in one's language of choice or mother tongue. As indicated under the discussion of Section 4, research is unequivocal that the right to education is null and void if there is no implication or reference to it in the learner's language of choice or mother tongue. Any policy document that guarantees the right to education, but does not guarantee access to such education in the learner's preferred language or mother tongue fails to lead to access to the right to education (Henrard, 2003; May, 2001; 2006; Ndlovu, 2011; 2013; Paulston & Hiedemann, 2006; Skutnabb-Kangas, 2000; 2003; 2006; Skutnabb-Kangas & Dunbar, 2010; Skutnabb-Kangas & Heugh, 2010).

Mother tongue education is a prerequisite in equal and universal access to education as well as education for all, especially given that the language of education determines who has access to education and succeeds in education.

Language in the education sector is central in the realisation of the right to education. The limitation of this Section stems from the weak formulations and provisions of Sections 27 and 75 of the *Constitution of Zimbabwe Amendment (No.20) Act* discussed earlier.

Section 62: Languages to be Taught in Schools

This Section enshrines the Zimbabwean language-in-education policy. However, it cannot be the substitute for the language-in-education policy. There is an urgent need for the Ministry to develop a language-in-education policy which will give effect to the language provisions of the *Act* and the Constitution in as far as language use in schools is concerned. The Section reflects an attempt to depart from the trilingual language-in-education policy of the colonial and post-colonial periods which played a critical role in excluding, marginalising, and assimilating speakers of the previously marginalised languages into English, Shona, and Ndebele and denying the Deaf and hard of hearing access to and success in education.

The Section spells out how the officially recognised languages should be taught in schools. It states that every school shall endeavour to teach every officially recognised language. This clause is vague because it does not clearly show how every school shall endeavour to teach all these languages, hence the urgent need for a language-in-education policy which will define and delineate the scope and content of this provision. The language-in-education policy will define the nature and limits of the language provisions and set out the procedures for their enforcement and implementation. It will also serve as supplementary legislation and elaborate on the language provisions.

The questions which come to mind regarding the provisions of Section 62 of the *Act* are: How will the teaching of all the officially recognised languages be operationalised? How feasible is it for every school to endeavour to teach every officially recognised language? Is it teaching them as subjects? As core or optional subjects and to who? All these are questions which remain unanswered and will have a negative effect on the implementation process because the policy directive is vague. Implementation of vague policies is not likely to be a burden to anyone, since it may not happen (Bamgbose, 1991; 2000; Ndlovu, 2011; 2013). These provisions undermine efforts of ensuring the increased use of indigenous languages in education.

Good as it might appear to encourage all schools to teach all officially recognised languages, the feasibility of the policy is highly problematic, if not practically impossible. A plausible approach would be to state that every school should teach in and teach every officially recognised language(s) predominantly spoken in the area alongside English and another community language. This proposed approach will also work well in cases where the allocation of classes will be done according to the learners' mother tongues or preferred language of education in order to effectively implement mother tongue-based multilingual education.

Using a subtle and covert provision, the Ministry makes English the '*the*' language of education since at the moment it is the sole language of examination across the curriculum for almost all the subjects except in cases where the local languages are the examined subjects. This falls under what Bamgbose (1991; 2000) and Ndlovu (2011; 2013) refer to as avoidance of policy formulation

where the Ministry deliberately avoids saying English will be the language of instruction and examination except in the said subjects. This is meant to avoid criticism from some sections of society that the government is perpetuating English hegemony. A close reading of Section 62 (1) (b) clearly shows that reference is specific to a particular language because the clause does not say, ensure that the languages of instruction shall be the languages of examination, but rather refers to a particular covertly stated language, English.

The provisions of the *Act* and the Ministry's failure to enunciate a language-in-education policy in favour of African languages violate the provisions of the *2010 Policy Guide on the Integration of African Languages and Cultures into Education Systems* adopted by Ministers of Education in Burkina Faso. The *Policy Guide* recommends mother tongue instruction, formulation of language-in-education policies in favour of African languages and the use of African languages in official examinations. The *Act* also violates the provisions of the *2006 Language Plan of Action* which mandates all African Union Member States to prescribe African languages as the best and most effective media of instruction across all levels of education.

It is disheartening to see that in the 21st century the Ministry still wants to perpetuate quick-exit transitional bilingual education programmes which have been widely criticised and condemned the world-over. At infant level, learners would not have been adequately exposed to their mother tongue in school, and this will impede the development of written and spoken fluency in their mother tongue. Cummins (1995) argues that the rapid loss of the home language in quick-exit transitional or majority language submersion programmes has a devastating impact on academic performance. Sharing similar sentiments,

Tickoo (1995) notes that a quick succession of languages in the curriculum crowds the curriculum and becomes a major learning load and leads to semilingualism.

It is equally sad that in the 21st century the Ministry still wants to continue disadvantaging learners whose mother tongue is an African language or Sign Language. This provision runs counter to the best global practices and trends in as far as language-in-education policies are concerned. According to UNESCO (1953; 2006), education is best carried out in the mother tongue. Learners should begin their schooling through the medium of the mother tongue. The use of the mother tongue should be extended to as late a stage in education as possible. Learners who start school in their mother tongue perform significantly better in academic tasks when they receive consistent and cumulative academic support in their mother tongue. The introduction of a second language as the sole medium of instruction in the third or fourth grade is too early since learners will be still attempting to grapple with the educational system, and this poses an additional burden to the learners (Adegbija, 1994).

According to Cummins (1981), the child requires between five to seven years to acquire sufficient Cognitive Academic Language Proficiency (CALP) to perform well in academic tasks. On the other hand, the acquisition of Basic Interpersonal Communication Skills (BICS) requires about two years. The challenge of having to acquire BICS and CALP simultaneously within the school situation becomes an uphill task for the learner and it is emotionally demanding. It often leads to trauma as the learner faces the formidable task of fighting a war on several fronts; namely adjusting to the school environment,

acquiring the BICS, acquiring CALP and having to master academic content in an unfamiliar language.

For non-English speaking learners in Zimbabwe, public education in English is particularly burdensome if mother tongue education is restricted to the infant level. The academic performance of such learners would be prejudiced. Learners are more successful in acquiring second language literacy if they have already mastered strategies for negotiating meaning in print in their home language. Delays in mastering the second language have been attributed to lack of adequate strategies for negotiating meaning in the mother tongue, especially through quick-exit transitional bilingual education programmes, and this in turn significantly delays, sometimes permanently the learner's academic development (De Wet, 2002). Echoing similar sentiments, Chiuye and Moyo (2008) argue that for learners to succeed in higher education, where English normally becomes the instructional language, they need to have attained sufficient conceptual and cognitive grounding in their mother tongues to ensure a sound transfer from the first language to the second language.

As already shown in this discussion, mother tongue education is therefore a means for effective and efficient facilitation of cognitive development and skills that make learning easier for the learners. Learners benefit most, emotionally, educationally, and cognitively if instruction is conducted in their mother tongue. Language of instruction is therefore crucial in the education process. It possesses a formative value and, within a concept of education aiming at learning to learn, it deserves particular attention. Language in education is the most important factor in the transfer and acquisition of knowledge and skills; hence it is critical to consider it in any language-in-education planning since it

should facilitate the learning process from the very first day of formal learning. The degree of fluency in the language used as a medium of instruction has a considerable influence on the learner's school achievements.

Language is a unique human attribute that enables people to learn, think creatively and change socially. Undoubtedly, education is about understanding, and the main objective in a classroom is to achieve communication and understanding between teachers and learners. When this communication takes place in a language known to the learner, the chance of achieving understanding and communication is high compared to when it takes place in an unfamiliar language (Cummins, 1981; 1995; 2000; 2006; De Wet, 2002; Ndlovu, 2011; Tickoo, 1995; UNESCO, 1953; 2006). The language of instruction is thus a critical instrument in the learners' educational development. Denial of mother tongue education entails punishing learners psychologically, educationally, politically, socially, and economically. Various studies that were conducted by UNESCO (1953) have confirmed that learners learn faster and perform better if taught through their mother tongue. It has also been established that there is a close and direct relationship between language proficiency, intelligence and thought. Without adequate and appropriate mother tongue education support, both intelligence and thought cannot develop optimally (Batibo, 2004).

Quick-exit transitional bilingual education programmes are not recommended in terms of global trends, best practices, and standards in as far as mother tongue-based multilingual education is concerned. According to Skutnabb-Kangas (2006), children who attend school where their mother tongue is not the main language of instruction, usually cannot reproduce themselves if their right to mother tongue education is not guaranteed. The education sector plays a

pivotal role in the production and reproduction of cultural identity, consequently the use of the learner's mother tongue through immersion programmes in education is indispensable in the quest to maintain, promote or revive a group's vitality and language. Learners who will be educated using the Ministry's approach risk having cultural identity crises and worse still being semilinguals. Quick-exit transitional bilingual programmes violate the learner's educational linguistic human right and deny them the right of access to and success in education since the language of instruction contributes significantly to the learner's access to and success in education.

The Ministry resorted to avoidance of policy formulation in Section 62 (1) (c) because it does not specify which language then takes over after early childhood education. There is also an element of vagueness in this clause because it can also be interpreted as just stressing that mother tongue education is a must at early childhood or that mother tongue education is confined to early childhood education, and thereafter an unmentioned language takes over, this language is mostly likely to be English given its already privileged status in the curriculum. Avoidance of policy formulation and vagueness of policy are attractive techniques which free the government from the unpleasant comments on any pronouncement which some citizens may find objectionable or inconsistent with human rights. They are also forms of declaration without implementation (Bamgbose, 2000; 1991; Ndlovu, 2013; 2011). As rightly observed by Bamgbose (1991, p. 113), if a policy is couched in sufficiently vague terms, it goes down well with everyone, since it will be a "catch-all" formula that may be interpreted in a number of ways.

A close examination of Section 62 show that its provisions contain the most stringent conditions in as far as the teaching of the officially recognised languages is concerned, and these ultimately make their teaching and use as languages of instruction impossible. The Section has implicit and explicit entries to secure the hegemonic status of English, Shona and Ndebele and assimilate or suppress the previously marginalised languages. The provisions of the Section render the *Act* a case of declaration without implementation since they create an alibi for non-implementation through vagueness and avoidance of policy formulation. The vagueness of the provisions promote reluctance among implementers of the policy. The Section presents a very weak case for the previously marginalised languages, including Sign Language and does not contribute to the increased use of indigenous languages in the education system.

Section 68B: Pupil with Disability

The Ministry makes it mandatory for every registered school to provide infrastructure suitable for use by learners with disabilities. What is worth noting and commendable is the Ministry's recognition of this special group that has suffered untold marginalisation and exclusion across all sectors in Zimbabwe. The Ministry uses the forceful, binding, obligatory, *must*, but weakens this provision by the use of a technical justification and modification, *subject to availability of resources*, which emanates from Sections 22 (2) and 83 of the Constitution. The undesirability of this internal modifier has been adequately explained under the discussion of Section 4 of the *Act*.

Moreover, the Ministry only talks about infrastructure as if it is the only barrier to access to and success in education for learners with disabilities. How about providing the language and forms of communication etc. suitable for persons with disabilities - Sign Language, Braille material and assistive technology? It is often the case that when the right of access to and success in education is muted, the often-cited barrier is infrastructure, yet this only applies mainly to visually impaired learners and those with mobility challenges. No reference is made to language in this Section; language disappears completely. Consequently, the right to education for the Deaf and hard of hearing and the visually impaired is not guaranteed in their language of choice or forms of communication suitable for them, and in essence they are denied the right to education. This therefore explains why the persons with disabilities are deeply entangled in a vicious cycle of abject and perpetual poverty. It is largely because they are denied access to and success in education, which weans people from poverty. The *Act* does not take its cues from Section 22 (3) (c) of the *Constitution*, which also unfortunately in neutralised and weak terms mandates institutions and agencies of government at every level to *encourage* the use and development of forms of communication suitable for persons with disabilities, instead of enforcing the use and development of these forms.

Ouane (2010, p. x) succinctly captures the role of language in education by noting that “[e]verything is nothing in education without language. Without language, there is no education.” Therefore, access to education in Sign Language remains cosmetic and controversial in Zimbabwe, and this has its roots in the weak provisions of Sections 75, 22, 83 of the *Constitution of Zimbabwe Amendment (No.20) Act*. Despite the constant and special reference to Sign Language in Section 6 of the *Constitution of Zimbabwe Amendment*

(No.20) Act, very little has been done to ensure that the Deaf and hard of hearing enjoy their educational linguistic human right and right to education. Despite the earlier provisions of Section 62 of the Education Act that Sign Language will be a priority medium of instruction for the Deaf and hard of hearing, no implementation guidelines were provided as to how this was going to be done. The clause remained as a mere statement of intent. There was no supporting policy framework in the language-in-education policy which fleshed out the implementation details of this clause. How was it going to be made a priority? It is also sad to note that to date Sign Language is still only being used as a language of instruction and not taught as a subject, and this has serious implications on how it is mastered by the concerned learners.

It must be understood that Sign Language and forms of communication suitable for persons with disabilities constitute one of the major bridges for access to and success in education. One hopes and trusts that under infrastructure the Ministry also includes software, i.e., assistive technology and ICT suitable for the visually impaired since infrastructure is largely and potentially restricted to buildings, especially in the context of access to buildings for those who use wheelchairs and visually impaired learners. It is sad that language disappears in Section 68B, yet for the Deaf and hard of hearing it constitutes the major barrier to access to and success in education. This amendment carries over the major limitations of Sections 22 and 83, and there is an urgent need to include firm and forceful provisions which guarantee the right of access to education in Sign Language and forms of communication suitable for persons with disabilities. The failure by the government to prioritise forms of communication suitable for persons with disabilities stems from the weak and merely permissible provision of Section 22 (3) (c) which merely *encourages* the use and development of these

forms of communication instead of *enforcing* the use and development of these forms of communication.

The provisions of this section of the *Act* violate the stipulations of the *UN Convention on the Rights for Persons with Disabilities and Optional Protocol* which mandates States Parties to facilitate the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring and the learning of Sign Language and the promotion of the linguistic identity of the Deaf community. The *Convention* further states that States Parties should ensure that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximise academic and social development.

68C Non-exclusion of Pupils from School

Section 68C outlaws exclusion of learners from school for non-payment of school fees or on the basis of pregnancy only, yet language is also another major source of exclusion from school. It is one salient covert and overt means of exclusion and marginalisation. It is sad that language disappears in this Section, while it is one of the most common variables which is used to exclude learners and deny them access to certain schools. There is need for this Section and Section 10 on enrolment at schools to outlaw exclusion on the basis of language because some schools are strict on languages of instruction and languages offered as subjects, and in so doing they exclude learners who do not share their

language of instruction or who cannot take a particular language as a subject, in particular the Deaf and hard of hearing, and in cases where schools insist on English only or Shona/Ndebele only.

For example, the majority, if not all the schools in Mashonaland, Masvingo, Harare and Manicaland do not offer Ndebele or teach in Ndebele, this in itself tells all Ndebele speaking learners that they cannot access education in Ndebele or learn Ndebele in these areas. However, in Bulawayo and in some districts in Matabeleland South, for example, schools have opened their doors to Shona speaking learners affording them access to education in Shona and learning Shona as a subject. This oversight by the Ministry to outlaw exclusion on the basis of language is a clear reflection of policies which are not informed and guided by relevant research, fact-finding, sociolinguistics/language surveys and planning prior to the policy.

The majority of schools in Zimbabwe do not offer Sign Language or special needs education and very few government schools are available for the Deaf and hard of hearing. A select/few schools mainly in urban areas have special needs educators, not Sign Language teachers. The majority of the special needs teachers in government schools are not trained in Sign Language and are not in a position to properly teach the Deaf and hard of hearing. Education for the Deaf and hard of hearing has been relegated to religious organisations, well-wishers, and Non-Governmental Organisations (NGOs). The government seem to have surrendered its responsibility to educate these learners to religious organisations, well-wishers, and NGOs. No teacher training institutions offer training in Sign Language. Sign Language is only used as a language of instruction in schools. It is not taught as a subject right up to university level in

Zimbabwe, and this is a serious cause for concern in a country which seeks to champion access to inclusive quality education, leaving no-one and no place behind.

This is a violation of the provisions of the *UN Convention on the Rights of Persons with Disabilities and Optional Protocol* which states that States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in Sign Language and/or Braille, and to train professionals and staffs who work at all levels of education. It also lowers the country's prospects of achieving Sustainable Development Goal 4 and Aspiration 1 of Agenda 2063 of promoting inclusive growth and ensuring inclusive universal access to equitable quality basic education opportunities for all.

Conclusion

The findings of this study demonstrate that while the *Education Amendment Act, 2019* is a welcome development, it does not mark a departure from the past trilingual language-in-education policy. It, in a covert, overt and subtle way, reproduces, maintains, perpetuates, entrenches, and sustains the hegemony of English, Shona and Ndebele. The *Act* violates previous marginalised speakers' educational linguistic human right and denies them access to and success in education. It does not present a strong case for the previously marginalised languages and their speakers. Undeniably, the provisions of the *Act* do not match the best practices and global trends in as far as language-in-education policies are concerned, especially the ideals of promoting mother tongue-based multilingual education, additive bi/multilingual education, inclusive education,

and respect for educational linguistic human rights. The *Act* does not promote inclusive education because its covert and overt provisions deny ethnic minority language speakers and persons with disabilities access to and success in education. It creates disparities and inequities in education, both in terms of access and quality with respect to persons with disabilities and speakers of African languages.

Recommendations

There is need for the *Act* to extend mother tongue education beyond early childhood. This must be accompanied by serious teaching of English and the mother tongue as subjects to provide learners with a safe transition to English in the later years. There is an urgent need to amend the weak provisions of the *Constitution* and *Act* to ensure that they foreground language rights in the education sector, since language rights constitute the basis for the enjoyment of the right to education. Language rights guarantee access to and success in education. There is a dire need for the Ministry to formulate and adopt a mother tongue-based multilingual language-in-education policy which will produce community, nationally and globally relevant learners. The policy should be accompanied by detailed implementation guidelines, institutional support structures and policy frameworks which will give effect to its provisions. The policy must be accompanied by sanctions to discourage non-compliance and incentives to promote compliance. It must be supported by a sound fiscal policy and well-trained human resource base.

The policy must be accompanied by the requisite seven areas of policy development for the successful implementation of a language-in-education policy; namely access policy, curriculum policy, community policy, methods and materials policy, evaluation policy and personnel policy. As Kaplan and Baldauf (1997) rightly state, once a language-in-education policy is formulated, these policies must be put in place as part of any language-in-education implementation programme. The education sector must formulate these policies and make these planning decisions prior to the implementation of the language-in-education policy because failure to secure and deploy them at an optimal level affects the implementation process.

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