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Indigenous Languages

PanSALB
PAN SOUTH AFRICAN LANGUAGE BOARD

2023/24

LINGUISTIC HUMAN RIGHTS COMPLAINTS REPORT

"One nation many languages"

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INTRODUCTION

The Pan South African Language Board is established in terms of the Pan South African Language Board Act 59 of 1995 amended as the PanSALB Amendment Act 10 of 1999. The Board was established according to the Constitution of the Republic of South Africa, 1996 in order to:

(a) promote, and create conditions for the development and use of official languages including the Khoi and San languages to provide for the recognition, implementation and furtherance of multilingualism in the Republic of South Africa; and the development of previously marginalised languages.

PanSALB is a Constitutional body responsible for investigating complaints related to language rights violations from individuals, organisations or institutions. The board conducts hearings where both the complainants and the respondents are present. Depending on the findings of the investigation, PanSALB may recommend steps to be taken by the concerned department or institution.

OBJECTIVES

PanSALB carries out the safeguarding of language rights through its linguistic human rights arm. This unit is responsible for handling and resolving human rights violation complaints received by the institution to promote respect for and ensure the implementation of the following principles referred to in section 6(3)(a) of the Constitution:

- The creation of conditions for the development and for the promotion of the equal use and enjoyment of all the official South African languages;
- the extension of those rights relating to language and the status of languages which at the commencement of the Constitution were restricted to certain regions;
- the prevention of the use of any language for the purposes of exploitation, domination or division;
- the fostering of respect for languages spoken in the Republic other than the official languages, and the encouragement of their use in appropriate circumstances; and
- the non-diminution of rights relating to language and the status of languages existing at the commencement of the Constitution.

EXECUTIVE SUMMARY

During the 2023/24 financial period, the Pan South African Language Board (PanSALB) received fourteen (14) complaints regarding linguistic human rights violations. The complaints were related to various educational institutions, a private company, and the South African Police Service (SAPS).

PanSALB intervened and conducted investigations into all the complaints. The Western Cape Department of Education and School for the Deaf was one of the complaints received, which alleged linguistic human rights violations of deaf learners. After PanSALB's intervention, the department conducted its investigation and came up with a strategy to deal with the challenges. The matter was closed.

The KwaZulu-Natal Department of Education and School for the Deaf Learners was another complaint. After an unannounced visit and engagement with the school management, the matter was further pursued with the department. The department accepted an explanation from the school Management without further information from other relevant stakeholders. However, PanSALB in discharging its constitutional and legislative mandate will continue monitoring the developments at the schools. The matter was closed.

The Western Cape SAPS matter was a complaint about the circular from the SAPS management that all statements were supposed to be compiled in the English language. PanSALB issued an allegation letter to the Western Cape SAPS. The Western Cape SAPS Provincial Commissioner referred the matter to the State Attorney for further handling and advice. The State Attorney advised that the Commissioner must get a legal opinion and study the same to determine the way forward. This matter is ongoing.

The Western Cape Private company complaint was about the language policy adopted by the employer, which instructed that English was the only official language for formal communication. PanSALB intervened and conducted its investigation, and during the engagement, the company articulated that there was no genuine complaint. PanSALB acknowledged the company's assertion. The matter was closed.

The Limpopo Matter was a complaint about the fact that the PanSALB website is using "Sesotho sa Leboa" and yet the Constitution of South Africa recognises Sepedi as the official language. The complaint was attended to, and the complainant was provided with the research findings made by PanSALB in determining the use of Sesotho sa Leboa instead of Sepedi. The matter was closed.

PanSALB is further advising the Legal Practice Council (LPC) to rescind its language policy decision to provide their examinations in English only. PanSALB advised the LPC to adopt a language policy that is compliant with the Constitution and Use of Official Languages Act. LPC has responded by sticking to its language policy position citing issues of practicality and expense. PanSALB is still studying the response and the matter is ongoing.

In conclusion, PanSALB intervened in all the complaints recived and conducted investigations to address linguistic human rights violations. The matters were closed, except the Western Cape SAPS, 'Re a tsotella' and LPC matters which are ongoing. PanSALB will continue discharging its constitutional and legislative mandates in monitoring developments related to the alleged LHR violation cases.

LINGUISTIC HUMAN RIGHTS VIOLATION COMPLAINTS

1. Western Cape Department of Education & School for the Deaf Learners

This matter pertains to an anonymous complaint lodged against the alleged linguistic human rights violations of deaf learners. The complaint highlighted the inability of some educators to communicate effectively with learners due to their lack of proficiency in South African Sign Language (SASL). Following the intervention by the Pan South African Language Board (PanSALB) and a series of engagements with the Western Cape Department of Education (WCED), the matter was concluded. The WCED, in response, committed to deploying a transversal task team, comprising a SASL expert, to investigate the allegations and identify the underlying challenges. The team was tasked with devising and implementing interventions, such as training, mediation, and conflict management, to address the issues at the school. Subsequently, the WCED conducted aninvestigation that culminated in a report and a strategy to tackle the challenges. PanSALB will continue to monitor the situation at the school. The matter was closed.

2. KwaZulu-Natal Department of Education (KZNDOE) & School for the Deaf Learners

An anonymous complaint was received alleging that some educators were violating the linguistic human rights of deaf learners by not communicating effectively with them. It was reported that learners who had passed their grades were being denied the opportunity to continue with the academic stream and were instead being forced to enroll in pre-vocational training, even if they did not wish to do so. Educators were making decisions on behalf of the learners without any formal discussions or consultations. One deaf learner was even forced to do pre-vocational training despite passing all subjects. These complaints prompted an investigation by PanSALB, which conducted an unannounced fact-finding mission and engaged with the school management to hear their side of the story. The matter was also taken up with the KZNDOE, who acknowledged some challenges but supported the principal's assertion that there weren't any linguistic human rights violations at the school, citing it as one of the best-performing schools for the deaf in the country. PanSALB will continue monitoring the school to ensure that it upholds its Constitutional and legislative mandate. The matter was transferred to the KZNDOE and is considered closed.

3. The Western Cape SAPS matter

The complaint pertains to a circular from SAPS management, which requires all statements to be compiled in English. This issue has yet to be resolved and PanSALB has issued an allegation letter to the Western Cape SAPS. PanSALB believes that the SAPS is neglecting its Constitutional obligations to the citizens of the Western Cape and failing to acknowledge the linguistic diversity of South Africa. It is also concerning that the use of an unfamiliar language can have dire consequences for victims of crime and accused individuals in the justice system. Complainants should be allowed to use their preferred language, with interpretation or translation provided as needed. The SAPS has referred this matter to the State Attorney for further guidance, and they are currently reviewing a legal opinion to determine the next steps. This matter is still ongoing.

4. Western Cape Private Company

This complaint was about the Language Policy adopted by the Employer which instructed that English was the only official language for formal communication. The complaint about the Employer's language policy was that, the employees using IsiXhosa were reprimanded, but those using Afrikaans were exonerated. PanSALB intervened and conducted its investigation and also visited the Respondent. During the engagement, the company articulated that there was no genuine complaint and that such a complaint must have been fabricated by a disgruntled former employee who was dismissed for misconduct not related to the issue of the language policy. That matter was currently being dealt with at CCMA. PanSALB was further in an engagement with a random sample of employees who are IsiXhosa speakers at the workplace. All employees interviewed confirmed that they were free to use their language of choice during informal engagements at the workplace. Neither confirmed that they were reprimanded for communicating in IsiXhosa in the informal engagement. The matter was closed.

5. Limpopo Matter: Sesotho sa Leboa vs Sepedi

A complaint was raised by an individual regarding the use of 'Sesotho sa Leboa' on the PanSALB website instead of 'Sepedi' as an official language, in accordance with the Constitution of South Africa. The complaint was addressed, andthe complainant was provided with details of the necessary legal processes and stakeholder engagement that were undertaken to reach that decision, including engagements with the Limpopo Provincial Legislature. PanSALB ultimately determined that the correct designation for the language in question is Sesotho Sa Leboa. The matter wasthen referred to the National Assembly for Constitutional Review and a recommendation has been made to changethe language from Sepedi to Sesotho as Leboa. PanSALB has informed the complainant of these decisions and considers the matter closed.

6. Free State ABSA matter

An individual filed a complaint regarding the lack of Setswana language at ABSA BANK ATMs, noting that Setswana is an official language in the Free State province. PanSALB intervened and communicated with ABSA, who assured the board that they have implemented measures to include various official languages in their ATMs, taking into accountthe language demographics of the areas. ABSA is currently addressing the complaint. PanSALB deems the matter resolved, however, the institution will continue to monitor ABSA's implementation in the future.

7. SABC Motsweding FM matter

A complaint was filed against Motsweding FM, a public broadcaster that broadcasts in the Setswana language. The complaint stated that the broadcaster was not consistently using the Setswana language, which resulted in a disservice to Setswana-speaking communities. After careful consideration, PanSALB reviewed the complaint and consulted with Setswana language experts. Their conclusion was that there were no grounds for further investigation,and the matter was subsequently closed.

8. Multichoice matter.

PanSALB received a complaint regarding the spelling of a programme on Channel 157 called 'Rea Tsotella'. The complaint stated that the spelling of the word was incorrect and violated the Sesotho Spelling and Orthographic Rules. The correct spelling should have been 'Re a Tsotella'. PanSALB contacted Multichoice to resolve the issue, however, Multichoice was resolute that PanSALB has no jurisdiction to entertain this kind of complaint. They argued that this matter falls under artistic creative measures. PanSALB believes that further discussion is necessary because correct spelling is crucial for language development, reading, and writing. This is especially important in television as it could negatively impact learners who may continue to misspell the word. The matter is still ongoing.

9. Legal Practice Council

On December 13th, 2023, the Language Practice Council (LPC) announced that starting from 2024, their examinations would only be conducted in English. Subsequently, an individual lodged a complaint with PanSALB against the LPC, stating that discontinuing the option for legal practitioner candidates to write their examination in either English or Afrikaans was unfair. PanSALB subsequently issued a memo on January 11th, 2024, requesting that the LPC withdraw their notice, as the Board believed that the move violated linguistic human rights, as outlined in the PanSALB Act, Useof Official Languages Act 12, and the Constitution of the Republic of South Africa.

According to the Constitution, a language policy must comply with the provisions of section 6(3)(a) of the Constitution and identify at least two official languages for governmental purposes.

PanSALB is actively pursuing the matter and believes that further engagement with the Council is necessary. The Council performs a public function by regulating the legal profession and protecting the public interest, as outlined in its statutory provisions.

10. Gauteng Province Ennerdale Clinic matter

The PanSALB Gauteng Provincial Office has received a complaint from community members regarding the Ennerdale clinic. According to the community, the clinic nurses are unable to communicate in Afrikaans, which is the prevalent language in the area. The community alleges that this language barrier seriously compromises their access to healthcare services. PanSALB has been working closely with the Gauteng Department of Health, who have been cooperative and willing to assist in the investigation. After several discussions, the matter was referred to the City of Johannesburg Metro since the clinic falls under their jurisdiction. PanSALB will be engaging the City of Johannesburg to find a resolution to this ongoing matter.

11. The SABC and South African Sign Language National Body (SASL NLB) matter

This was an initiative complaint by the PanSALB South African Sign Language National Body structure (SASL NLB). the crux of the complaint was that at the endof June 2023, the SABC cut down the number of hours that were allocated for SASL-interpreted news. In the past, SASLinterpreters were present on news bulletins from 06:00-12:00, which represents six hours in total. As a result, thereof, SASL interpreters were only present on news bulletins from 06:00-09:00, which amounts to only three hours a day. The cut in the number of hours represents a limit for the Deaf community in terms of access to broadcast information and public services. There was an engagement between PanSALB and SABC and the concerns raised were resolvedamicably by both parties. The matter was closed.

12. Setswana versus Sesotho matter

The PanSALB North-West provincial office received a complaint by a community member stating the alleged classification of Setswana as a Sotho language is incorrect and improper. The complaint maintained the stance that since in Setswana, it is an automatically known fact that the Batswana are not Basotho (Sotho), because they do not refer to themselves as such, yet linguistics, lexicography, literature and the like, inaccurately do. The Setswana NLB advised, amongst other things, that just as Indo-Germanic does not mean English is German, Sesotho/Disotho does not mean Setswana now becomes Sesotho. There is nothing distortive or offensive about the group name, especially in the context of historical and comparative linguistics. There is no cause to remove it as proposed; it is neither offensive nor negative. The linguists need such a term and would welcome suggestions of a better/most appropriate one. Incidentally, there is Facebook group for Batswana, Bapedi, Basotho, Barotsi called BBBB! Additionally, the NLBalso advised that in some Setswana dialects, the word Mosotho is used in general reference to Black Africans, and that Batswana themselves sometimes use “Motswana” to generally refer to a Black African, the general and official position

is that a Black person/African is referred to as Mothomontsho/Montsho/Moaforika. The matter was resolved and closed.

13. Review of Xitsonga Orthography booklet matter

PanSALB received a complaint from the South African Reserve Bank. The main concern was that the changes to Xitsonga spelling and orthography were implemented without proper consultation with the Vatsonga people and their Royal leadership. The Complainants further allege that this lack of consultation has sparked concerns about the potential negative effects of these changes on the language's usage in art, social settings, and academia. PanSALB reiterated its position that the consultation of the Xitsonga spelling and orthography rules, which was conducted in the same manner as other languages, was sufficient to inform the orthography and spelling booklet decisions.PanSALB further advised that more than six consultative meetings were held before the finalisation of the booklet, The position of the nasal sound inclusion or exclusion in particular words were linguistically explained. PanSALB's positionis that it will always, as required by the law in the future engage with all the relevant stakeholders. The matter was resolved and closed.

14. The Tshivenda language matter

The PanSALB received a complaint from the Vhembe Stakeholders Forum which comprised among others of traditional leaders, Traditional healers, different stakeholders in the business sectors and many more, who expressed their dissatisfaction as they believed that the Venda language was being compromised. The dissatisfaction arose froma workshop that was conducted by the Tshivenda National Language Body (TNLB), a structure of PanSALB established in terms of section 8(b) of the PanSALB ACT. PanSALB stated that the purpose of the workshop was to consult with people and to get inputs about the new Tshivenda Spelling and Orthography rules. PanSALB always encourages stakeholders and linguistic activists to contribute to corpus development and establishing orthography rules. The matter was resolved and closed.

RECOMMENDATIONS

Based on the investigations carried out by PanSALB into the linguistic human rights violation complaints received during the 2023/24 financial period, the following recommendations can be made:

a. Educational institutions should ensure that they implement language policies that are inclusive of all learners, including Deaf learners.
b. The South African Police Service (SAPS) should review its language policy to ensure that it is in line with the Constitution of South Africa and promotes multilingualism and respect for all languages.
c. Private companies must be encouraged to ensure that their language policies are not discriminatory and are inclusive of all employees.
d. PanSALB must continuously engage with institutions and departments to promote multilingualism and respect for all languages, as well as to ensure that language rights are being upheld.

These recommendations aim to promote and uphold linguistic human rights in South Africa and ensure that all individuals have equal access to language resources and services.

CONCLUSION

In conclusion, the Pan South African Language Board (PanSALB) has played an important role in safeguarding linguistic human rights in South Africa. Based on this report, PanSALB is making significant strides to investigate complaints related to alleged linguistic human rights violations. While most of the complaints were resolved satisfactorily, some matters are still ongoing. PanSALB will continue to monitor the situation and ensure that the concerned department(s) or institution(s) take appropriate steps to address any violations of linguistic human rights. Support of the board's efforts is crucial in promoting multilingualism, respecting all official languages, and preventing the useof language for exploitation or division.

PanSALB CONTACT DETAILS

PRIVATE BAG X08 | ARCADIA | 0007

523 STANZA BOPAPE STREET | 5TH FLOOR PROVISUS BUILDING | ARCADIA | 0083

TEL : +27 12 341 9638 FAX : +27 12 341 5938 URL: www.pansalb.org EMAIL: *communications@pansalb.org*

PROVINCIAL OFFICES

EASTERN CAPE
18 A SURREY ROAD, VINCENT, EAST LONDON, 5210
TEL: 043 721 3357 FAX: 043 721 1966

FREE STATE
NO. 17 FIRST STREET, GROUND FLOOR, ARBORETUM, BLOEMFONTEIN, 9301
TEL: 051 448 2300 FAX: 051 448 3189

GAUTENG
259 WEST AVENUE, DIE HOEWES, CENTURION, 0157
TEL: 012 361 7117 FAX: 012 361 6116

KWA-ZULU NATAL (KZN)
SUITE 402 4TH FLOOR REDEFINE TOWERS
DR PIXLEY KASEME STREET, DURBAN, 4001
TEL: 031 304 5621 FAX: 031 304 5634

LIMPOPO
29 HANS VAN RENSBURG STREET, OFFICE NO 10
KWANE CHAMBERS BUILDING, POLOKWANE, 0700
TEL: 015 291 5888/77 FAX: 015 291 5898

MPUMALANGA
20 PAUL KRUGER STREET, MBOMBELA, 1201
TEL: 013 656 0307 FAX: 013 656 0361

NORTHERN CAPE
NEDBANK BUILDING, 37 CHAPEL STREET, KIMBERLEY, 8301
TEL: 053 832 0037 FAX: 053 832 1280

NORTH WEST
825 CARNEY STLIBERTAS, MAHIKENG, 2745
TEL: 018 384 0120 FAX: 018 384 0122

WESTERN CAPE
EDWARD III BUILDING, 70 EDWARD STREET
CNR BLOEMHOF & MISPEL ROAD, TYGER VALLEY, CAPE TOWN, 8000
TEL: 021 421 8506 FAX: 021 425 2399