

The Language Policy, Cultural Rights and the Law in Botswana

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Abstract:

For many years, linguists, educators and other academics have been calling upon the government of Botswana to develop a language policy which will recognize and empower all the ethnic groups represented in the country. It was little known that a colonial language policy was embedded within the Chieftainship Act of 1933, which recognizes the Tswana-speaking ethnic groups as the only tribes, with sovereignty over land, and only they have the right to designate government-recognized chiefs who can be admitted in the House of Chiefs and consulted on issues of importance. This policy was conducive to linguistic and cultural assimilation of other diverse groups into Tswana¹. The arrangement was meant to build a united and proud nation with one language, one culture and one flag. As a result of the statutory recognition of the Tswana-speaking groups, Setswana is the only local language that is used in national life and English as the official language. This paper presents the language policy in Botswana within this legal framework, the impact of the policy on linguistic and cultural rights and the long-standing agitation of the unrecognized groups for such rights. Agitation strategies include parliamentary motions, formation of linguistic associations, litigations and the engagement of United Nations procedures. While there may be no new and progressive language policy written in the near future, there seems to be light at the end of the tunnel in opening up to the use of other languages and cultures in education and other social domains.

Laws of the Colonial Era

Section 2 of the Chieftainship Act of 1933 ([Republic of Botswana,1933a](#)) defined the term tribe² and confined it to mean the eight Tswana-speaking tribes to the exclusion of the other tribes represented in the country. It further defined the term chief to mean the chiefs of the eight Tswana-speaking tribes to the exclusion of the chiefs of other ethnic groups. The same Act defined the term tribal territory³ and confined it to mean the territories over which the eight Tswana-speaking tribes rule, the sovereignty of which was

¹ The process of assimilating into Tswana language and culture. The term was used by Parsons, (1984)

² It states that the term tribe “means the Bamangwato tribe, the Batawana tribe, the Bakgatla tribe, the Bakwena tribe, the Bangwaketse tribe, the Bamalete tribe, the Barolong tribe or the Batlokwa tribe”. All these tribes speak Setswana as a mother tongue.

³ “Tribal territory means respectively, the Bamangwato, Batawana, Bakgatla, Bakwena, Bangwaketse, Bamalete and the Batlokwa tribal territories, as defined in the Tribal Territories Act, the area known as the Barolong Farms as described in the Botswana Boundaries Act, and any other area which may be added to any such areas by any enactment”. In the Wayeyi court case, the Chieftainship Act was declared unconstitutional and discriminatory.

granted to them on behalf of the Queen of England at the exclusion of other tribes living in the same areas. Due to this recognition, political visibility, and the distribution of the geography of power among the Tswana groups, the Setswana language and culture became dominant in the country.

Recognition as a tribe meant that the ethnic group could designate a chief who could be consulted on matters that affect the well-being of his people. At the official level, this person was chief of all ethnic groups including the unrecognized tribes residing in the territory.

In practice, the interests served were those of the Tswana, who could speak with one voice, while the rest were subsumed under the Tswana. In the case of Ngamiland District in northern Botswana, meetings in which major decisions are made are confined to members of the ruling family who were in fact the only ethnic Batawana in the territory or district. In 1995, when government decided to kill all the cattle in Ngamiland as a way of eradicating the cattle lung disease, the Batawana chief was consulted and he agreed. Unfortunately, he misunderstood the decision. To him only the area in which the disease broke out would be affected, which was predominantly non-Tswana (Wayeyi, Hambukushu, Bugakhwe and Herero). When the killing moved to Maun, where the few Batawana reside, he sent a delegation to President Ketumile Masire to stop the prevent measures (Nyati-Ramahobo, 2002c). Unfortunately, the President recalled the agreement and the cattle were eradicated in the entire district, thus affecting its economy. The Batawana chief did not take kindly to this decision and indoor meetings were conducted at the Batawana office. Mr. Bojosi Tlhapi, a member of the Wayeyi tribe working at the Batawana *kgotla* (traditional court) as senior chief's representative was not allowed to attend the meetings. This was defined as a tribal matter, and only the Batawana are a tribe worthy of participating in the decision-making process.

This demonstrated that the Tswana chiefs, in fact, do not always represent the unrecognized non-Tswana tribes. Further it demonstrated the fact that the non-Tswana are only included in Tswanadom when it is convenient for the government or the Tswana and excluded when it is also convenient. The Tswana chiefs represent state power, legitimized and institutionalized (Edwards, this volume) to make decisions over all other social sub-structures, such as councils, land boards, and village development committees. They are represented in all these either personally or by their subordinates. It is therefore

difficult for the non-Tswana to achieve autonomy and express their views under this chieftainship structure, especially if such views are contrary to official opinion. This chieftaincy structure has been politically interwoven into modern governance structure, and the Tswana chiefs as well as District Commissioners represent state interests. This impacts on the rights of the non-Tswana to participate in decisions that affect their lives, and they thus have less control over the resources within their environments.

The recognition of the Tswana as a tribe also meant that Tswana headmen were sent to villages to rule over the non-Tswana, as representatives of the Tswana chief and these representatives could not make any decisions that were inconsistent with his or her view point (Nyati-Ramahobo, 2002b). It also meant that Setswana language was to be used in the *kgotla* and the Tswana customary law applied in passing judgment on all matters, without sensitivity to the norms of the ethnic groups represented. Over time, as the Tswana were numerically inferior in districts such Northwest, and Central, non-Tswana headmen and senior chief's representatives were appointed, but they were to serve using Setswana and Tswana customs and traditions, not those of the people in the villages, resulting in linguistic and cultural imperialism.

The use of Setswana was not only encouraged at the *kgotla* but in other social domains, such as the clinics, schools and other government offices. Tswana-speaking personnel would be deployed to non-Tswana speaking areas to serve in these various positions. This was done during the colonial period, and has continued up to the present. For instance, in 2001, a MUYEYI lady informed the Shiyeyi Language Writer's Workshop about her experience at a local clinic. The nurse asked what the name of the baby was, and the answer was "Maya". She asked what Maya meant and the lady explained that it meant s/he has come or *otsile* in Setswana. The Nurse then wrote the name as *Otsile* and not *Maya* on the hospital card (Kamanakao Association workshop Report, 2001). Thus, Chieftaincy was used for acculturation and the deliberate spread of Tswana language, and the suppression of other languages. Based on the definition of tribal territory in the Chieftainship Act, and the boundaries as defined in Tribal Territories Act, the Colonial government divided the then Bechuanaland into eight tribal territories and four crown lands. In describing the ethnic composition of Bechuanaland, based on the 1946 population Census, Schapera (1952) observed three categories of citizens who have chiefs and land, the non-Tswana with no land but with sub-chiefs and the rest of the non-

Tswana without land and without chiefs. The latter two groups could be moved at any time (page 1).

As a result of this territorial power of the Tswana chiefs, non-Tswana-speaking groups assumed a subordinate status to the Tswana speaking tribes, since their chiefs were regarded as sub-chiefs (in case of those from the crown lands) and headmen for the rest. They are statutorily under the Tswana rule, and were defined as minorities. The term is used in its colonial sense to mean those who were perceived by the state as immature to rule themselves, and unable therefore to speak at the *kgotla* (Solway, 2002).

Territorial power meant that the non-Tswana could not claim land rights as collective tribes. They could be moved from their ancestral locations to other places without consultation⁴. Thus the Tswana, on behalf the state, controlled the resources. While Section 14 (3) (c) of the Constitution allows the restriction of freedom of movement if such restriction is supposedly for the well-being of the Bushmen, the Bushmen (Khoesan communities) both in Central Kgalagadi Game reserve and the Okavango have suffered from the relocation program without compensation for the value of the land they have resided on for centuries. The Wayeyi have been moved from the Okavango delta since the sixties to the present moment, without compensation. In 2003, they were informed that they will be moved from the Boyeyi ward in Maun (Ngami Times, 2003), where their history and culture are rooted through the Boyeyi *kgotla*, as well as historical records, such as streets, and two schools named after their headmen. Thus the destruction of that entire area planned for 2005 to give way to the expansion of the airport could destroy the only living history they have. Consultations with the people were not carried out, but rather with the Tswana chief, who agreed. Such removals affect the culture of the people, their language and their survival strategies. Territoriality was, therefore, not only to serve as an economic empowerment for the Tswana, but as an acculturation process, which would also form the basis for economic dependency⁵ for the non-Tswana.

Laws after Independence

At independence, the Chieftainship Act, and the Tribal Territories Act were maintained as legal instruments to be used under the Ministry of Local Government. As a result, the

⁴ Except with the Tswana chief, where applicable.

⁵ See Nyati-Ramahobo 2001 for more examples of economic disparities between the Tswana and non-Tswana.

current traditional governance structure is the same as it was during the colonial era, and the experiences for the non-Tswana are still the same as described above. In addition to maintaining these two laws, the Constitution was written so that Sections 77 to 79 established the House of Chiefs whose permanent membership was confined to the chiefs of the eight Tswana-speaking tribes ([Republic of Botswana, 1966](#)). Members from the four crown lands were admitted to the House through elections in which their tribes did not participate, but rather the members of the House of Chiefs carried out the election. These elected members were admitted to the House for a period of five years at the sub-chief level, and they represented regions, not the people. Thus there was lack of legal consistency, as the Tswana chiefs were titled chief of the X tribe, while the non-Tswana were sub-chiefs of X region, as determined by recognition or otherwise of a tribe, in that particular district.

The House of Chiefs therefore came to represent Tswana supremacy, over other tribes and both hegemony and domination (Alexander, this volume) has become a long internal tradition (Edwards, this volume). Non-Tswana speaking tribes then remained unrepresented in the House of Chiefs, excluded from participating in the legislative process ([Baruti, 2002](#)), which affects customs as sanctioned by Section 88(2)⁶ of the Constitution (00:50). In practice, the House of Chiefs served very little purpose, and its advisory role was considered ineffective. However, the recognition [of the Tswana tribes](#) carried all the cultural rights denied to the non-Tswana, including language rights.

While Sections 3 and 15 of the Constitution provide fundamental rights and freedoms of individuals, they allowed derogations, which permitted discrimination along tribal or ethnic lines, thus confining linguistic and cultural rights to the eight Tswana-speaking groups only and permitting the discrimination of the non-Tswana. Section 3 protects fundamental rights and freedoms of individuals ‘*whatever his race, place of origin, political opinions, colour, creed or sex*’ (Constitution of Botswana 00:5). This list omits ethnic origin or language. Thus, discrimination along ethnic and linguistic lines could be permitted. From a legal point of view, it can, however, be argued that the list is not exhaustive but rather illustrative, hence there is no formal omission. However, from a

⁶ Section 88 of the constitution makes it mandatory that all legislation that deals with chieftaincy and customs should pass through the House of Chiefs. Lack of representation to the House, then, means exclusion from participating in the development of the customary law of the country. For instance, the Wayeyi, some Khoesan groups and Herero are matrilineal, but the imposition of Tswana patriarchal customary law has eradicated the laws of these groups regarding inheritance, marriage and succession.

semantic point of view it is exhaustive, as it does not suggest that these features serve only as examples, thus the silence on ethnic origin and language can be interpreted as a deliberate omission. Further, even the legal argument is weakened by the context of existing laws that discriminate along ethnic lines in which language rights are also embedded and derogations in Sections 3 and 15 of the Constitution permitting the non-prohibition of such discrimination. Furthermore, only the languages of the unrecognized tribes are not permitted in the public domain. The list appears to be exhaustive and hence silently permits discrimination along ethnic and linguistic lines.

There was therefore, no difference between colonial laws and those after independence. While some have been re-enacted over time, they have essentially remained the same and are in force to the present day⁷, with regard to linguistic and cultural rights of the non-Tswana. Unlike the South African case, in which independence brought new legislation on cultural rights (Alexander, this volume), Botswana carried on with colonial laws.

The discrimination has always been largely socio-cultural, rendering the total being of the non-Tswana invisible. As Wolfson and Manes (1985) have noted ‘a rejection of ones language and culture, is a rejection of the total individual’ --- the status of a language reflects the status of its speakers. Wolfson and Manes further observed that cultural discrimination translates into economic discrimination. This is now evident in Botswana, in that the regions of the non-Tswana are the least developed, least informed and least serviced (Nyati-Ramahobo, 2002b) and the power of the Tswana to control resources has succeeded. For instance, Northwest, Gantsi and Kgalagadi districts have the highest school dropout rates (Malete, 2003) and are largely rural. United Nations Systems in Botswana (2001) indicated that the proportion of the underweight in these districts has always been the highest, and it is likely to get worse in future due to HIV/AIDS. There is no data on poverty levels by districts. However, it is a fact that most non-Tswana-speaking groups generally live in rural areas, and would therefore naturally form a larger part of the 47% of the population now living below the poverty datum line. Jefferies (1997) observed that ‘poverty is more severe in rural areas than in urban areas’. Rural areas have a more destitute population than urban areas. The United Nations Committee

⁷ See the judgment on the Wayeyi court case in the section on Litigation.

on the Elimination of All Forms of Racial Discrimination also noted this disparity with regard to marginalized ethnic groups (CERD, 2002).

The imbalances are a result of non-recognition of the linguistic and cultural rights of the non-Tswana in the legislation of the country. As a consequence, the intensification of the politics of recognition has recently taken center stage in Botswana (Werbner, 2002).

Agitation for linguistic and cultural rights

In 1969, three years after attaining independence, the Honourable Member of Parliament for the Botswana People's Party, Mr. Philip G. Matante, moved that the 1965 general elections be deplored as they were based on tribalism ([Republic of Botswana, 1969](#)). Hon. Matante noted that chieftaincy had played a major role in the election process, less surprising in Africa, as the people at that time knew chieftaincy as the only form of governance -- hence Seretse Khama as Chief of the Bangwato, whose tribal territory stretched from North of Dibeete covering almost two thirds of the country was their chief. As no other ethnic group (other than the Bangwato and their blood brothers the Batawana) were recognised in this vast region, all other tribes in that large region were regarded and referred to as Bangwato and Batawana, and on the basis of assimilatory laws, Khama was their chief. Electing government in a republic became synonymous with throning their chief. The rest of the Tswana groups supported Khama because they were recognised in the Constitution and their chiefs were admitted to the House of Chiefs.

Territorial power, coupled with cultural domination, bore fruits in gaining political power for the Bangwato Chief Seretse Khama. Political power by the Tswana after independence was important to ensure the continuation of the status quo in the legal sphere. After being elected into power, Seretse Khama sold the idea of a monolithic state to the international community. He termed the agitation for cultural rights as 'tribalism' and appealed to the nation to deplore those who might promote it (Carter and Morgan, 1980). He viewed those who wanted to assert their ethnic identity and the use of their language in education as divisive and likely to disturb peace and prosperity. That has been the message of the ruling Botswana Democratic Party to this day (Nyati-Ramahobo, 2000). An assertion of one's cultural identity by one of the eight Tswana-speaking groups is seen as statesmanship and nationhood. On the other hand, the same assertion by a non-

Tswana is viewed as divisive, contrary to nation building. This message ran through the veins of the nation for over three decades and made it difficult for any one to want to challenge this position, without sounding unpatriotic.

Nine years after Hon. Phillip Matante's motion, in 1988, the Honourable Member of Parliament, Mr. Maitshwarelo Dabutha of the Botswana National Front (BNF), moved that Sections 77,78 &79 of the Botswana Constitution be amended, as they excluded other tribal groups represented in Botswana. The motion did not pass. One of the most telling comments made at the end of that debate by one of the Tswana parliamentarians was: 'we defeated them' (Republic of Botswana, 1988: 511, also see Nyati-Ramahobo, 2000: 291). While many viewed that statement as unfortunate as it connoted ethnic polarisation, it was perhaps, the saviour, as it opened the eyes and ears of the marginalized ethnic groups to the hard and painful reality: that there is the "us" and the "them", the recognised and the unrecognised, the powerful and the powerless. The struggle for cultural rights by non-Tswana has, therefore, been against authority (Edwards, this volume).

It could be argued that the statement 'we defeated them' may have been uttered along party lines rather than ethnic lines, since both non-Tswana and Tswana of the ruling party had voted against it. The defeated in this case was the (BNF). While this may well be the case, it is also reasonable to think that the real losers are those whose aspirations the BNF represented, the unrecognised ethnic groups. The non-Tswana who voted against it may have been simply following party position and safeguarding their political interests rather than representing the aspirations of their constituencies.

Similar sentiments of agitation went on in the House of Chiefs as well. In 1994, Kgosi Seipone of the Kgalagadi district had presented a motion in the House of Chiefs that chiefs of the crown lands should have their status raised to be paramount chiefs of their tribes (Solway, 2002). The motion was rejected with unpleasant words from the Tswana chiefs. Because of the language used during the debate, the official report for the debate was never printed. In 1998, Kgosi Christopher Masunga from the Northeast raised the issue again but the motion failed. In the House of Chiefs, the division always lay clearly along ethnic lines and therefore, the defeated were the unrecognized tribes.

In 1995, a member of the ruling party tabled the same motion and this time it passed. The opposition Botswana National Front (BNF) had won ten new seats in the 1994 general elections and the ruling party realised that this issue may have played a major

role. In 1997, a Member of Parliament, Mr. Itani Chilume, proposed a motion to allow the use of other languages in education and other social domains. This motion was passed in Parliament. However, Mr. Chilume was summoned to President Ketumile Masire's office to apologize. Since then, this motion has not seen the light of the day. A study was commissioned to assess the level of development of Botswana's local languages and the possibility of teaching some minority languages as third languages in the Community Junior Secondary School Curriculum. The report was submitted to government in 2003, but it has not been released to the public or to Parliament for approval. Also in 1997, the Presidential task Group on the National Vision 2016 stated that the Botswana's languages 'shall be recognized and supported in education and other areas' (page 5). This document was not tabled before Parliament for approval either. Agitation for ethnic recognition has come to be considered as the gateway to linguistic and cultural freedom and to the formulation of a more inclusive language policy. This would lead to power sharing and equitable distribution of economic gains.

Another rather silent form of agitation over time has been the registration of linguistic associations, based on ethnic lines. To mention a few, the Kalanga formed the Society for the Promotions of Ikalanga Language (SPIL) in 1986; the Wayeyi formed the Kamanakao Association in 1995; and, the Batswapong formed the Lentswe la Batswapong in 1998. Currently there are thirteen of these organizations, which aim at developing the languages and cultures of the respective ethnic communities, which were viewed as dying due to non-recognition, leading to non-use. In 2002, these organizations formed a coalition called '*RETENG: The Multi-cultural Coalition of Botswana*' in order to speak with one voice, as discussed below.

Litigation

Five years after the motion to amend sections 77 to 79 of the Constitution was passed, government had not done much in this regard. In 1999 the Wayeyi people decided to designate their chief and ask government to recognize him. As expected, on the basis of the laws, government could not. The Wayeyi then took Government to court to challenge the constitutionality of the Chieftainship Act, the Tribal Territories Act and Sections 77 to 79 of the Constitution. Their challenge to the Tribal Territories Act was later dropped. They demanded that the Chieftainship Act be declared discriminatory and they be recognized as a tribe and their chief admitted to the House of Chiefs.

Further demands were that adult literacy programs should be initiated in Shiyeyi and their children should be taught in mother tongue in the early years of education in areas where the language is spoken. They claimed that these laws violated their fundamental rights stated in Sections 3 and 15 of the Constitution (Misc no. 377/99)⁸.

Judgment on this case was delivered on November 23rd, 2001 ([Republic of Botswana, 2001a](#)). The court ruled that Section 2 of the Chieftainship Act was discriminatory, contrary to section 3(a) of the Constitution and should be amended to give equal treatment and protection to the applicants. It highlighted the relationship between the Chieftainship Act, the Tribal Territories Act and Sections 77 to 79 of the Constitution. The definitions in Section 2 of the Chieftainship Act give effect to the practical implementation of the other two laws. The definitions were, therefore, not only theoretical but were translated into a practical chieftainship structure with rights and privileges accorded to those who are included in such definitions. The discrimination along linguistic lines was, therefore, not only institutionalized but also legalized.

The other rights enjoyed after such a designation is the right to use one's language in government spheres such as the customary court, and the use of their customary law to prosecute and pass judgment. The applicants were therefore entitled to enjoy all these rights and privileges currently confined to the eight Tswana speaking tribes. This is the practical interpretation of the court order so as to provide equal protection under the provisions of the Chieftainship Act.

On Sections 77 to 79 of the Constitution, the court admitted that the sections are discriminatory. Unfortunately, such discrimination is authorized by derogations contained in Sections 3 and 15 of the Constitution as stated earlier and therefore, the court could not order their invalidity and amendment (pages 38-40 of the judgment). The Botswana Constitution thus allows non-prohibited discrimination, which cannot be untangled by any court of law in the country. It is a colonial-type of Constitution that gives rights with one hand and takes them away with another. On the basis of this, the Wayeyi lost their demand on Sections 77 to 79 of the Constitution. The court also did not order the admission of their chief to the House of Chiefs, as there was another contender, but sustained his *locus standi* as chief of the Wayeyi with the right to bring the matter to court.

⁸ For details on this case refer to Nyati-Ramahobo, 2002a.

On the issue of language, the Court stated that it did not have full information on the resource implications of this demand. The Court could order Government to do so, but the resources may not be available and the Court could not supervise demands that are outside the law (page 40). In dismissing the Wayeyi's demands for recognition of their chief and the use of their language in schools, the Court stated the importance of these issues and urged government to address them before problems should arise.

A week after the judgment came out; Parliament passed the national cultural policy, which had been approved by Cabinet in April 2001. This policy recognized Setswana as the only national language with an acknowledgment of the valuable use of other languages in development, even though the policy failed to accord them full use and recognition (Ministry of Home Affairs, 2001). According to this policy other languages will continue to be developed through private efforts for private use. This is contrary to the spirit of Vision 2016 of 1997 and the parliamentary motion passed in the same year.

Enforcement of the Court Order

The cultural policy seemed to signal government's reaction to the court order, namely the maintenance of the status quo. By January 2005, government had not amended the Chieftainship Act.

In March 2002, the Minister of Local Government informed Parliament that the Chieftainship Act will be amended, but not necessarily in the spirit of the court order but simply to change the definition of chief to include subordinate status such as sub-chief (Letsididi, 2002:11). In April 2002 Parliament, passed a White paper amending sections 77 to 79 of the Constitution ([Republic of Botswana, 2001b](#)). The amendment included a transfer of the definitions of the terms chief and tribe from the Chieftainship Act into the Constitution, and their translation into Setswana, without achieving equality among tribes⁹. The reason for doing so was to make it difficult to challenge these structures in a court of law in future and consolidate Tswana political and economic power. The judgment on Sections 77 to 79 indicated that the derogations do protect and sanction discrimination contained in the constitution; hence these Acts of Parliament now had to be moved into the Constitution in order to safeguard their discriminatory character. In May 2002, RETENG rejected the paper as cosmetic and in fact cementing Tswana supremacy.

⁹ Refer to RETENG's reactions to paper of May 2002 and subsequently to the Bill of 2003.

In March 2002, the United Nations summoned Botswana to submit its periodic report to the Committee on the Elimination of all Forms of Racial Discrimination (CERD)(Ngakane, 2001). Botswana signed the International Convention on the Elimination of all Forms of Discrimination in 1974 and had provided reports until 1985. Thus, it had neglected its reporting obligation for eighteen years. The report was to be presented before the Committee in August of 2002. The Committee also invited alternative reports from non-Governmental organizations. RETENG, the Multicultural Coalition of Botswana and Ditshwanelo, and the Botswana Centre for Human Rights submitted reports. The former focused on the laws as discussed above (RETENG, 2002), and the latter focused on the issue of the relocation of the Khoesan communities from the Central Kalahari Game Reserve (Ditshwanelo, 2002).

After considering all the evidence presented before it, including the Government White Paper and the judgment on the Wayeyi court case, the Committee expressed its concern about the discriminatory character of Botswana laws and recommended that they should be amended to eliminate discrimination.

The Committee's recommendations gave further hope for the attainment of cultural and linguistic rights for the non-Tswana speaking tribes of Botswana. To the surprise of many, in November 2003, a bill (No. 31 of 2003) based on the White paper was published in the government gazette and scheduled for discussion in Parliament ([Republic of Botswana, 2003](#)). While the government stated that the purpose of the amendment was to make the sections tribally neutral, the Bill went rather far in projecting Tswana supremacy. It simply translated the definitions of 'chief' from English to Setswana to be inclusive of sub-chief. The definition of tribe was made part of the territorial phenomena, in which all former 'tribal territories' have now resumed the names of the eight Tswana speaking tribes. In other words, names of tribes which were stated as nouns in the constitution were morphologically transformed into locatives by adding 'Ga- or Goo-' before the name of the tribe or '-ng' at the end of the tribal name. In Setswana, such locatives carry the double meaning of both the name of the place and the people to whom the place belongs. For instance, the word Goo-Tawana means the place of the Batawana tribe. Semantically, therefore, this morphological exercise is a continuation of the recognition of the Tswana tribes and their sovereignty over the districts ([Republic of Botswana, 2003](#)). The transfer of the 'concept of tribe' into the Constitution in this manner did not eradicate the embedded discriminatory meaning it carried while it was

still in the Chieftainship Act, even if the word tribe was avoided at all costs. The Wayeyi and other tribes are, therefore, not given equal protection and treatment, either under the old definitions contained in Section 2 of the Chieftainship Act, or under the new meanings contained in the revised Sections 77 to 79 of the Constitution.

There has been no change either expressively in the proposed Bill to review the Sections or in their effect. The Bill ignores the court order and the recommendations of the CERD. RETENG and the Wayeyi pressure group, Kamanakao Association, again rejected the bill as it continued to fail to bring about equality among ethnic groups, instead fostering Tswana supremacy in more salient ways than before (RETENG, 2003). The Bill left the structure found and described by Schapera in 1952 intact, with three unequal categories of tribal classification, perpetuating economic, social and cultural exclusion of the non-Tswana speaking tribes.

Future Directions

Within the international democratization process in which good governance, transparency and human rights have taken center stage, it will be difficult for a country like Botswana with an international standing to continue to defend discriminatory laws and practices. As a democratic state it will need to respond to the international call to reform its laws and conform to the international conventions it has signed. Linguistic and cultural rights are human rights and cannot be ignored; nor can the non-Tswana give up on the issues that touch their very existence. It is yet to be seen how Parliament will react to the Bill to enhance the role of non-Tswana languages and cultures in the manner in which Sami and Gaelic have benefited from the respective parliamentary measures (Marten, this volume). The civil society will also need to keep pressing forward in demands for such reform. The identities of the non-Tswana can no longer continue to be suppressed as this may lead to instability. Peace and prosperity can no longer be preached in the midst of discrimination and poverty.

Ethnic identity in Botswana is rigid and highly visible. One reason is the emphasis of government institutions on the ethnic identities of the Tswana, thus creating consciousness within the non-Tswana who feel that more is at stake under current laws. Individuals have multiple identities and ethnic identity, as it involves language issues, is one of the strongest. These identities can be manipulated to ones advantage, as language often provides easy lines of communication and bonding. In Botswana, while

urbanization has grown over the years, ethnic identity has not disappeared (Parson, 1985; Batibo & Smieja, 2005).

There is however, light at the end of the tunnel for formulation of new and progressive language policy, within the broader context of renewed linguistic and cultural rights. The report commissioned by government following the 1997 motion, on the development status of Botswana languages, may bring the introduction of some of Botswana's languages into the media and into education. There is a change in official discourse in that Botswana is now described as a multicultural country¹⁰. Botswana is faced with the HIV/AIDS scourge and all messages are currently disseminated in Setswana and English to the exclusion of 26 other languages spoken by about 90% of the population¹¹ (Walter and Ringenberg, 1994). The 2001 the Population and Housing census indicated that in districts such as Gantsi only about 19% of population use Setswana at home (Chebanne and Nyati-Ramahobo, 2003). This means that messages do not reach a significant portion of the population. Sexuality is a cultural phenomenon, and the language in which the messages are transmitted must carry the culture of the people in order for them to be accepted and to make a positive impact. It is therefore crucial as a developmental strategy for HIV/AIDS activities to be sensitive to the various ways in which diverse ethnic groups deal with matters of sexuality, and utilize these beliefs, practices and attitudes to develop a communication strategy for HIV/AIDS. While the Government is doing much regarding HIV/AIDS education, the infection rate has been reduced by only one percent over the last five years (Government of Botswana, 2004). Many observers attribute this state of affairs to the negligence of the languages and cultures of Botswana in the fight against the pandemic.

RETENG is currently engaged in the development of multi-lingual materials and the development of some of Botswana's unwritten languages. It has also conducted a feasibility study for establishing a community radio station that can broadcast in many languages. In addition, it has recorded cultural music for a youth group. These efforts are supported through the assistance of the Canadian project for local initiative in Botswana.

¹⁰ Minister Mogami's speech, July 15th, 2004).

¹¹ Problems related to the language question on the 2001 population and housing census are described by Chebanne and Nyati Ramahobo, 2003). Figures provided as % of the population that speak minority languages in the home is counter intuitive. In fact a study is being undertaken to find out the areas in which the question on language was not asked, following serious allegations that in some minority dominated areas, the question was not asked.

The reform process must address the language in education policy in order to ensure that children begin their learning in the mother tongue, especially in the early years and the integration of diverse cultural values and knowledge systems into the school curriculum as an empowerment tool (Nyati-Ramahobo, 1999). Botswana, as a member of the United Nations, should appreciate the fact that the existence of ethnic groups/tribes is not a question of law but of fact. Further, that recognition of tribes and according to them equal protection under the law and in practice is a development strategy and a conflict prevention mechanism. People's languages and cultures are their treasures, which can alleviate them from poverty and dependence on government handouts. The political process has a role to play in ensuring that the electorates understand the issues and are able to utilize the ballot box to encourage reform as well as improvement in the election process to ensure fairness and transparency. The current embodiment of the language policy into discriminatory laws has proved counter-productive to development and has the potential to disturb the peace and stability of the country. Power-sharing and equitable distribution of resources are important in conflict prevention.

Conclusions

The power of the Tswana is political, to rule over other tribes, territorial to control the resources (Fishman, this volume), and linguistic in order to assimilate other tribes. In its traditional role, Setswana language and culture has become dominant (Edwards, this volume). While the Tswana are less likely to give power to the non-Tswana, the latter have set in motion a debate that will go a long way in providing a healthy environment for linguistic and cultural diversity. The change in official discourse and the financing of cultural activities indicate a beginning of tolerance of multiculturalism. This may not mean the revival and use of all languages, but an enabling environment for the development of as many as possible for use in certain domains.

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