

African Democracy Essay Award 2023

Siviwe Stephen Dube
University of the Western Cape
Essay Topic: Multiculturalism
First Place Winner



Stellenbosch
UNIVERSITY
IYUNIVESITHI
UNIVERSITEIT

CREDO

Centre for Research on Democracy

CREDO

Table of Contents

| | |
|---|---|
| 1. Introduction | 2 |
| 2. Essay objectives | 2 |
| 3. The Right to Receive Education in One's Own Language in School | 2 |
| 4. Multiculturalism in Public Governance | 3 |
| 5. Political Redress for Historically Marginalised Ethnic Groups | 4 |
| 6. Conclusion | 5 |
| Bibliography | 6 |

1. Introduction

Before democracy arrived in South Africa, judges displayed remarkable ethnocentric bias and arrogance at the expense of those they perceived as different (*Women's Legal Centre Trust v President of The Republic of South Africa and Others*, 2022, paragraph 44). Prejudice on matters of culture, race and ethnicity led to arbitrariness, intolerance and inequality (*Women's Legal Centre Trust v President of The Republic of South Africa and Others*, 2022). The hallmark of governing a multicultural society was to effect otherness and division in a single country with multiple languages, cultures, and ethnic groups.

The advent of democracy in 1994 in South Africa changed this in that its citizens now have a legally recognised right to be culturally, ethnically and linguistically different. Sections 9, 30 and 31 of the Constitution entrench respect for cultural, language and ethnic differences on an equal basis (*Bhe and Others v Khayelitsha Magistrate and Others*, 2004). In addition, the State and courts are also obliged by sections 7(2) and 211(3) of the Constitution to respect and promote multiculturalism and to apply customary law when applicable (*Alexkor Ltd and Another v Richtersveld Community and Others*, 2003). Multiculturalism is protected by and is subject to the Constitution (*Bhe and Others v Khayelitsha Magistrate and Others*, 2004).

2. Essay Objectives

In this essay, I will discuss how the presence of multiple languages, cultures and ethnic groups within the borders of a single country impact the African experience of democracy. The focus will be on the democratic Republic of South Africa, particularly, the right to receive education in one's language; multiculturalism in public governance; and political redress for historically marginalised ethnic groups. South Africa is a country in which there is a legal recognition of multiculturalism within its borders as a right guaranteed by the legal system of a democratic country (*S v LAWRENCE*; *S v NEGAL*; *S v SOLBERG*, 1997, at paragraph 148).

3. The Right to Receive Education in One's Own Language in School

South Africa runs the risk of suppression of marginalised languages over the well-established ones as schools offer no more than two languages in their curriculum. Consequently, some in South Africa who are not taught in their mother tongue are genuinely fearful that democratic transformation might lead to the downgrading, suppression or destruction of a particular language and the ultimate disintegration of that language-speaking community as a group (*Gelyke Kanse and Others v Chairperson of the Senate of the University of Stellenbosch and Others*, 2019).

This highlights the challenges that historically marginalised language groups face when establishing themselves at an educational level in a democratic country. The limited use of a given language at school based on reason and practicability as required in section 29(2) of the Constitution creates a feeling that the exercise of this right is a sham and is unachievable in an African democratic country like ours.

It follows that some minority language groups' participation rate in referenda-based issues is lower and their presence in ministerial positions is greatly reduced as well. Corruption and incompetence of those who hold power in education further deter the realisation of the right to use a particular minority language in educational institutions reasonably and practicably. For example, it has been rightly held that our governmental agencies for basic education exhibit a lack of understanding of the basic human rights of learners in the rural areas and this questions the dignity, safety and health and the best interests of every learner attending school in the rural area as noted in paragraph 65 of the *Komape and Others v Minister of Basic Education* case (*Komape and Others v Minister of Basic Education*, 2018).

The self-interests of the common language groups managing the educational sector has become more important than the interest of the public, which calls for affording minority language groups a reasonable and practical experience of their language as they receive education in a democratic country (Marri A.R, 2003). This means that the democratic requirement that people should receive education in their own language is not fulfilled. The mismanagement of educational infrastructure by politically dominant language groups is the reason why minority language groups are in fear of being marginalised. Therefore, the right to receive education in one's own language at school in a multilingual democratic country is made to be dependent not only upon appropriate and reasonable justifications but also on corruption. Corruption does not only exist in South Africa but also in other multilingual democratic African countries. It follows that African governments are still caught between balancing development obligations and democracy which impedes promoting democracy (Onyango G, 2022).

4. Multiculturalism in Public Governance

The other prevalent problem of multiculturalism in democratic African countries concerns the legal recognition of minority cultures in public governance and leadership. Public participation of multiple cultures in a democratic country is regarded as a safeguard to the interests of the marginalised and as a means of preventing, ignoring or misrepresenting the various cultural groups (*Mogale and Others v Speaker of the National Assembly and Others*, 2023). However, bureaucracy and Western- inspired legal frameworks make difficult the recognition of public governance beyond the formalistic approaches by weighing of what can and what cannot work. Some leaders of minority cultures, for instance, who were recognised as entities with public governance authority are now required to conform to certain requirements that did not exist before the advent of democracy in African countries.

These leaders and their cultural groups are strongly demotivated when their group happens to be smaller than other cultural groups and their authority and public participation in governance has been significantly reduced. Their leadership importance in the State is neither greater nor equal to those of the larger cultural groups vested with public governance in South Africa. For example, a traditional council has no legal right to appoint a traditional leader – the appointment must occur before a relevant government functionary who can appoint him or her in terms of the Traditional Leadership and Governance Framework Act 41 of 2003 (Zulu v Mathe and Others, 2022). This tells us that other cultural groups that customarily recognise traditional councils together with the leading family as a rule in appointing its leaders are not recognised as a legitimate and lawful process in a democratic country (Mphephu-Ramabulana and Another v Mphephu and Others, 2021). In addition, the leader loses his or her role as a result and the minority cultural groups affected are mandated to comply or risk not being recognised in public governance with an authority over its territory and its people. What is axiomatic about this is that the vast number of cultural leaders who have no problem complying with the legal framework in a democratic country like ours are used to justify the exclusion of other cultural leaders who do not comply. This becomes apparent from legislation governing the appointment of cultural leaders where more attention is paid to public participation in general than to the minority cultural groups who stand to be affected by that legislation once enacted into law.

Multi-culture in a single democratic country breeds an illusion of enjoying being different in culture and having cultural leaders as envisaged in the customs of a given cultural group. However, the impact of multiculturalism within a single democratic country has an element of creating a new universal order and of dismantling traditions to comply with the prevailing views expressed by the more prominent cultural groups. In addition, the problem that has to be regarded with appropriate seriousness is how far democracy can and must go in allowing members of the various cultural communities to define for themselves which laws they will or will not obey without societal exclusion (MEC for Education: Kwazulu-Natal and Others v Pillay, 2007). While the extent of this exclusion is most powerfully felt by newly established cultural groups, the same applies to all those who fail to accommodate those who depart from the norm (MEC for Education: Kwazulu-Natal and Others v Pillay, 2007).

5. Political Redress for Historically Marginalised Ethnic Groups

The experience of democracy of multiple ethnic groups who have been historically marginalised differs from one group to another. The establishment of democracy in a multiethnic country entails a sense of freedom from ethnically defined prejudice which most victim groups shared with other ethnic groups. Gone are those days when black people, Indians, coloureds and white groups had the right to a particular land based on their ethnic group (Phillips L, 2007). However, the experience differs as a

matter of convenience and tolerance between two or more ethnic groups living in one area. For example, some members of the ethnic group that was in power during the pre-democratic period usually contest the redress to those who were previously marginalised. In this case, things like restorative justice, social development and economic emancipation fail consistently due to policies and their direct conflict with the interests of other ethnic groups (Carnie T, 2023).

Moreover, being politically led by ethnic groups who were previously oppressed is met with the perception that it undermines the effort to build a country that the ethnic group that was previously in governance may have had a vision of. This risks further the possibility of potentiality for political revolt by the groups involved (KOENIG M, 2003). It follows that whoever inherits the power in the newly independent formerly colonial territories will usually do so under the guise of nationalism (KOENIG M, 2003). This leads to definitive corruption, disintegration and a hopeless economic development which will in turn further oppress those previously marginalised and exploitation of those who benefited from oppression. It follows that the extent to which state politics, systems and related processes can improve government quality and formal public authority's legitimacy is critical (Onyango G, 2022). Lastly, the Constitution will be worth infinitely less than its paper if the reasonableness of state action concerned with political redress for ethnically marginalised group is determined without regard to the fundamental constitutional value of human dignity (Government of the Republic of South Africa and Others v Grootboom and Others, 2000).

6. Conclusion

The presence of multilanguage in a democratic country creates fear that democratic transformation will lead to the downgrading and suppression of less developed languages. While creating an illusion of enjoying being different in an all-embracing culture and having cultural leaders as envisaged by the customs of existing cultural groups, multiculturalism in public governance within a single democratic country has an element of creating a new universal order. This new order dismantles long established customs to comply with prevailing views expressed by the more powerful cultural groups in society. Prior to democratisation, ethnic divides in South Africa were legalised and encouraged however in the now democratic state, the experience differs as a matter of convenience and tolerance between two or more dominant ethnic groups.

Bibliography

Alexkor Ltd and Another v Richtersveld Community and Others (2003).

Bhe and Others v Khayelitsha Magistrate and Others (2004).

Carnie T, 2023. Zululand community members blockade roads, telling India's Jindal Steel & Power to 'voetsek, s.l.: s.n.

Gelyke Kanse and Others v Chairperson of the Senate of the University of Stellenbosch and Others (2019).

Government of the Republic of South Africa and Others v Grootboom and Others (2000).

KOENIG M, 2003. Pluralism and Multiculturalism in Colonial and Post-Colonial Societies. International Journal on Multicultural Societies (IJMS), 5(2), pp. 104-106.

Komape and Others v Minister of Basic Education (2018).

Marri A.R, 2003. Multicultural Democracy: Toward a better democracy. Intercultural Education. 3(14), pp. 272-273.

MEC for Education: Kwazulu-Natal and Others v Pillay (2007).

Mogale and Others v Speaker of the National Assembly and Others (2023).

Mphephu-Ramabulana and Another v Mphephu and Others (2021).

Onyango G, 2022. Routledge Handbook of Public Policy in Africa. New York and London: Taylor and Francis Group.

Phillips L, 2007. History of South Africa's Bantustans, s.l.: Oxford Research Encyclopaedias, African History.

S v LAWRENCE; S v NEGAL; S v SOLBERG (1997).

Women's Legal Centre Trust v President of The Republic of South Africa and Others (2022).

Zulu v Mathe and Others (2022).