

The Discriminatory Practice of Language Testing for Authenticating Citizenship: An Analysis of Operation Dudula Through a Forensic Linguistics Lens

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Abstract

This article utilises both the theoretical and practical lenses located in the discipline of forensic linguistics to examine the practice of administering language tests to applicants for citizenship in South Africa, considering the prevailing policies and practices in an international context, and concludes that they should be avoided. In this interdisciplinary article I outline the South African constitutional and legislative provisions affecting language testing and language proficiency when applying for citizenship in multilingual South Africa. In this paper I discuss the linkages between language, citizenship, and xenophobia, building on the work by Brits, Kaschula and Docrat on the role of language in xenophobic attacks and protests. I argue that language tests for immigrants in the South African context perpetuate Apartheid-era thinking, policies and practices. This creates linguistic inequality and contributes to racial tensions and divisions in communities rather than creating social cohesion and equality for all. The article provides a case study of Operation Dudula, where language is being used to carry out xenophobic acts under the banner of citizenship. A brief comparison is drawn with Ryanair airlines' language tests for South African citizens.

Keywords

Language tests; proficiency; citizenship; xenophobia; immigrants; Operation Dudula; Ryanair Airlines; forensic linguistics

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1 Introduction

Research on citizenship in South Africa has primarily focussed on xenophobia with interrelated themes of illegal immigration and migration patterns. Citizenship, migration, and immigration are global phenomena that have become prevalent in all parts of the world, given the increase in the number of wars and the displacement of citizens as well as the need to seek new employment opportunities and better living conditions. I have specifically referred to immigrants and migrants as separate groups of individuals as this is necessary in the South African context. This article deals particularly with immigrants (individuals seeking permanent employment or residence in another country). Each person or group of persons has their own identities, cultures, religions, and language competencies. Their linguistic competencies are indicative of their identity regardless of where they move. With migration and especially immigration, there is often tension between citizens and immigrants. In many cases such tension leads to xenophobia. This is evident in South Africa, for example.

In an international context,¹ research has been conducted on the role of language tests in the broader citizenship debates. This impacts on national language planning strategies, where language demographics are influenced by the languages spoken and acquired by immigrants; and the need for governments to be mindful when formulating and enacting legislation, regulations, and policies. Language planning is therefore not a static practice. Docrat, Kaschula and Ralarala² argue that language planning is a political activity that governments at national level utilise to set language trends and goals that conform with political agendas that may not necessarily benefit the majority of the people or seek to uphold and implement their constitutional rights and provisions. Eastman³ defines language planning as "efforts in a socio-political context to solve language problems, preferably on a language term basis ...". The four-tier language planning system is underpinned by a

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¹ Discussed fully in section 6 of this article.

² Docrat, Kaschula and Ralarala *Handbook on Legal Languages* 132-133.

³ Eastman "Sociolinguistics in Africa" 96.

further four ideologies, namely assimilation, pluralism,⁴ vernacularisation⁵ and internationalisation.⁶ Assimilation and internationalisation are relevant to this article. Internationalisation is the adoption of a non-indigenous language for wider communication.⁷ In South Africa's case this would be English. This is linked to assimilation, which presupposes "that in a given society every person should be able to function effectively in the dominant language, regardless of individual language background".⁸ This is further relevant to the language tests employed for citizenship, where the aim is to ensure immigrants are able to function in the country's dominant language.

In 2020 Brits, Kaschula and Docrat⁹ addressed the issue of language as a key factor in xenophobic acts of violence and protests in the South African context. In this article I build on this introductory work under the discipline of forensic linguistics. Language as an aspect of citizenship, xenophobia and forensic linguistics are developing research areas in South Africa and Southern Africa more broadly.¹⁰ This once again builds on the strides being taken in South Africa to contribute new knowledge which is interdisciplinary, transcending the humanities, the social sciences, and the law disciplines.¹¹

The purpose of this article is to address the topic of language tests/testing for citizenship purposes in the South African context. Secondly, to address how this reinforces xenophobic protests and actions while perpetuating Apartheid's racial and linguistic policies and practices with reference to the case study of Operation Dudula. A brief comparative discussion on the language testing policy of Ryanair airlines is included. This article identifies the constitutional rights, provisions and values that underpin the themes of citizenship, language, xenophobia, and freedom of movement. The legislation and regulations concerning citizenship are advanced in relation to language testing. The article commences with a discussion on the discipline of forensic linguistics and

⁴ Pluralism can be understood to entail "the acceptance of the presence of linguistic diversity in the society and the commitment by the polity to allow for the maintenance and cultivation of the different languages on a reasonable and equitable basis" (Reagan 1986 *South African Journal of African Languages* 94).

⁵ Vernacularisation, is the "centrality of an indigenous language in the language policies of a society and involves either the restoration or elaboration of an indigenous language" (Reagan 1986 *South African Journal of African Languages* 94).

⁶ Reagan 1986 *South African Journal of African Languages* 94.

⁷ Reagan 1986 *South African Journal of African Languages* 95.

⁸ Reagan 1986 *South African Journal of African Languages* 94.

⁹ Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

¹⁰ Docrat 2022 *IJSL* 1712.

¹¹ Docrat, Kaschula and Ralarala *Handbook on Legal Languages*.

provides a background against which the discussion is advanced. Before presenting the case study and comparative study as examples, I engage in extensive theoretical discussion on language testing in citizenship, while creating linkages with the constitutional framework. This article essentially proposes the removal of language testing and proof of language proficiency for the purposes of citizenship in South Africa.

2 Grounding the research in forensic linguistics

This article is grounded in the research area of forensic linguistics, which exists at the intersection of language and law. Forensic linguistics is a relatively new discipline in South Africa. Research previously produced in South Africa focussed broadly on issues of both language and law in the discipline of forensic linguistics. From 2017¹² onwards the discipline began developing further. The discipline is in the developmental stages in South Africa, building on international developments.¹³ This point is being made as prior to the establishment of the discipline in South Africa research of this nature would have been classified as the intersection of the fields of sociolinguistics and law, rather than forensic linguistics. Forensic linguistics is defined as follows:

In its broadest sense we may say that forensic linguistics is the interface between languages, crime, law, where law includes law enforcement, judicial matters, legislation, disputes or proceedings in law, and even disputes which only potentially involve some infraction of the law or some necessity to seek legal remedy.¹⁴

When applying this definition to the research at hand, it will be evident that language intersects with law enforcement, legislation, crime, and disputes. The intersection between language and legislation is illustrated by the *South African Citizenship Act 88 of 1995*¹⁵ and its provisions enforcing language tests for immigrants, while language, law enforcement, crime and disputes are linked via the various acts of xenophobia, linguistic discrimination, and informal language testing through Operation Dudula. Each of these linkages in the discipline of forensic linguistics is further explored below.

3 South African constitutional framework

As this research is grounded in forensic linguistics, the logical step is to identify the constitutional provisions and rights which apply. Each of the constitutional rights and provisions relevant to this article has a primary theme of non-

¹² Docrat *Role of African Languages*.

¹³ Docrat, Kaschula and Ralarala *Handbook on Legal Languages*.

¹⁴ Olsson *Forensic Linguistics* 3.

¹⁵ *South African Citizenship Act 88 of 1995*.

discrimination. These provisions and rights directly and indirectly reaffirm the constitutional¹⁶ values of dignity, equality, and freedom, with the aim of creating an inclusive society for all. As explained in the introduction, the key themes of this article are language, citizenship, and discrimination. The following provisions are relevant to these themes.

3 Citizenship

- (1) There is a common South African citizenship.
- (2) All citizens are-
 - (a) Equally entitled to the rights, privileges and benefits of citizenship; and
 - (b) Equally subject to the duties and responsibilities of citizenship.
- (3) National legislation must provide for the acquisition, loss and restoration of citizenship.

20 Citizenship

No citizen may be deprived of citizenship.

21 Freedom of movement and residence

- (1) Everyone has the right to freedom of movement.
- (2) Everyone has the right to leave the Republic.
- (3) Every citizen has the right to enter, to remain in and to reside anywhere in, the Republic.
- (4) Every citizen has the right to a passport.

6 Languages

- (1) The official languages of the Republic are Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa and isiZulu.
- (2) Recognising the historically diminished use and status of the indigenous languages of our people, the state must take practical and positive measures to elevate the status and advance the use of these languages.
- (3)
 - (a) The national government and provincial governments may use any particular official languages for the purposes of government, taking into account usage, practicality, expense, regional circumstances and the balance of the needs and preferences of the population as a whole or in the province

¹⁶ Sections 3, 20, 21, 30, 31, 9 of the *Constitution of the Republic of South Africa*, 1996.

concerned; but the national government must use at least two official languages.

- (b) Municipalities must take into account the language usage and preferences if their residents.
- (4) The national government and provincial governments, by legislative and other measures, must regulate and monitor their use of official languages. Without detracting from the provisions of subsection (2), all languages must enjoy parity of esteem and must be treated equitably.

21 Freedom of movement and residence

Everyone has the right to freedom of movement.

30 Language and culture

Everyone has the right to use the language and to participate in the cultural life of their choice, but no one exercising these rights may do so in a manner inconsistent with any provision of the Bill of Rights.

31 Culture, religious and linguistic communities

- (1) Persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community-
 - (a) to enjoy their culture, practice their religion and use their language; and
 - (b) to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.

9 Equality

- (1) Everyone is equal before the law and has the right to equal protection and benefit of the law.
- (2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.
- (3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.
- (4) No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.
- (5) Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.

The Bill of Rights reserves certain rights for South African citizens only, but this, according to Currie and de Waal,¹⁷ should not in any way be understood to mean that non-citizens are accorded fewer rights. The rights that pertain to South African citizens only include section 21(3) and (4), and section 19. Additional provisions include sections 47(1), 106(1); 158(1); 37(6) and (7).¹⁸ The only rights here of indirect relevance to this article are contained in section 21(3) and (4) of the Constitution. It is necessary to include the right guaranteed in section 21(1) above as this also applies to immigrants and is relevant to the case study. Citizenship is a fundamental human right that belongs to all, and it is underpinned by the principle of human dignity.¹⁹ This is reaffirmed through section 3 of the Constitution, as above.

Equality is safeguarded through section 9 of the Constitution, as above, and is incorporated into the notion of citizenship.²⁰ Currie and de Waal²¹ explain that "by requiring a common South African citizenship, section 3 of the Constitution prohibits discrimination in respect of citizenship". All citizens are to be treated equally and to carry out the duties and responsibilities that accompany being conferred with citizenship.²² There is a rejection of any form of Apartheid and its associated racial hierarchies.²³ This principle may not apply without qualification, however, in the context of the language test for immigrants when they apply for citizenship in South Africa, as this system has racial undertones, and forms of racial and linguistic discrimination and xenophobia are attached to it. In the case of *Khosa v Minister of Social Development*²⁴ the Constitutional Court held that the Bill of Rights did not limit the word "everyone" to citizens only and that unfair discrimination against non-citizens is contrary to the Constitution.²⁵

The issue of freedom of movement will arise in the discussion below pertaining to the case study of Operation Dudula. Freedom of movement is relevant, as Operation Dudula seeks to curtail the movement of foreigners. Although the other provisions of section 21 of the Constitution do not apply to foreigners, international instruments in the form of Article 13 of the *Universal Declaration of Human Rights*;²⁶ Article 2 of Protocol 4 to the *European Convention for the*

¹⁷ Currie and De Waal *Bill of Rights Handbook* 442-443.

¹⁸ Currie and De Waal *Bill of Rights Handbook* 442-443.

¹⁹ Currie and De Waal *Bill of Rights Handbook* 442-443.

²⁰ Currie and De Waal *Bill of Rights Handbook* 445.

²¹ Currie and De Waal *Bill of Rights Handbook* 445.

²² Currie and De Waal *Bill of Rights Handbook* 445.

²³ Currie and De Waal *Bill of Rights Handbook* 445.

²⁴ *Khosa v Minister of Social Development* 2004 6 SA 505 (CC).

²⁵ Currie and De Waal *Bill of Rights Handbook* 446.

²⁶ *Universal Declaration of Human Rights* (1948).

Protection of Human Rights and Fundamental Freedoms;²⁷ and Article 12 of the *International Covenant on Civil and Political Rights*²⁸ guarantee foreigners rights to freedom of movement once they are legally inside a country.²⁹ This should be redundant in the South African context as the provisions in the Bill of Rights that apply to "everyone" should protect immigrants, including their right to freedom of movement in South Africa.³⁰ The latter point will be brought into question with reference to Operation Dudula and the intention to limit the movement of and unfairly discriminate against immigrants. Thus, the rights, provisions and values enshrined in the Constitution which are relevant to this article have been identified above, and the point has been made that the term "everyone" includes all immigrants.

The constitutional provisions and rights given above affirm the importance of citizenship and equality for everyone. The provisions and rights do not guide the process of acquiring citizenship, but section 3(3) provides for national legislation to regulate the acquisition, loss, and restoration processes. The focus of this article thus turns to the legislative authority, the *South African Citizenship Act*.³¹

4 South African legislative framework

The *South African Citizenship Act*³² refers to a foreigner's application for a certificate of naturalisation and the requirement to satisfy the Minister that s/he is able to communicate in one of the official languages. Section 5(1)(f) reads accordingly:

- (1) The Minister may, upon application in the prescribed manner, grant a certificate of naturalisation as a South African citizen to any foreigner who satisfies the Minister that-
 - (f) he or she is able to communicate in any one of the official languages of the Republic to the satisfaction of the Minister

The provisions were amended through the Citizenship Amendment Act,³³ which came into operation on 1 January 2013. One updated requirement was that proof of language proficiency must be attached with the application for

²⁷ *European Convention for the Protection of Human Rights and Fundamental Freedoms* (1950).

²⁸ *International Covenant on Civil and Political Rights* (1966).

²⁹ Currie and De Waal *Bill of Rights Handbook* 454.

³⁰ Currie and De Waal *Bill of Rights Handbook* 454.

³¹ *South African Citizenship Act* 88 of 1995.

³² *South African Citizenship Act* 88 of 1995.

³³ Citizenship Amendment Act 17 of 2010.

naturalisation in addition to a completed language test form.³⁴ It is unclear from either the statute or the regulations³⁵ what suffices as proof of language proficiency. The requirement of language testing raises several issues, namely whether it is discriminatory in accordance with the constitutional and legislative frameworks and the rights of immigrants seeking citizenship. Secondly, who determines proficiency in a language? Thirdly, how does the Department of Home Affairs, which regulates the citizenship process, ensure that the immigrant is the person who completed the language test form; and finally, what is the purpose of such testing? These questions are explored during the discussion below.

5 Citizenship, immigration, and xenophobia: the role of language

Citizenship is used and accepted by states to monitor and control people as to whether they belong to a state or not.³⁶ The process of acquiring citizenship is becoming more widely discussed in recent times, as stated in the introduction of this article, given the migration of people due to their attempt to avoid the prevailing global conflicts, which are displacing millions. One of two principles, either *jus soli*³⁷ or *jus sanguinis*,³⁸ dictates the membership criteria for citizenship.³⁹ *Jus sanguinis* is the principle of origin. Under this principle, citizenship is acquired through descent. This is therefore the most common form of citizenship. Citizenship is also extended to family members through ancestry. This process varies from state to state, however, in terms of the relevant legislation and policies. The principle of *jus soli* is more contentious, given that citizenship acquired through naturalisation relies on the process through which immigrants become citizens through symbolic acts established by the state.⁴⁰ A display of language proficiency is among the symbolic acts which result in states approving or rejecting the application for citizenship.⁴¹ Thus, the principle of *jus soli* is of relevance to this article. The contentiousness of the principle is linked to the criteria set by the state that immigrants are required to meet to obtain citizenship.

³⁴ Section 5(1)(f) of the *South African Citizenship Act* 88 of 1995.

³⁵ GN 1122 in GG 36054 of 28 December 2012 (Regulations on the South Africa Citizenship Act, 1995).

³⁶ Shohamy and McNamara 2009 *Language Assessment Quarterly* 53.

³⁷ Meaning "law of the soil" or birth-right citizenship.

³⁸ Meaning "law of the blood" or citizenship by descent.

³⁹ Shohamy and McNamara 2009 *Language Assessment Quarterly* 53.

⁴⁰ Shohamy and McNamara 2009 *Language Assessment Quarterly* 53.

⁴¹ Shohamy and McNamara 2009 *Language Assessment Quarterly* 53.

There are many factors that guide the setting of criteria for immigrants to meet in order to acquire citizenship. These include but are not limited to the economy, the socio-political landscape, culture, and education. Immigration is strictly controlled with the purpose of maintaining a country and its economic, political, and social practices. According to Shohamy and McNamara⁴² it is in the socio-political context that immigrants are required to demonstrate their linguistic skills in the country's hegemonic languages. This is true in the South African context as evidenced in section 5(1)(f) of the *South African Citizenship Act*.⁴³ The language tests and requirements exist not for communicative purposes only but also to ensure that the immigrants have a linguistic sense of belonging and loyalty to the state. Shohamy and McNamara⁴⁴ explain that historically immigrants would abandon their mother tongues and part of their identity to acquire the "new" language(s) in order to ensure that they conform to the mores of their new country. This forms part of the language planning ideology of assimilation.⁴⁵ I will return to the discussion of language testing for citizenship purposes below. The focus of the discussion now turns to citizenship and immigration.

The migration of people and the attainment of citizenship were seen as positive processes involving the extension of rights to persons who were previously excluded. According to Ellermann,⁴⁶ the dismantling of North America and Australasia's racially stratified immigration systems inspired the optimism surrounding immigration from an international perspective. Internationally, the guiding principles in democratic states would be to ensure inclusivity, social cohesion, and non-discrimination. The criterion of non-discrimination finds resonance in South Africa's constitutional ideals, provisions, and rights in transforming the previous exclusionary Apartheid system, which was premised on race.

Ellermann⁴⁷ points out that the current immigration policies and tests for citizenship seek to exclude on the basis of class, where wealthy, well-spoken and educated immigrants are provided with citizenship, regardless of race. This policy, although not premised on racial exclusion, creates another form of discrimination, that of social hierarchy. Ellermann⁴⁸ argues that as part of the

⁴² Shohamy and McNamara 2009 *Language Assessment Quarterly* 53.

⁴³ *South African Citizenship Act* 88 of 1995.

⁴⁴ Shohamy and McNamara 2009 *Language Assessment Quarterly* 53.

⁴⁵ McLean "Guarding Against 'the Bourgeois Revolution'" 153.

⁴⁶ Ellermann 2020 *Journal of Ethnic and Migration Studies* 2463.

⁴⁷ Ellermann 2020 *Journal of Ethnic and Migration Studies* 2465.

⁴⁸ Ellermann 2020 *Journal of Ethnic and Migration Studies* 2468.

social hierarchy policy for immigrants, language and other tests are used as means to create difficulties for immigrants to obtain citizenship.

There has been a rise in immigration statistics in South Africa post-apartheid. According to Klaaren,⁴⁹ there were 1.5 million immigrants in 2001. This, he states, is a significant number given South Africa's population. This number grew significantly to over 3 million in 2017 (Macrotrends). Immigrants are primarily from neighbouring African countries in the SADC region.

According to Gordon,⁵⁰ most South Africans see immigrants as a threat. They believe immigrants are responsible for several socio-economic issues, including loss of employment for South Africans and an increase in crime. Like Klaaren,⁵¹ Gordon⁵² provides more recent statistics. Thus, Statistics South Africa estimated midway through 2021 that there were approximately 3.95 million immigrants living in South Africa. Gordon,⁵³ however, acknowledges that Statistics South Africa is unable to provide statistical data and other demographics of illegal immigrants in the country but holds that this would not amount to millions, as is claimed.

The tensions and hostilities that Gordon⁵⁴ describes have in many instances resulted in xenophobic attacks, which have been on the rise over the past few years. Neither the South African government nor Statistics South Africa provides specific statistics on xenophobic attacks. Xenowatch and the United Nations (UN) Refugee Agency provide statistics on xenophobic attacks. By 2018 there had been numerous attacks that resulted in displacement and deaths.

An overview report by Xenowatch recorded 529 xenophobic incidents that led to 309 deaths; 901 physical assaults and 2 193 looted shops between 1994 and 2018. More than 100 000 people were displaced in this period. Between January and September 2019, Xenowatch recorded 68 incidents of xenophobic violence, which have resulted in 18 deaths, at least 43 physical assaults, 1449 displaced people and an estimation of at least 127 plus shops looted.⁵⁵

⁴⁹ Klaaren "Contested Citizenship in South Africa" 308.

⁵⁰ Gordon 2022 <https://theconversation.com/xenophobia-is-on-the-rise-in-south-africa-scholars-weigh-in-on-the-migrant-question-181288>.

⁵¹ Klaaren "Contested Citizenship in South Africa" 305.

⁵² Gordon 2022 <https://theconversation.com/xenophobia-is-on-the-rise-in-south-africa-scholars-weigh-in-on-the-migrant-question-181288>.

⁵³ Gordon 2022 <https://theconversation.com/xenophobia-is-on-the-rise-in-south-africa-scholars-weigh-in-on-the-migrant-question-181288>.

⁵⁴ Gordon 2022 <https://theconversation.com/xenophobia-is-on-the-rise-in-south-africa-scholars-weigh-in-on-the-migrant-question-181288>.

⁵⁵ Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

Brits, Kaschula and Docrat⁵⁶ argue that xenophobia should be examined from a sociolinguistic perspective rather than only from the perspectives of racial diversity, low education levels and a lack of service delivery. This, they⁵⁷ argue, is often not considered a factor, but it should be in determining and understanding the phenomenon of xenophobia and its long-term solutions. Brits, Kaschula and Docrat⁵⁸ argue for language to be used by governments as a means to unite immigrants with citizens. Brits, Kaschula and Docrat⁵⁹ explain that there are three questions that should guide the discussion:

Firstly, what does the South African government do to integrate immigrants on a linguistic level? Secondly, are immigrants marginalised because of their linguistic backgrounds? Finally, how could linguistic interventions contribute to peace building?

Before addressing each of these three questions, Brits, Kaschula and Docrat⁶⁰ explain that adopting a language test for all immigrants when they apply for citizenship may not be ideal in a multilingual country such as South Africa. They⁶¹ acknowledge that a language test is used in Germany as a means of ensuring social cohesion and integration. As will be evident in the discussion below, this may not be the case in many countries.

With reference to the question on integration, Brits, Kaschula and Docrat⁶² explain that although there are no statistics on what languages immigrants speak on arrival in South Africa, these tend to be "destination languages".⁶³ They⁶⁴ explain further that this is not an organised language planning process for all immigrants, but instead happens on an *ad hoc* basis in response to the individual immigrant's choices and needs. The Department of Justice and Constitutional Development undertakes government integration plans for

⁵⁶ Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

⁵⁷ Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

⁵⁸ Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

⁵⁹ Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

⁶⁰ Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

⁶¹ Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

⁶² Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

⁶³ Destination languages are languages spoken in the country of destination of the immigrant.

⁶⁴ Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

South Africa to combat linguistic and other forms of discrimination, under the banner of the "National Action Plan".⁶⁵ Unfortunately, the implementation plan allows for the information on non-discrimination to be made available in local and national languages only. This, Brits, Kaschula and Docrat⁶⁶ hold, excludes immigrants and defeats the object of the plan. There is also no mention in the plan of how immigrants can be linguistically integrated.⁶⁷ The lack of integration links to the language planning models adopted by government and the failure to ensure that the constitutional provisions, values, and rights advanced in this article are upheld for immigrants in South Africa.

Immigrants to South Africa attempt to acquire the local languages for the purposes of assimilation, with the aim of protecting themselves. The irony is present and appears contrary to the fears South Africans have of immigrants and the levels of crime, which they associate with the increase in immigration. Immigrants have countered South Africans' views and opinions, arguing that they are "victims of stereotypes, prejudices, intolerance and discrimination".⁶⁸ Immigrants are attacked when they are unable to demonstrate that they can speak a local indigenous language.⁶⁹ This point is central to the article and the case study of Operation Dudula, which is premised on the language competencies of immigrants. Foreign African languages are stigmatised, and this must change where language is seen as a positive attribute in an environment that allows and encourages immigrants to speak their mother tongues while acquiring South African indigenous languages.⁷⁰

Brits, Kaschula and Docrat⁷¹ acknowledge that language alone cannot solve the xenophobia problem but can contribute to the solution. Drawing on the solutions provided by Brits, Kaschula and Docrat,⁷² it can be said that education programmes focussing on linguistic integration (acquiring South African

⁶⁵ Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

⁶⁶ Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

⁶⁷ Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

⁶⁸ Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

⁶⁹ Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

⁷⁰ Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

⁷¹ Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

⁷² Brits, Kaschula and Docrat 2020 <https://theconversation.com/integrating-languages-should-form-part-of-south-africas-xenophobia-solutions-137526>.

indigenous languages) for immigrants are key, as well as sensitising South Africans to the importance of non-discriminatory practices on the grounds of language, race, cultural and national identity. These themes mirror the constitutional rights and values advanced in this article. The following section of this article unpacks language testing as a phenomenon in acquiring citizenship, and its resultant discrimination.

6 Language testing: from a global perspective to multilingual South Africa

Building on the discussions thus far relating to citizenship, immigration, and xenophobia, it is evident that language is integral in each of these processes, yet in most instances this is not acknowledged, researched, or used as a tool to create social cohesion. Language tests for the purposes of citizenship can be used either in a positive manner to ensure integration and social cohesion or in a divisive, discriminatory manner.

Testing language for citizenship is implemented in many countries, where immigrants are required to illustrate their proficiency in a country's official language(s).⁷³ All immigrants are required to pass the language test regardless of their length of residence, employment status, education, income, and background.⁷⁴ Germany and the United States of America (USA) have only one official or national language. As such, the language test for immigrants in these countries will be less complicated than the language tests in multilingual countries such as South Africa. This may also give rise to another form of discrimination or marginalisation or both, where one language is chosen for language testing purposes at the expense of the other official languages. This may create or reinforce a language hierarchy, sowing divisions in society. Immigrants are then used as tools in the language planning process of government to foster particular language views and choices, creating divisions between the communities in which these immigrants reside.

Language continues to be a definer of national identity globally. This can be seen to be true in the South African context, when we trace the history of language in South Africa and how languages (Afrikaans and later English) were/are used for the purposes of exclusion and marginalisation from mainstream society, while creating a hegemonic position for particular languages at the expense of others.⁷⁵ According to Shohamy and McNamara,⁷⁶

⁷³ Shohamy and McNamara 2009 *Language Assessment Quarterly* 45.

⁷⁴ Shohamy and McNamara 2009 *Language Assessment Quarterly* 45.

⁷⁵ Docrat, Kaschula and Ralarala *Handbook on Legal Languages* 140-144.

⁷⁶ Shohamy and McNamara 2009 *Language Assessment Quarterly* 53.

citizens who have English as their mother tongue and enjoy a position of power do not see immigrants as threats. This is true of many countries. This yet again speaks to the hegemony of English and language more generally in citizenship debates.

The question then arises as to which language immigrants need to pass in the language test in multilingual societies.⁷⁷ This is directly relevant to the South African context. A central argument against the inclusion of language tests for citizenship is the time it takes immigrants to learn and acquire the "new" language at a sufficient level of proficiency to pass the test. Additionally, the language tests fail to consider the educational background of immigrants; nor do many countries offer classes or other forms of tuition for language learning in preparation of the language tests. Shohamy and McNamara⁷⁸ extend the argument even further, explaining that it takes a far longer period of time for adults to acquire a new language than it does children. It is therefore unclear how countries who impose language tests expect immigrants to acquire proficiency in these languages without offering the various support structures and tuition.

The format of the language tests differs in each country. A test is obtained in South Africa from the Department of Home Affairs as an aspect of the application for citizenship. Shohamy and McNamara⁷⁹ explain that some countries ensure that immigrants can answer questions pertaining to their history, culture, and social norms. Tests in the USA require immigrants to illustrate their reading, writing, and speaking capabilities in English.⁸⁰ This practice forces immigrants to conform to the identity, culture, and social norms of the country through a language test. Besides social cohesion and integration, it is unclear how a language test and immigrants' proficiency in the hegemonic language(s) of a country would benefit immigrants. The imposing of language requirements on immigrants might hinder their ability to exercise their right to freedom of speech and their right to use their language for cultural and religious purposes as well as the overarching right to equality and protection against unfair discrimination on any grounds, including language, as discussed above. Governments' use of language tests may therefore violate constitutional rights and values, for the purpose of perpetuating dominance over immigrants.⁸¹ In the South African context, one may go a step further,

⁷⁷ Shohamy and McNamara 2009 *Language Assessment Quarterly* 47.

⁷⁸ Shohamy and McNamara 2009 *Language Assessment Quarterly* 48.

⁷⁹ Shohamy and McNamara 2009 *Language Assessment Quarterly* 45.

⁸⁰ Shohamy and McNamara 2009 *Language Assessment Quarterly* 46.

⁸¹ Shohamy and McNamara 2009 *Language Assessment Quarterly* 50.

stating that the language tests are used as means to further strengthen the position of English, in accordance with the government's monolingual language policies in high status domains.⁸²

It is fair to say that South Africa is not the only country in which language tests form part of the requirements for citizenship. The international perspective has been outlined throughout this article where discriminatory practices have been mentioned. This section of the discussion, however, brings into focus language tests as a form of perpetuating racial and linguistic policies entrenching segregation from the past. The main aim of this part of the discussion is to illustrate why South Africa should avoid including a language test for immigrants, given the country's racialised past.

The discrimination associated with language tests for immigrants was visible in Australia with the dictation test, which was a key element of the *Immigration Restriction Act* of 1901 and was administered to what the Australian government at the time racially classified as Coloured and Asian immigrants.⁸³ The test was given to immigrants in a language the authorities knew they had no knowledge of, to ensure that they failed.⁸⁴ These immigrants were deemed to be unworthy of Australian citizenship, given their race.⁸⁵ Language was used as a tool for racial exclusion where legislation enabled the Australian government to enforce racially constructed citizenship policies and practices.⁸⁶

Section 3(a) of the *Australian Immigration Restriction Act* of 1901 provided that:

Any person who when asked to do so by an officer fails to write out at dictation and sign in the presence of the officer a passage of fifty words in length in an European language directed by the officer

failed the dictation test and would be classified as a "prohibited immigrant".⁸⁷ According to Robertson, Hohmann and Stewart,⁸⁸ the dictation test was administered not merely for linguistic purposes but had an element of race to it. There were later proposals in the form of amendments to the legislation and the specific provision of an officer choosing any European language in which to test immigrants.⁸⁹ The proposal to amend the provision to an officer testing

⁸² Docrat, Kaschula and Ralarala *Handbook on Legal Languages* 141-144.

⁸³ Robertson, Hohmann and Stewart 2005 *Macquarie Law Journal* 242.

⁸⁴ Robertson, Hohmann and Stewart 2005 *Macquarie Law Journal* 242.

⁸⁵ Robertson, Hohmann and Stewart 2005 *Macquarie Law Journal* 242.

⁸⁶ Robertson, Hohmann and Stewart 2005 *Macquarie Law Journal* 242.

⁸⁷ Robertson, Hohmann and Stewart 2005 *Macquarie Law Journal* 243.

⁸⁸ Robertson, Hohmann and Stewart 2005 *Macquarie Law Journal* 243.

⁸⁹ Robertson, Hohmann and Stewart 2005 *Macquarie Law Journal* 243.

in a language known by the immigrant was rejected.⁹⁰ The primary purpose of engaging with the dictation test in the Australian context is to provide an international background and foreground the hegemonic context and language testing therein. The parallel between Australia and South Africa's racial past will become more evident with the discussion below.

South Africa's history is marred by racial injustice and inequality, where the Apartheid government used language as a tool to divide people.⁹¹ Language policies and planning practices resulted in the non-development and non-use of the African languages in mainstream society and high-status domains such as the legal system. Docrat, Kaschula and Ralarala⁹² trace the historical legislative and policy enactments concerning the official languages. They argue that the dominant political powers of the time directly influenced and in many instances determined the official languages.⁹³ During the Dutch occupation, the Dutch language was imposed on the local population, English was imposed during the British occupation, and Afrikaans became an official language during Apartheid.⁹⁴ Docrat, Kaschula and Ralarala⁹⁵ argue that what is happening today in South Africa in terms of language planning and language dominance is merely a "re-enactment of the nineteenth century colonial, or now neo-colonial, sentiments". What has happened is that one dominant language, Afrikaans, has merely been replaced with another dominant language, English. This, rather than placing and using all eleven official languages equally alongside one another. This links back to the discussion on language planning, where Reagan⁹⁶ stated that the ideologies of internationalisation and assimilation were closely linked, which presupposes "that in a given society every person should be able to function effectively in the dominant language, regardless of individual language background".

South Africa's racialised past, that entrenched discrimination and marginalised most people from mainstream society, was in part facilitated through a number of racist acts, including the use of language as a direct and indirect tool to exclude persons. Afrikaans was used by a racist system; in turn, the language was associated with racism. This is what needs to be avoided in all contexts, especially in democratic South Africa. The following sentiments by Alexander⁹⁷

⁹⁰ Robertson, Hohmann and Stewart 2005 *Macquarie Law Journal* 243.

⁹¹ Docrat, Kaschula and Ralarala *Handbook on Legal Languages* 101-103.

⁹² Docrat, Kaschula and Ralarala *Handbook on Legal Languages* 99-110.

⁹³ Docrat, Kaschula and Ralarala *Handbook on Legal Languages* 99-110.

⁹⁴ Docrat, Kaschula and Ralarala *Handbook on Legal Languages* 99.

⁹⁵ Docrat, Kaschula and Ralarala *Handbook on Legal Languages* 99.

⁹⁶ Reagan 1986 *South African Journal of African Languages* 94.

⁹⁷ Alexander *Thoughts on the New South Africa* 84.

are of relevance in terms of a language not being racist but rather how it is used to pursue a racial agenda:

An Afrikaans-dominant or a Zulu-dominant university does not have to be an ethnic university. Because an entire university community is Zulu-speaking, they cannot be said to be ethnicist or even racist. The language of tuition does not determine whether or not a course or a university is racist or tribalist. It is what is taught that is decisive.

When English replaced Afrikaans as the language of communication in broader society, South Africans adopted the language planning ideology of internationalisation.⁹⁸ English is seen as the language of business and access to the economy and is entrenched in all sectors of society as a language understood by all. However, according to the 2011 Census,⁹⁹ only 9.6% of South Africans speak English as their mother tongue.

The discussion concerning the legislation highlighted the provisions requiring immigrants to demonstrate their language proficiency in addition to completing a language test form. Language proficiency would include proficiency in speaking, reading, writing, and understanding a language. Proficiency in either of these categories cannot be determined precisely, as there is no yardstick that can be applied.¹⁰⁰ It is unclear from both the legislation and the regulations how an official at the Department of Home Affairs who in all probability has no linguistic training or knowledge in all or even one of the official languages is able to assess an immigrant's linguistic proficiency. A parallel can be sought with South Africa's monolingual language of record policy directive, which requires judicial officers to ask litigants what their language competencies are and to assess their linguistic proficiency. This, Docrat, Kaschula and Ralarala have argued,¹⁰¹ cannot be done by judicial officers who have no linguistic training or high language proficiency in the language they are attempting to assess. Determining language proficiency in a multilingual country such as South Africa raises several other issues including which language the immigrant is able to "illustrate" proficiency in. The legislation and regulations do not address this question or provide any further details on how an official will assess proficiency if he or she cannot speak the language (one of the eleven official languages) the immigrant has selected. There is no record on the Home Affairs website that Home Affairs officials have multilingual capabilities or university language qualifications. It would be presumptuous, discriminatory, and contrary to the constitutional rights and provisions

⁹⁸ Reagan 1986 *South African Journal of African Languages* 95.

⁹⁹ Statistics South Africa 2011 <https://bit.ly/33RaNDV>.

¹⁰⁰ Docrat, Kaschula and Ralarala *Handbook on Legal Languages* 167.

¹⁰¹ Docrat, Kaschula and Ralarala *Handbook on Legal Languages* 118.

highlighted above for the Department of Home Affairs to wrongfully assume that every immigrant will illustrate proficiency in English and not in one of the other ten official languages. This point is important given that many immigrants assimilate to one of the ten official languages other than English, based on their geographical position in South Africa. According to the 2011 Census the majority of South Africans speak an indigenous language or Afrikaans across all nine provinces. It has also become clear from communities that many immigrants establish informal businesses in informal settlements and townships in South Africa where the community speaks an indigenous language.

The Department of Home Affairs has at present made no data available on the language proficiency of immigrants across all four categories, namely reading, writing, speaking, and understanding. In addition, there are no data as to which of the eleven languages are used to complete the language test forms. The author of this paper was unable to obtain a language test form from the Department of Home Affairs, who makes such available to immigrants only upon application for citizenship. The South African language test form is used as a means to determine an immigrant's ability to integrate into society. This may prove to be discriminatory on grounds of language, equality, and human dignity. Firstly, as with the proof of language proficiency, it must be questioned what assessment criteria are applied in the language test form and how officials at the Department of Home Affairs are linguistically equipped to assess the completed language test form. From the international perspective advanced above, it is clear that language tests for purposes of citizenship have the power to discriminate against and exclude persons on the grounds of language and race. In the South African context, given our racial past, this is something that needs to be avoided at all costs. Tests assessing language, race, culture and ethnicity can be discriminatory and remind us of the harrowing past of Apartheid, where the pencil test¹⁰² was used as a tool to determine race. This is what we need to avoid in a democratic country founded on the ideals and rights of human dignity, equality, and freedom for everyone.

The following section of this article discusses Operation Dudula.

¹⁰² A pencil was used to test the straightness of hair to determine an individual's race, where those individuals were not White. If the pencil fell out of the hair, the individual was not classified as Coloured or Black. Alubafi, Ramphalile and Rankoana 2018 *Cogent Social Sciences* 4.

7 Case study: Operation Dudula

Dudula is the isiZulu word for "force out" or "knock down".¹⁰³ Operation Dudula is a breakaway group of the Put South Africans First Movement, that originally started on social media platforms.¹⁰⁴ Nhlanhla Paballo Mohlali, better known as Nhlanhla "Lux" Dlamini, leads the xenophobic movement. Operation Dudula was founded following the July 2021 riots that rocked the province of Kwa-Zulu Natal, following the arrest of former President Jacob Zuma.¹⁰⁵ The aim of Operation Dudula is to promote xenophobia that targets immigrants, in a quest to identify and expel illegal immigrants from South Africa. The movement is discriminatory and ethnically, nationally, linguistically, and racially biased. From June 2021 the movement began to grow in size. The followers/protestors constantly allege that immigrants are placed in an advantageous position in South Africa and are offered employment despite South Africa's high unemployment rate, as well as being offered limited services that, according to Dudula, are for South Africans only.¹⁰⁶ They argue that immigrants are the cause of increased crime, that they sell drugs in townships and local communities, and that they create tension in communities.¹⁰⁷ They hold that illegal immigrants place a burden on public health services and social grants.¹⁰⁸ Their protests and attacks on immigrants have been centred in the townships in the provinces of Kwa-Zulu Natal and Gauteng.¹⁰⁹ Their targeting of immigrants has grown in other provinces and essentially spread nationwide.¹¹⁰

President Cyril Ramaphosa has officially condemned Operation Dudula and its xenophobic practices, identifying the movement as a "vigilante-type that needs to be stopped".¹¹¹ Unfortunately, other public officials at various levels of

¹⁰³ Myeni 2022 <https://www.aljazeera.com/features/2022/4/8/what-is-operation-dudula-s-africas-anti-immigration-vigilante>.

¹⁰⁴ Myeni 2022 <https://www.aljazeera.com/features/2022/4/8/what-is-operation-dudula-s-africas-anti-immigration-vigilante>.

¹⁰⁵ Myeni 2022 <https://www.aljazeera.com/features/2022/4/8/what-is-operation-dudula-s-africas-anti-immigration-vigilante>.

¹⁰⁶ Myeni 2022 <https://www.aljazeera.com/features/2022/4/8/what-is-operation-dudula-s-africas-anti-immigration-vigilante>.

¹⁰⁷ Myeni 2022 <https://www.aljazeera.com/features/2022/4/8/what-is-operation-dudula-s-africas-anti-immigration-vigilante>.

¹⁰⁸ Myeni 2022 <https://www.aljazeera.com/features/2022/4/8/what-is-operation-dudula-s-africas-anti-immigration-vigilante>.

¹⁰⁹ Myeni 2022 <https://www.aljazeera.com/features/2022/4/8/what-is-operation-dudula-s-africas-anti-immigration-vigilante>.

¹¹⁰ Myeni 2022 <https://www.aljazeera.com/features/2022/4/8/what-is-operation-dudula-s-africas-anti-immigration-vigilante>.

¹¹¹ Myeni 2022 <https://www.aljazeera.com/features/2022/4/8/what-is-operation-dudula-s-africas-anti-immigration-vigilante>.

government, commencing with the Minister of Home Affairs, Aaron Motsoaledi, have countered these comments.¹¹² The most recent public incitement of xenophobia came from the MEC for Health in Limpopo Province, Dr Phophi Ramathuba, who lambasted a Zimbabwean national for accessing health services in South Africa and accused the immigrant of placing a strain on health resources and services.¹¹³ Thereafter Operation Dudula members targeted immigrants at various hospitals in Tshwane, Gauteng Province on 25 August 2022.¹¹⁴ Patients who are allegedly immigrants were being turned away and stopped from entering the Kalafong Hospital in Tshwane.¹¹⁵ They were being turned away based on their accent and appearance, specifically their skin tone.¹¹⁶ A Venda woman was stopped from entering the hospital based on her skin tone and language competencies.¹¹⁷ Language, accent and skin tone are being used as tools to unfairly discriminate against persons based on citizenship, resulting in xenophobic acts. Questions are being asked in a specific indigenous language and patients attempting to enter the hospital are asked to respond in the language the question was posed in. This form of testing is discriminatory and contrary to the rights and provisions of the Constitution. Once again, language is related to the processes of citizenship, xenophobia, and discrimination on the grounds of ethnicity, nationality and race.

This is not an isolated incident. Members of Operation Dudula have in the past identified immigrants in South African townships using Afrikaans as a language to test. They entered townships and asked alleged immigrants what an elbow is in Afrikaans (the word being *elumboog*). This is a difficult word to pronounce given that the pronunciation (*e-lim-boogh*) differs from the spelling of the word. Where South Africans were suspected by a member of Operation Dudula of being immigrants based on their having a darker skin tone, they were asked the language question, and the pronunciation was vetted to ensure that they were not immigrants. Operation Dudula serves as a practical example of how language is linked to citizenship and is used as a tool to carry out xenophobic

¹¹² AmaShabalala 2022 <https://www.businesslive.co.za/bd/national/2022-04-19-video-of-motsoaledis-attack-on-criminal-illegal-foreigners-goes-viral>.

¹¹³ Staff Reporter 2022 <https://www.citizen.co.za/news/south-africa/ngo-warns-politicisation-of-sa-healthcare-august-2022/>.

¹¹⁴ Staff Reporter 2022 <https://www.citizen.co.za/news/south-africa/ngo-warns-politicisation-of-sa-healthcare-august-2022/>.

¹¹⁵ Staff Reporter 2022 <https://www.citizen.co.za/news/south-africa/ngo-warns-politicisation-of-sa-healthcare-august-2022/>.

¹¹⁶ Staff Reporter 2022 <https://www.citizen.co.za/news/south-africa/ngo-warns-politicisation-of-sa-healthcare-august-2022/>.

¹¹⁷ Staff Reporter 2022 <https://www.citizen.co.za/news/south-africa/ngo-warns-politicisation-of-sa-healthcare-august-2022/>.

acts and other forms of discrimination. It furthermore proves that language testing should not be used in a process of citizenship, and that it excludes persons rather than ensuring their integration in communities.

8 A comparative example: Ryanair Airlines

South Africans were outraged, and rightfully so, by the language test of Ryanair airlines in June 2022.¹¹⁸ The airline stated that the test was a means to ensure that passport holders were indeed South African citizens, given the prevalence of passport fraud.¹¹⁹ The test comprised a series of questions in Afrikaans which passengers were requested to complete and pass before being permitted to board the airline.¹²⁰ Failing the test resulted in many passengers missing their flights, resulting in delays and non-refundable air-tickets.¹²¹ The language test quizzed passengers' general knowledge of South Africa on a range of questions relating to politics, the economy, tourism, and other arbitrary fields such as the South African international telephone code.¹²² All questions were posed in Afrikaans.¹²³ It was unclear why Afrikaans was singled out of the eleven official languages according to Afrikaans Language Board Chief Executive Officer, Dr Conrad Steenkamp.¹²⁴ He argued that only twenty million South Africans could speak and understand Afrikaans at a level of proficiency to answer these questions.¹²⁵ He furthermore noted that this would once again give rise to racial tensions in South Africa, because during the Apartheid years Afrikaans was used to exclude persons.¹²⁶ The Department of Home Affairs, which itself uses language tests and proficiency requirements for citizenship purposes, was said to have been taken aback by the airline's decision and asked if there were other means of determining fake passports "rather than

¹¹⁸ Jeftha 2022 <https://www.news24.com/citypress/news/afrikaans-language-board-slams-ryanair-test-20220605>.

¹¹⁹ Jeftha 2022 <https://www.news24.com/citypress/news/afrikaans-language-board-slams-ryanair-test-20220605>.

¹²⁰ Jeftha 2022 <https://www.news24.com/citypress/news/afrikaans-language-board-slams-ryanair-test-20220605>.

¹²¹ Jeftha 2022 <https://www.news24.com/citypress/news/afrikaans-language-board-slams-ryanair-test-20220605>.

¹²² Jeftha 2022 <https://www.news24.com/citypress/news/afrikaans-language-board-slams-ryanair-test-20220605>.

¹²³ Halpin and Sishi 2022 <https://www.reuters.com/business/aerospace-defense/ryanair-forces-south-africans-prove-nationality-with-afrikaans-test-2022-06-06/>.

¹²⁴ Halpin and Sishi 2022 <https://www.reuters.com/business/aerospace-defense/ryanair-forces-south-africans-prove-nationality-with-afrikaans-test-2022-06-06/>.

¹²⁵ Halpin and Sishi 2022 <https://www.reuters.com/business/aerospace-defense/ryanair-forces-south-africans-prove-nationality-with-afrikaans-test-2022-06-06/>.

¹²⁶ Halpin and Sishi 2022 <https://www.reuters.com/business/aerospace-defense/ryanair-forces-south-africans-prove-nationality-with-afrikaans-test-2022-06-06/>.

adopting this backward profiling system".¹²⁷ The irony here is that the Department of Home Affairs does not view its own legislation and regulations requiring language testing as a "backward profiling system". The point of identifying and discussing Operation Dudula and Ryanair is to illustrate the dangers and resultant discrimination of language tests in the South African context.

9 Conclusions and recommendations

The primary recommendation is for the abandonment of the system of language testing as a component of the application for citizenship. If the Department of Home Affairs is to continue with these language tests and proficiency requirements, the Department would need to provide further information through the regulations as to how language proficiency is assessed and the relevance of the test in the South African context. In terms of assessment, there is a need to outline the relevance of the questions for the purposes of citizenship. Secondly, the Department should describe what language qualifications officials must have in order to assess proficiency. The system would require officials who are linguistically competent in all eleven official languages and who have professional language qualifications.

As indicated in this article, no data are currently available from the Department of Home Affairs as to what languages are used by immigrants in completing the language test form or in proving proficiency. Furthermore, no data are available on the language competencies of officials and whether this is a requirement for employment purposes in the Department. Language audits¹²⁸ are proposed with the aim of assisting the Department of Home Affairs.

The role of language in the processes of citizenship and immigration needs to be explored in each province. This would require collaboration between the Department of Home Affairs and forensic linguists. Language cannot be used as a tool to perpetuate policies and practices that result in unfair discrimination and create inequality. The current xenophobic attacks and protests described in the above case studies of Operation Dudula and Ryanair show that language tests in the South African context create divisions rather than social cohesion.

¹²⁷ Jeftha 2022 <https://www.news24.com/citypress/news/afrikaans-language-board-slams-ryanair-test-20220605>.

¹²⁸ Docrat, Kaschula and Ralarala *Handbook on Legal Languages* 280.

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List of Abbreviations

IJSL	International Journal for the Semiotics of Law
UN	United Nations
USA	United States of America