

295. Skutnabb-Kangas, Tove (2013). Role of Linguistic Human Rights in Language Policy and Planning. In *The Encyclopedia of Applied Linguistics*, ed. Carol A. Chapelle; part Language Policy and Planning, Area Editor Joe Lo Bianco. Malden, MA: Blackwell. DOI: 10.1002/9781405198431.wbeal1026.

[A] Introduction: Linguistic Human Rights as part of Language Policy

Linguistic Human Rights (LHRs) can be defined as ‘only those language rights ... which are so basic for a dignified life that everybody has them because of being human; therefore, in principle no state (or individual) is allowed to violate them’ (e.g. Skutnabb-Kangas 2008a, p.109; see Skutnabb-Kangas, in press, a, for a discussion of definitions). For basic presentations of LHRs, including websites for all HR instruments below, see Skutnabb-Kangas 2000, in press, a, b).

LHRs can be *negative (or non-discrimination)* or *positive (or affirmative) rights*. Negative rights forbid discrimination on the basis of various characteristics, e.g. language. Positive rights, according to Max van der Stoep (1999) encompassing affirmative obligations beyond non-discrimination, include a number of rights pertinent to minorities simply by virtue of their minority status, such as the right to use their language. They are necessary because a pure non-discrimination norm could have the effect of forcing indigenous/tribal peoples and minorities (hereafter ITMs) to assimilate to a majority language, effectively denying them their rights to identity. LHRs can be discussed from an *instrumental* point of view, seeing languages purely as means of communication, or as markers of identity, with an *expressive* interest. LHRs can be *individual*, as in (Art. 30 in) the *UN Convention on the Rights of the Child* or in the *UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*. They can also be *collective*, as in the *UN Declaration on the Rights of Indigenous Peoples* (UNDRIP) and Council of Europe’s *Framework Convention for the Protection of National Minorities* (even if both are constantly jumping between individual and collective levels) (all emphases added). LHRs can be *personal* (a person has them, regardless of where in a country s/he lives), or *territorial* (as in Switzerland: people have language-related rights only in the canton’s where a certain language - German, French, Italian or Romansch - has been designated as official, but not in other cantons) or a combination of these (as in Finland). Finally, languages themselves (rather than speakers/signers) can also be granted rights (as in the *European Charter for Regional or Minority Languages*). All of these rights are necessary, and there is no conflict between the various types of right.

Granting (or not granting) LHRs to everybody should be seen as a part of a country's or region's language policy and planning (LPP). Language policy (LP) has been defined as

A systematic, rational, theory-based effort at the societal level to modify the linguistic environment with a view to increasing aggregate welfare. It is typically conducted by official bodies or their surrogates and aimed at part or all of the population living under their jurisdiction (Grin 2000, p. 7)

However, this definition excludes, more or less, LPP initiated, applied and fought for or resisted by those who are “targets” of some language policies, e.g. ITMs.

Various monitoring and complaint mechanisms in international law can partially make them agents in LPP, but only *after* the policy has been set by “official bodies”.

Recourse to LHRs can be seen as representing one strategy in LPP. It can use international law as an instrument to ‘modify the linguistic environment’. This strategy can be used by ‘official bodies’ (e.g. government or local authority representatives), when they are engaged in national and international *normative standard-setting* (e.g. negotiating, signing and ratifying HRs instruments, or deciding on official or teaching languages – *status and acquisition planning* - but also when standardizing the corpus of languages, through grammars, dictionaries, and curricula, *corpus planning*). They can also *implement* various linguistic human rights, for instance in education, even those which are not demanded by international law.

The human rights (HRs) system can also be used in attempting to influence governments that are otherwise committed to the gospel of neoliberalism or are in other ways *not* aiming to ‘increase aggregate welfare’ of the population, such as Turkey vis-à-vis the Kurds (Skutnabb-Kangas & Fernandes 2008). ITMs themselves can and do also refer to LHRs when demanding rights. Often knowledge about LHRs or lack of them, or about endangerment of ITM languages plays a catalytic role in creating a movement for demanding LHRs and other HRs. LPP also happens through innumerable daily actions when people choose which language to speak to whom when (*discourse planning*, Lo Bianco, in press). *Technological planning* (Rannut 2009), especially for demographically small languages, is also often initially bottom-up work. It is important to see LPP as both top-down and bottom-up, as a “multilayered sociocultural (and therefore political) process - complex modes of human interaction, negotiation, and production, mediated by relations of power ... to illuminate crosscutting themes of cultural conflict and negotiation, identity, ideology, and linguistic human rights” (McCarty & Wyman 2009, p. 280).

[A] Supplying or denying Linguistic Human Rights: good or bad language policy circles

When the government provides or guarantees ITM language services, it is responsible for the ‘*supply increasing*’ side of LP (cf. Grin 2000, p. 53). A state can also *decrease supply*, for instance by stopping the training of minority mother tongue teachers (as in Sweden in 2001), something that has been criticised by the Advisory Committee monitoring the ratifying countries' governments' behaviour in relation to Council of Europe's *Framework Convention for the Protection of National Minorities* (see above). Likewise, states which deny access to free and compulsory basic education (which is a human right) are restricting supply. Almost 100 countries have introduced school fees for basic primary education, often prompted by the World Bank's and the International Monetary Fund's structural adjustment demands. This fact has been strongly criticized by the former United Nations' Special Rapporteur on the Right to Education, Katarina Tomaševski (e.g. 2001).

LHRs can also be used as a ‘*demand-increasing*’ mobilising strategy, often by the ITMs themselves, with goals at several levels, locally, nationally, and internationally. Competence in a language increases when it is being used. Becoming/being competent in a language (here: in an ITM language) makes people realise that the language could be used in new areas/domains (for instance in formal education, rather than only at home, in informal education). This awareness may lead to demands for being allowed/able to use it in those new domains. Demand increases with use and if

demands are being met by the government (or some other body, including the minority itself), which increases the supply side, this enables still more use.

If the supply side again increases as a result of this demand (so that, for instance, mother tongue medium – MTM - education is offered and minority language teachers are being trained), this mutual positive influence may eventually lead to a '*normalisation*' of a minority language's position: a situation where it *can* be used (government responsibility) and *is being* used (joint responsibility for minority and government) for many or most official purposes, in addition to private use. Its knowledge becomes a valued resource, linguistic capital which is then convertible to other forms of capital. This has happened with the Catalan and Basque languages after Franco's death in Spain - the languages have been 'normalised' and is happening in the Baltic states.

This 'good LPP circle', with mutual positive influence between supply and demand, with the goal of granting ITMs equal access to participation in society also linguistically, can harness (linguistic) human rights for democracy.

But many states are today in a 'bad LPP circle': they are afraid of linguistic and other HRs demands, especially demands about autonomy (minorities) and self-determination (Indigenous peoples). Therefore they restrict supply (e.g. MTM education) in order to contain the demands. One example is the actions of those states in the USA that have restricted bilingual education and/or adopted pro-English cum anti-minority-languages legislation. States refuse to grant positive LHRs in education. Often they do not even want to respect negative non-discrimination rights. Through this denial of LHRs they are, instead of solving problems, breeding conflict, inviting trouble, undermining democracy, and often committing crimes against humanity. Offering education only through the medium of a language that minority students do not have full access to restricts supply; this may in time increase demand. Reasonable but unmet demands increase poverty (Amartya Sen, economics Nobel laureate; see Mohanty 2000) and invite conflict.

[A] Which demands are justified? Speaking a minority language a handicap to get rid of?

The lively discussions about justice in political philosophy and political sciences in general, applied to minority rights, presented, e.g., in Kymlicka & Patten 2003, exemplify supply and demand well. Drawing especially on HRs philosophers, researchers debate what kind of language rights can be justified on what bases, i.e. which demands justify what kinds of supply. Should all inequalities that are due to characteristics not chosen by the individual, be "compensated for" or "rectified" by the state. Being born to parents who speak a language that is not the dominant language in the society where the person lives, and suffering injustice if this language has low status, could be seen as characteristics where individuals could justifiably demand "compensation", i.e. the state should offer more supplies, and if so, for how long?

Most liberal political scientists do not think, that states should support the maintenance of the existence of minority groups beyond present generations. They see speaking a minority language as some kind of a handicap (as in deficiency theories) to be compensated for. With this view, obviously this 'handicap' should not be carried on to the following generations. If parents choose to do it, it is their responsibility. This liberal view concentrates on individual rights and therefore

minority groups do not, according to many political scientists of this kind, have justifiable demands to continue their existence as minority *groups*. They are given the choice to either assimilate, or to continue *without* a justified claim for support for collective rights. The more communitarian-oriented political scientists are conspicuously absent from or silent (silenced?) in many of the most prominent debates.

There is in theory somewhat more ‘toleration’ towards the demands of Indigenous and tribal peoples to continue to exist as peoples, and, accordingly, towards their LHRs. The UNDRIP (see above) includes some LHRs that support this maintenance of ITs’ continued existence (especially Articles 13 and 14). The 4 countries that voted against it, Australia, Canada, New Zealand and the USA are at the same time among the top countries in having made IT languages “disappear” during the last 200 years, through their genocidal LPP policies.

[A] When can a LHRs approach “deliver”?

From a more critical perspective, David Harvey questions whether a human rights approach can represent an effective alternative to neoliberal marketisation and commodification. Undoubtedly, the neoliberal insistence upon the individual as the foundational element in political-economic life opens the door to individual rights activism. But by focusing on those rights rather than on the creation of substantive and open democratic governance structures, we may simultaneously cultivate methods that cannot escape the neoliberal frame. Neoliberal concern for the individual trumps any concern for equality, democracy, and social solidarities (Harvey 2005b: 176). Naomi Klein (2008) likewise shows how a human rights approach that concentrates on documenting human rights abuses and separating these from the neoliberal economic system that *requires* them in order to come to power and to be maintained against the interests of the majority of populations has lost its intellectual honesty and integrity. A rhetoric of military intervention so as to hinder human rights abuses has been misused by the US and its allies when invading Afghanistan and Iraq, the underlying universalist human rights principle here being made subservient to military-corporate globalisation (see Phillipson 2009). When human rights abuses, such as historical and present linguistic genocide in education is documented and discussed (see Skutnabb-Kangas 2000, Skutnabb-Kangas & Dunbar, in press), LHRs and LPP that denies them must be analysed within the ecolinguistic macro-level context of the economic and political systems. LHRs are a necessary but not sufficient part of critical subaltern-as-agent-driven LPP, and they can “deliver” when treated as such.

[Cross-references]

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