

VOLUME 4. LANGUAGE RIGHTS: CHALLENGES IN THEORY AND IMPLEMENTATION

Introduction

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Overview

This volume contains articles on how language rights are being addressed in many parts of the world, Latin America, Canada and the United States, Africa, Australia, India, and European countries that are members of the supranational European Union (28 member states) and the Council of Europe (47 member states). There are articles that deal with matters of principle and approach. These include sociolinguistic approaches to the recognition of the rights of Amerindian peoples, including collective linguistic rights (*Hamel*, 4.1), an analysis of Article 27 of the UN Covenant on Civil and Political Rights, its history, key concepts such as minority, and the way adherence to the Article has been interpreted and monitored in the UN Human Rights Committee (*Barten*, 4.5). The tension between the commitment of France to a single language and international pressures for greater recognition of minority rights is described (*Malloy*, 4.6). Other topics are the debate in the USA on ebonics, Afro American English, and widespread inadequate understanding of linguistic complexity in the USA (*Baugh*, 4.7) and court cases on the rights of languages other than English there (del Valle, 4.8); approaches to the defence of languages (*Fishman and Fishman*, 4.9); rights policy (*Blommaert*, 4.10); how mainstream political science deals with language policy and language rights (*Ives*, 4.11, *May*, 4.12; see also our General Introduction); and the right to select culturally appropriate personal names (*Jernudd*, 4.13).

There are several chapters on language rights in Africa. Empirically oriented papers analyse language rights policy designed to promote linguistic unification in an extremely multilingual country, Nigeria (*Akinnaso*, 4.14), and difficulties in the implementation of language rights in Uganda (*Namyalo and Nakayiza*, 4.15). Challenges for postcolonial states aiming to strengthen African languages are elaborated in articles by experts of the *Organisation for African Unity* (4.16), the body charged with spearheading such work in the 1980s, and its director, *Mateene* (4.17). One vital task in this connection is decolonising the minds of both the colonised and colonisers (*Ngũgĩ*, 4.18). In post-apartheid South Africa a major commission, the Language Plan Task Group (*LANGTAG*), was established to elaborate criteria for achieving a novel language policy. We have selected a section of the LANGTAG report on language equity, attitudes to it, and means for achieving greater linguistic justice (4.19). This extract concludes with the articles on language in the South African constitution of 1996.

Plans and recommendations for implementing mother-tongue-based multilingual education in a large constituent state of India, *Odisha*, are presented (4.20), followed by a plea to a newly appointed government Minister in Canada to strengthen the learning, use and revitalisation of the languages of First Nations Canadians (*Bear Nicholas*, 4.21). In India the experience of initial literacy conducted in tribal languages and their cosmologies is positive; in Canada there are no effective means in place to ensure that Indigenous languages can avoid elimination.

Policy in Wales, Ireland, and Finland for implementing language legislation to support more than one language effectively is summarised in *O'Flatharta, Sandberg and Williams* (4.22).

The volume also includes a set of reflective and more speculative studies that aim at a re-thinking of contemporary language rights realities, and the need for radically new approaches. How might multilingualism be strengthened in post-communist Russia (*Leontiev*, 4.23)? *Paz* (4.24) conducts a detailed study of cases in international courts, which leads to the sobering conclusion that language rights are seldom successfully achieved through litigation. *Hassanpour* (4.25) reveals how politically biased linguists and the reference works to which they contribute are. *Castillo* (4.26) is a passionate denunciation of intellectuals who claim to be apolitical. *Macao* (4.27) makes a strong case for the conceptual universe of Indigenous peoples to permeate deeply all levels of society in Latin America. *Anker* (4.28), writing in the Australian context, argues for the universe of Indigenous peoples to be accepted in the legal system.

We also report on the analysis of the weakness of the human rights system, as it has evolved since 1945, by citing some of its harshest critics. While such criticism validly underlines the major gap between the goal of universal respect for human rights, some substantial progress has been achieved in the field of language rights. Strengthening the position of minoritised languages in law and in practice has been due to the tireless efforts of grassroots activists combined with the committed professionalism of some specialists in language rights, many of whom are well represented in the four volumes.

North American quandaries

There is an extensive literature in Canada on legislation relating to language rights. There is a substantial body of litigation undertaken to resolve disputes, resulting in juridical clarification of rights for English or French in a wide variety of contexts. We have selected a survey of the theory, practice, and politics of language rights for the two official languages (*Joseph Magnet*, 4.2). *Bastarache and Doucet* (eds) 2014 is an authoritative presentation of Canadian understandings of the foundations and interpretation of linguistic law, the equality of two official languages, language rights in international law, bilingualism in legislation and in courts of law, in public services, in education, in the private sector, and accessing language rights. The book also has a chapter on language rights for autochthonous peoples. There is a shorter survey of official language rights by Réaume (2008, 1273- 1312).

For an understanding of group rights in Canada, see Réaume, 1994. Léger (ed., 1995) includes articles on the history of language policies in Canada, and on reconciling individual and group claims. Léger (ed., 1996) has a focus on language use at the United Nations and in a diversity of national and international contexts.

The need for radical action to revitalise the languages of First Nations peoples has been articulated throughout our four volumes, especially in volume 2. The change of government in Canada in 2015 creates an opportunity for triggering this (*Andrea Bear Nicholas*, 4.22).

The Observatoire International des Droits Linguistiques at the Université de Moncton, New Brunswick, Canada has regular updates on Canadian language rights issues on its website and contains a comprehensive bibliography of language rights. It is mainly in French but with some information in Spanish and English¹.

¹ www.droitslinguistiques.ca.

In the USA the right of immigrants to retain their languages is explored through analysis of the decisions and argumentation used in court cases where Mexican immigrant parents have been instructed to speak English to a child, and in English-only policies in businesses (*Sandra del Valle*, 4.8). Judgements are strongly influenced by the monolingual, monocultural values underpinning USA national identity over the past century. The Supreme Court is unwilling to accept that minority language use can be considered as protected under civil rights law. Civil rights legislation in the US in the 1960s aimed at counteracting racial segregation in housing and education, but the USA is still a society of glaring inequalities: 'The rights legislation of the 1960s promised a fairer, desegregated future for African Americans. But inequalities are worsening again, and the will to fight them has gone' (King 2015:10).

The Supreme Court has identified a number of rights as being *fundamental*, the right to vote, to procreate, and to protection in criminal procedure. The right to vote is a 'fundamental political right, because preservative of all rights' (Guerra 1998: 1426, citing cases in 1886 and 1964), and, in relation to the issue of bilingual ballots, the right to vote 'on an *equal basis* with other qualified voters' (ibid.). Whether there has been effective disenfranchisement of Spanish-speakers has been assessed in a number of court cases, and studies of whether people are likely to vote with or without a bilingual ballot. These issues are related to proposed federal English-Only legislation for 'unilingual government'. 'There is no proof that English-only elections encourage or promote the learning of English' (ibid., 1433). The exclusion of non-English speakers from the electoral process would add political disadvantage to their economic disadvantages, and slow the 'process of assimilation rather than to "encourage" it' (ibid., 1434). The rights of prisoners (Henrard, 1.18) should also include the right to vote, which in the US might represent considerable numbers.

The status of Afro American English and the Ebonics controversy is explored by *John Baugh* (4.7), who stresses that defining language variation in terms of use by a particular social group, here 'race', is invalid scientifically and misplaced educationally. It also affects access to language rights: 'the poor have never been able to take full advantage of their rights'. The extract from Baugh's book is followed by a Resolution of the Linguistic Society of America on the Oakland 'Ebonics' issue. It takes a stance on the vexed question of whether a language variety is classified as a language or a dialect, a distinction that is of political and legal significance. It also refers to an earlier LSA Statement on Language Rights.

For a book-length study of language rights and the law in the USA, with an introductory, historical chapter that chronologically presents language diversity in the US, court cases, and the rights of various immigrant groups over time, see Del Valle (2003).

There is a strong plea for changing legal education through investigating the links between international human rights law and its promotion and civil rights policies in the USA (Bettinger-Lopez et al., 2011). Most activity in human rights promotion internationally has been subordinate to the political goals of Western states. International human rights activity can therefore be seen as cultural imperialism, an attempt to impose values that the West purports to respect². The purpose of lawyers working in a critical paradigm is to promote social justice and to reduce suffering.

² Cultural imperialism, like linguistic imperialism (Phillipson 1992, 2009), is inter-connected with economic, geopolitical, military, and media relations of dominance.

This presupposes a focus not merely on law and its abuse or implementation but on the causes of the abuse, the contexts in which such abuse occurs. This demands an awareness of the historical origins of human rights legislation and formulation. It entails seeing civil and political rights (which has been a main focus) and social and cultural rights as interdependent rather than distinct. Critical legal theory is needed to trigger a paradigm change in legal education so that the big picture is not neglected. Even if the Supreme Court in the USA is not bound by any international human rights law, some of its verdicts have been influenced by the principles that it embodies.

The excessive power of the corporate world was noted by Abraham Lincoln in 1864 in a prophetic but unheeded warning:

We may congratulate ourselves that this cruel war is nearing its end.
It has cost a vast amount of treasure and blood. . . .
It has indeed been a trying hour for the Republic; but
I see in the near future a crisis approaching that unnerves me and causes
me to tremble for the safety of my country. As a result of the war,
corporations have been enthroned and an era of corruption in high places
will follow, and the money power of the country will endeavor to prolong
its reign by working upon the prejudices of the people until all wealth
is aggregated in a few hands and the Republic is destroyed.
I feel at this moment more anxiety for the safety
of my country than ever before, even in the midst of war.
God grant that my suspicions may prove groundless.

Some European challenges

France has a history of language legislation that began with King François I in 1539 determining that French should replace Latin as the language of the law and civil administration. The 1992 French constitution (Article 2) states that French is ‘the language of the Republic’ (‘la langue de la République est le français’) and that France ‘ensures the equality before the law of all citizens without distinction of origin, race or religion’.³ The law passed in 1994 to strengthen French (popularly known as the ‘Loi Toubon’) stipulates that citizens have the *right to use French* and to be addressed in French in the public domain and in commerce.

France sees itself as a pioneer in articulating human rights, but it has not ratified any minority rights instruments, despite the presence of many ethnolinguistic minorities in the country. These have the same rights as native French-speakers, to use French. France also opted out of much of Article 27 of the ICCPR. However, its policies are subject to investigation by the Human Rights Committee of the UN and it is ‘not exempted from scrutiny with regard to minority protection’ (*Tove Malloy*, 4.6, 245). In a response to questions, France chose to focus on language issues and tried to create the impression that it has enlightened language policies. The Human Rights Council was not impressed, recommended greater recognition of language rights, a different approach to the Roma, and a justification for France failing to observe

³ France is in this a typical *ius soli* country, as opposed to, for instance, Germany. ‘**Solum**, genitive **solii**, in Latin means, among other things, ‘ground, earth, soil, foundation’ - if you are born on the soil of the country you are a citizen. **Ius**, gen. **iuris**, means ‘law, right’, so *ius soli* is ‘the right/law of the soil’. Citizenship is given to everybody born in the country. **Sanguis**, genitive **sanguinis**, Latin, means ‘blood’; *ius sanguinis* = the right/law of the blood. Citizenship is given on the basis of parents’ citizenship’ (Skutnabb-Kangas 2000, Definition Box 3.12).

European and UN covenants.

Language policy in France is monitored in a division of the Ministry of Culture and Communication called the Délégation Générale à La Langue Française et aux Langues de France. It produces an Annual Report on the use of French nationally and internationally. The weak status of minority languages, and the ambivalence of language policy vis-à-vis these, are clear in the tasks of the Délégation:

1. guarantee our citizens the right to the French language
2. enable the French language to serve social unity
3. enrich and modernise the French language
4. promote linguistic diversity
5. promote and enhance the languages of France.

These are identified as follows:

Amongst the hundreds of languages present in our country, languages of France refers to those languages that have been spoken by French citizens on French soil for long enough to belong to the common heritage, and which are not the official language of any other state, including 'regional' languages such as Flemish, Basque, Corsican, Creole and Tahitian, and non-territorial minority languages such as the Arabic dialects, Romany, Berber and Yiddish.⁴

Some of these languages are taught as subjects in schools, but whereas 'rights' for French are proclaimed, and a social reality, minority languages are tolerated to a minor extent and are not accorded any rights or significant protection. The 'right to French' is itself a formulation that is open to several interpretations. The Spanish constitution, by contrast, stipulates a duty to know Castilian and a right to use it, doubtless a formulation intended to reduce centrifugal pressures behind Catalan.

At the European level, *Markus Warasin* (4.4) describes the travails of attempting to influence EU legislators to strengthen active support for minority languages, and the lobbying undertaken by the now defunct European Bureau for Lesser Used Languages, in partnership with members of the European Parliament. The High Commissioner on National Minorities of the Organisation for Security and Cooperation in Europe pleaded for a strengthening of commitment to strengthening the rights of regional language minority groups in Europe in the constitutional treaty of the EU, but without success. Warasin also notes that the European constitutional treaty (the Lisbon Treaty) commits member states to 'respect' languages, but this weak formulation is of no functional value.

The European Bureau for Lesser Used Languages played a key role, along with members of the European Parliament, spearheaded by those from minority language backgrounds, in the elaboration of the *European Charter for Minority or Regional Languages*. The full text of this is included in volume 3 (3.2.1). Key features are (1) that ratifying states select the level, from minimal to maximal, at which they will promote specific languages in the media, education, and public life, and (2) that there is a regular monitoring process conducted for the Council of Europe. *Jean-Marie Woerling's* text (4.3) surveys the strengths and weaknesses of the Charter. In the book that this text is taken from the chapters that follow present a detailed analysis of each

⁴ <http://www.culturecommunication.gouv.fr/Politiques-ministerielles/Langue-francaise-et-langues-de-France/La-DGLFLF/Qui-sommes-nous/Presentation-de-la-DGLFLF-en-d-autres-langues>.

of the Charter's provisions, and how they have been understood in national reports from the full range of European countries that have ratified the Charter.

The global system: human rights endtimes?

The corporate world is now global, US influence likewise. In view of the human rights system not succeeding in delivering what it aims at, there is a need for assessment of what causal factors are involved. International relations function in an unaccountable, unethical, unregulated vacuum. 'Global' institutions represent the interests of states and are not effectively accountable to the world's population. Many states sign up for covenants and make no effort to implement them. In 2015 the Human Rights Council selected Saudi Arabia, a country that has a shocking record of human rights abuses, as its chair, with the right to select 'experts' for investigating human rights abuses worldwide. The cumbersome, remote functioning of the UN Security Council exemplifies debility at the international level very clearly. Weak international governance facilitates US policy of dominating friends and enemies alike.⁵

In the assessment of an international lawyer who experienced politics at the highest levels nationally and inside the UN and the EU, and became disillusioned, the entire post-1945 international relations system has been a total failure:

British diplomacy had for centuries played a leading part in making a world system whose peculiar rationality could also be seen as a form of madness. Politicians and diplomats were privileged inhabitants of a world of unreality, an unreality which was life-threatening on a grand scale ... a form of pathological behaviour. And it followed also that the role of international lawyers had been to seek to rationalize and regularize pathological behaviour (Allott 1990: xii).

Allott challenges us to think holistically, and elaborates a radical paradigm shift in societal governance at all levels from the small group to the international. A key stumbling-block is the gap between decision-makers and the general population. This gap has been narrowed in some democratic countries, but not in the management of international affairs. Essentially, international relations represent a compromise between different 'national interests', meaning the interests of the very small corporate, political, and military elites. What results has neither the goal of ensuring that the needs of all people worldwide are met, nor their active support or participation: there is no demos.

The human rights system can be seen as having reached its 'endtimes' (Hopgood 2013)⁶. The way human rights activities have evolved has resulted in institutional petrification, the subordination of rights to political causes, and instrumental fiascos. Hopgood unmasks the shift from altruism over a century to the legacy

⁵ There is plenty of anecdotal evidence that in military conflicts, failure to understand commands in English has fatal consequences. This is also true about encounters with police (e.g. <http://www.heraldnet.com/article/20141220/NEWS03/141229893>). The right to life is also manifestly non-existent when drones and bombs kill civilians indiscriminately. 'Collateral damage' is a misuse of freedom of expression in English (or in any other language, in translation). See *Unspeak. Words are weapons* (Poole 2007).

⁶ See the critique of the UN Special Rapporteur on the Right to Education, Katarina Tomaševski, in the Introduction to volume 2.

of the transformation since the 1970s: human rights in the end were subsumed by the politics of American power and market-based democratic liberalism. Secular religiosity, the European legacy, was the cornerstone of an active effort to construct a plausible metanarrative of impartiality. The leverage offered by the huge resources of the US state and the power of neoliberalism facilitated the global spread of human rights as an ideology and cultural practice of middle-class liberals. Allying with power was too good an offer to resist. But this is a one-way journey. Once authority is converted from moral to political there is no alchemical process that can reverse it. Once Human Rights⁷, no longer sacred, are considered indispensable allies of power, they are left to rely on international institutions and their funding markets to survive. The language of human rights will not disappear any time soon for precisely that reason. The question of what difference they make – what impact they achieve - will only become more insistent. (Hopgood 2013: 171)

The UN Forum on Minority Issues has a dubious record is (Fox 2015). The Forum has brought together minority representatives and governments, but for brief presentations at conferences covering a wide range of issues. There is no definite carry-over into implementation at the national level. Minority languages have not been a specific focus and have tended to be obscured by more general educational issues, even if a ‘consideration of language issues in education and models of bilingual education in a future session’ might be worthwhile (ibid.: 103). This description confirms how unwieldy and almost self-defeating such UN bodies are (see also our remarks on McDougall’s report to the Forum, in the Introduction to Volume 2)..

The European Union system suffers from precisely these weaknesses. What use to the linguistically oppressed is Article 22 of *The Charter of Fundamental Rights of the European Union* - ‘The Union shall respect cultural, religious and linguistic diversity’ – if ‘respect’ is a vague concept, not actionable in any court of law, and does not confer rights, nor any duties on the EU or its member states?

A concrete case of human rights endtimes is the experience of post-war Bosnia. *Language rights. From free speech to linguistic governance* (Pupavac 2012) is a wide-ranging book that presents many topics in the history of ideas in relation to language rights, in particular freedom of speech (which the author sees as seriously constrained in the UK) and national and international linguistic governance. Her core argument is that minority language rights advocacy strengthens state and international control. Human rights governance is seen as a form of legal imperialism or human rights imperialism. Pupavac is right in affirming that the international human rights system often fails to deliver the change that it promises. Her main example of misplaced language rights governance is of how the ‘international community’ has taken charge in Bosnia as a protectorate. The EU has in effect disempowered local people. Key outsiders, as in occupied Iraq, were grossly ignorant of the local context, and paternalistic. External control has perpetuated ethnolinguistically-based political division.

Pupavac rightly stresses that linguistic and cultural factors are vectors for political interests, which coalesce in class interests, exemplified by ‘schools whose elite constituencies identify themselves and their interests more with the international community, rather than their local ethnic community’ (ibid.: 191). This is a novel

⁷ Hopgood uses capitals for the inter-governmental Human Rights business.

variant of linguistic imperialism: ‘... global governance of Bosnia has ironically expanded the role of English in public life, and exacerbated the distance of the new internationally sponsored elites from non-English-speaking sections of the population’ (ibid.:196). Education is shaped to serve elite interests and is disconnected from the resolution of local needs. This is similar to the power hierarchy in many former colonies.⁸

The role of the ‘international community’ in Bosnia has affinities to what earlier imperial powers saw as their ‘civilising’ mission. Colonisation was in reality pathological, and was so diagnosed by many, among them George Orwell, Gandhi, and Frantz Fanon: ‘The civilising mission built on the “decivilisation” of the coloniser’, Aimé Césaire (cited by Nandy, 1983: 30).⁹ Pupavac sees international agents as modern-day Kiplings (ibid.: 195), apologists for undemocratic neoimperial exploitation, with language playing a central role.

Otherwise Pupavac is in our view overly critical of scholarship on both linguistic imperialism and linguistic human rights (Phillipson 2015). Language rights scholars are falsely accused of ‘militarising and short-circuiting democratic politics’ (p. 49), a claim for which no evidence is cited. Much of the empirical evidence presented in our four volumes contradicts this judgement. Minority rights NGOs and language rights scholars – lawyers, political scientists, educationalists and others - have succeeded in influencing how language rights challenges are being addressed at all levels.

Limitations of approaches to language rights

Rainer Enrique Hamel (4.1) analyses the extent to which there is recognition of the distinctive character of indigenous peoples in Latin America in national law, which he exemplifies in a detailed comparison of Mexico and Brazil. He also documents Indian movements that aim at ensuring the survival of Indian peoples, and stresses that international awareness of the validity of this cause (in the early 1990s, which this seminal article dates from) as well as the importance of international pressure on reluctant governments. The case for a paradigm change in the acknowledgement of indigenous cosmologies, and their place in education and legal systems is made in the articles by Ambuludi (4.27) and Anker (4.28) that conclude this volume.

Jan Blommaert’s starting-point, in his equally controversial text (4.10), is that language rights do not work in reality. He assumes that the LHR paradigm entrenches monolingualism and territorial space, which social processes of mobility and urbanisation render otiose in his view. Language shift is therefore necessary, and in any case is what people want. He claims as a sociolinguist that language rights are ideal in the long term but cannot function in the here and now. We provide plenty of documentation of how invalid such arguments are in our four volumes. He and kindred spirits like Mufwene (see our Introduction to volume 3) have roundly denounced scholarship on language rights, but invariably in short texts that fail to present linguistic rights issues correctly or to investigate their significance in the realities of education, or with what granting LHRs is actually achieving for oppressed ITMs. Blommaert’s *The Sociolinguistics of Globalization* (2010) continues the misrepresentation of what language rights promotion can and does achieve, and contains a surprising number of errors of fact (Phillipson 2012a).

The text by *Peter Ives* (4.11) demonstrates that political theory operates as though language is a purely individualist, instrumental phenomenon. He traces the present-

⁸ See contributions by several African and Indian scholars in these volumes; see also Mohanty 2011.

⁹ This fits well with Marianne Gronemeyers diagnosis in her 1992 article called ‘Helping’; in order to ‘help’ somebody you first have to construct the helpee as helpless.

day concerns of normative liberal political theory back to the individualism propounded by Locke over 300 years ago. In the work of several contributors to Kymlicka and Patten (eds, 2003), linguistic justice is seen in detachment from the empirical reality of the complexity of multilingualism: their work cannot therefore contribute constructively to the analysis of the effect of changes in nation-states in global capitalism, or of the rise of global English and its use by native and non-native users. The effect of such work in political theory is, as Ives sees it, to de-politicize language. A more valid approach, which can integrate political theory with scholarship in the study of language ideology and language policy, can build on ideas derived from Rousseau, and from Gramsci in particular (see Ives 2004a and b). Language policy and language rights studies are closely concerned with ongoing struggles for the rights of speakers of all languages in a polity. Political theorists generally fail to engage with this challenge.

Stephen May's text (4.12) likewise critiques political theorists for failing to constructively address issues of minority language rights, multilingual education, and language proficiency as a requirement for citizenship. He shows how most authors in the Kymlicka and Patten volume are driven by 'untrammelled monolingualism', and falsely analyse English in its 'lingua franca' role in globalisation and in EU affairs. In so doing they typically condemn languages other than English to a subordinate role. May reflects on the issue of privilege, on diversity in the use of English, and on language and mobility, which leads him to the conclusion that ignoring identity functions, and an exclusive focus on instrumentalism is inadequate. He articulates a strong case for public multilingualism, the rights of national minorities, and migrant ethnic minorities. He distinguishes between self-government rights, and polyethnic rights that serve both to strengthen minority heritage, including languages, and integration into the wider society. Promotion-oriented rights are therefore of major importance, as confirmed in international law (see, e.g. de Varennes 1996, Henrard 2000, 2010, Thornberry & Gibbons 1997, Eide 1997).

Both Ives and May reveal a considerable number of weaknesses in the work on linguistic justice of Philippe van Parijs (2011), as does the analysis in Phillipson 2012b. As in the work of another political scientist, de Swaan (2001, reviewed in Phillipson 2009), van Parijs only peripherally addresses language rights issues. Both authors tend to see the expansion of English ahistorically, as unproblematical, and as disconnected from geopolitical and commercial interests.

The name of Lionel Wee's book, *Language without rights*, might lead one to assume that it is about languages and their speakers/users that are deprived of rights. In fact it is an intellectually ambitious essay by a sociolinguist from Singapore, who is strongly influenced by notions of political liberalism and deliberative democracy, and by a variant of sociolinguistics that regards languages as so socially variable that the notion of language rights fits poorly with them. He also challenges the principle of group rights (which are accepted and defended by many of the lawyers in these volumes), and argues that 'the best way forward is to focus on the rights of individuals' (Wee 2011, 197), precisely the individualism that is one of the main weaknesses of political science, as Ives and May have shown.

Deliberative democracy may be a goal that many states in theory aspire to, but it functions with limited success in most 'democratic' countries, not least in countries that have ascribed to themselves a right to export their sociopolitical and economic model worldwide, the United States, the United Kingdom, and France. These

countries can scarcely be considered as viable models of either the functioning of democracy through participatory citizenship, or of well-informed language policies.¹⁰

The experience of promoting the rights of speakers of a language in a variety of countries leads *Joshua Fishman* and *Gella Schweid Fishman* (4.9) to categorise efforts by the state as permissive, active, or pro-active. This reinforces the categorisation by ourselves on a grid in 1.1 of phases of non-discrimination, permission, and promotion in according language rights. The Fishmans plead for stronger efforts to support threatened languages. Joshua Fishman has pioneered analysis of and suggestions for revitalising endangered languages and reversing language shift (see Lo Bianco, 3.1.15).

Western academics who see themselves as undertaking 'de-politicised' research are critiqued by *Amir Hassanpour* (4.25). He shows that major studies of the Kurdish language and encyclopedias fail to even mention the linguicide that its speakers are being subjected to in Iran, Syria, Turkey, and Iraq (the situation has changed radically in recent years in Iraqi Kurdistan. For a comparison of Iraqi and Turkish Kurdistan, see , Skutnabb-Kangas and Fernandes 2008). The demand that academic studies should be 'neutral' and 'objective' was experienced by a Kurd from Iran undertaking doctoral studies in the USA as political censorship (see also Sheyholislami, Hassanpour & Skutnabb-Kangas 2012). The fraudulence of intellectuals who see themselves as apolitical is the topic of a poem by *Otto René Castillo* (4.26).

Björn Jernudd (4.13) documents how governments in five countries have refused to accept the registration of personal names that signal minority group identity. Denial of name is a denial of identity and of human rights. *Ina Druviete* cites a related problem in recording linguistically appropriate names in Latvia (3.1.7).

Weak protection of language rights can be seen in the judgements pronounced in international courts. *Moria Paz* (4. 23) assesses whether the protection of language rights in normative human rights law and covenants actually achieves what is intended when there is resort to litigation. She begins with a survey of language rights as human rights as they are understood by lawyers. She meticulously reports on judgements in transnational courts in the Americas and Europe, and the policies determined by the UN Human Rights Committee. From Paz's lengthy article we have selected the coverage of rights in education and omitted coverage of rights in courts of law (on which see Henrard, 1.16) and language use in the public domain (see de Valle 4.8).

Paz's conclusion is that court cases have failed to achieve support for minority language rights. Courts invariably focus on procedural and utilitarian concerns: with few exceptions, judgements are assimilationist and fail to accommodate diversity. The human rights system therefore contributes to the marginalisation and possible extinction of minority languages: 'minority language, therefore, is accommodated in the public domain only during the process of its elimination' (p. 201). No judgements determine that there has been a breach of any article in international human rights law. One consequence is that minority communities are unjustly forced to bear the monetary and non-monetary costs involved in any measures to support their

¹⁰ 'The history of British foreign policy is partly one of complicity in some of the world's worst horrors. If we were honest, we would see Britain's role in the world to a large extent as a story of crimes against humanity. Currently, contrary to the extraordinary rhetoric of New Labour leaders and other elites, policies are continuing on this traditional course, systematically making the world more abusive of human rights as well as more unequal and less secure' (Curtis 2003: 432).

languages. We would add that minorities are, in addition, of course, participating through their taxes in paying for the maintenance and development of dominant languages.

Paz's analysis of the functioning of legal systems leads her to the conclusion that judges serve the interests of the state rather than evincing commitment to the principles articulated in human rights instruments (p. 206). A key underlying factor is that language claims are invariably about rights to material and immaterial resources, and ultimately this is a political question rather than a legal one. She even concludes that the mobilisation of rights talk 'leaves very little room for the workings of politics' (p. 208).

The needs and rights of Indigenous peoples are articulated powerfully by *Luis Macas Ambuludí*, a Kichwa anthropologist from Ecuador (4.27). Community-based societies with the 'comunalidad' networks and ways of humans relating to each other and nature need bilingual, intercultural education that makes a complete break with education that services the capitalist economy only and reinforces the ethnocide of Indigenous peoples. In the same volume, Esteva states that school 'dispossesses [Indians] of their way of seeing and experiencing the world, of their cosmovision, in order to "Westernize" them' (Esteva (2010: 116). '[Formal] education is a strictly Western enterprise and it cannot be separated from the capitalist project' (ibid, p. 122). Much of what passes as 'indigenous education' conforms to the dominant educational paradigm, reproducing a stratified system where 'post-modernity, artificial life-styles and urban attractions [...] are erected on top of peasant rural life, which is perceived as inferior and backward' (Bertely, 2010: 148).

Ambuludí envisages the replacement of existing states by a single plurinational state that is created bottom-up. Academia exhibits a 'total apathy towards indigenous issues ... abysmal ignorance concerning indigenous topics'. He documents that great progress is being made in Ecuador and Bolivia in achieving education and a society that builds on the cosmologies, cultures and languages of indigenous peoples (see our Introduction to Volume 3). This, as we also conclude in our introduction to volume 3, is relevant for humanity as a whole (p. 250):

We, the original nations and peoples, are working toward harmonic cohabitation among all humanity, our equilibrium and cohabitation with Mother Nature, justice, and human equality; in other words, a sense of complementarity with the planet. Therefore, the aspirations, dreams and proposals of indigenous peoples are not only for indigenous peoples. In our minds, they are alternatives to solve the problems of humanity as a whole. Resistance, then, must become a real convergence of efforts among all sectors that are conscious and committed to humanity, Mother Earth, and life.

There is support for this position from the vice-president of Bolivia, Álvaro García Linera¹¹:

But what is common to the entire continent is that all Latin American societies are plurinational, but not the states themselves. There is social and cultural diversity, a strong social presence of indigenous peoples to a greater or lesser extent. But the state remains monocultural, and to a certain point ethnocidal, because it kills the

¹¹ In an interview with Marianela Jarroud, for TerraViva, UN. 31 March 2014, <http://www.ipsnews.net/2014/03/133318/>.

diversity of cultures. Bolivia has taught Latin America a lesson by recognising, in its 2009 constitution, that it is a “plurinational” state. So Bolivia has been a pioneer in showing the need for plurinational states.

Kirsten Anker’s book, *Declarations of interdependence. A legal pluralist approach to Indigenous rights*, (4.28), deals with related issues to those emerging in Latin America. The interdependence referred to in the name of the book is the relationship between the legal positivism of Western judicial systems in their encounter with the cosmologies of Indigenous peoples. Fundamentally the book is an exploration of incompatible understandings of law, a Western tradition that seldom explores its limitations and origins, rooted in physical and symbolic violence, and its encounter with radically different understandings of territory, property, culture, and language. The book is an inter-disciplinary exploration of discursive incompatibilities in legal process and its application, and the tension between Western legal monism and the possibility of law that is sensitive to all aspects of Indigenous cultures. Anker’s project is to show that ‘law’s structure of fact and law, property and sovereignty, traditional and modern, Indigenous and Australian and Canadian, are made not of concrete but of the dynamic interplay of human discourse: symbolic and embodied exchanges on which we act, and acts which make our world meaningful’ (p. 5). We include the first 5 pages of chapter 1 (Introduction), which presents Anker’s project, and the final paragraph of the concluding chapter (7). These extracts sum up a subtle analysis of a core aspect of how legislation and court cases deal with existential issues in Europeanised states and the administration of social justice, including linguistic justice.

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