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General Introduction

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Language rights have been of significant political and legal concern for at least the past two centuries (the number of entries on Google 2 December 2015 is 1,560,000,000). There has been a massive increase in attention to *Linguistic Human Rights*, language rights as human rights[1], in recent decades (number of entries, as above, 21,900,000). This politically sensitive topic needs multi- and transdisciplinary exploration. Therefore our 'mini library' of key historical data and up-to-date information represents a major resource for national and international language policy-makers, for educators, lawyers, NGOs in the field of minority and language rights, and for researchers, students, and members of the general public with an interest in human rights, social justice, and language policy. *Language Rights* is a four-volume collection of key research from many disciplines, and a variety of reports, declarations, and extracts from covenants and charters.

Most speakers of the world's Indigenous languages (some two-thirds of the world's languages are Indigenous) lack the most important language rights (LRs). As a result of national and international pressures and the failure to accord them LRs, these languages are rapidly disappearing. These four volumes meet the need for an informative and authoritative reference work in a field that is of the utmost importance not only to academia and decision-makers but to all those individuals, groups and peoples whose linguistic human rights (LHRs) have been and are routinely being violated. This is the case in particular for Indigenous/Tribal peoples, autochthonous minorities, and minoritised groups/peoples, but also immigrant and refugee minorities (hereafter ITMs).

Researchers, politicians and educationalists need solid knowledge in national and international law and in the experience worldwide of how language rights are being handled so as to navigate in this often emotionally charged territory. Likewise, lawyers need solid knowledge about language, education (especially bi- and multilingual education and prerequisites for educational success), and the various situations where laws function, and how they are – or are not – implemented. The texts chosen report on both the violation of LRs and on the increasing evidence of language rights being achieved successfully.

The names of the four volumes shed light on the key themes of each volume: general principles as seen from several disciplinary perspectives, most importantly in law[2] (1), language rights in educational language policy (2), the revitalisation of threatened languages, and covenants and declarations that articulate language rights (3), and problematical aspects of theory, implementation, and focus (4). There is an overview of the contents of each volume in the Introduction to each. While the main theme of each volume facilitates a valid allocation of texts, this convenient division

[1] An early mention of language rights as human rights is by Tabory 1980a; see also 1980b.

[2] This aspect is largely missing in the second volume called Language Policy and Language Rights of Ricento's (ed.) 2016 Routledge four volumes *Language Policy and Planning*, https://www.routledge.com/products/9780415727662.

obscures the fact that the topics form part of an integrated whole. The reality of language rights, and their specification, realisation or neglect, forms a totality in much the same way as there is a single human rights system in international human rights law with each right presupposing the others. It is also important to remember the wider social and political contexts: language rights are not always mentioned as such even when they are involved. Minority rights mostly subsume language rights. Self-determination is often a prerequisite for language rights (see Clark & Williamson, eds, 1996, Stavenhagen 1996; see also Bayir's text in volume 3 (3.1.13[3]) on the difference between external self-determination, e.g. independence, and internal self-determination, e.g. autonomy). Some contexts where language rights are not referred to describe in fact the absence of language rights and the consequences that this entails.

In this Introduction we first discuss the criteria we have used in choosing texts for the four volumes. Multidisciplinarity is imperative. There is a need for a historical perspective in order not to reinvent wheels. This perspective also helps in counteracting disappointment at the slow progress towards a world in which language rights are fully respected. Sometimes the 'disappointment' is verbalised in claims that LHRs - or human rights in general - do not work or have not achieved anything, a claim that we discuss in the Introduction to Volume 4.We present some of the key challenges in the areas of LRs and LHRs. This includes conceptual clarification, which is necessary because the legal profession, political science, education and other disciplinary specialisations function to a large extent independently of each other. There are also differing legal and political systems and traditions in the countries involved. In our introductions we present and critique some of the literature on language rights that we have chosen not to include. We finish with a statement of why language rights and especially linguistic human rights (LHRs) are needed, and what granting them has successfully achieved.

A historical perspective

Language rights need to be seen in historical perspective. One important step on the route towards universal human rights standards was the formation of the International Committee of the Red Cross in Geneva in 1863 as a secular humanitarian movement to assist victims of war. At the Peace Conference at Paris in 1919 one of the many goals was to establish states on territory that had been part of the Austro-Hungarian, Ottoman, and Russian empires, or under German imperial sovereignty. Much of this territory was linguistically diverse. An attempt was made to ensure respect for minority rights in the new states (Czechoslovakia, Greece, Hungary, Roumania, and the Kingdom of the Serbs, Croats and Slovenes). 'Minorities' treaties were signed by the victors (primarily France, Italy, the United Kingdom and the USA) and these new states. These treaties were classified as 'International Instruments Containing Clauses Placed Under the Guarantee of the League of Nations', with a procedure for sanctions.

The issue of choice of language to be used during the many months of peace negotiations in 1919 in Paris was also raised. 'The French argued for their own language alone, ostensibly on the grounds that it was more precise and at the same time capable of greater nuance. French, they said, had been the language of

[3] In each of our five Introductions (the general one and the one for each thematic volume) we refer to texts in the volumes by simply noting after the name of the author the number of the volume and text in brackets, as here (3.1.13).

international communication and diplomacy for centuries. The British and Americans pointed out that English was increasingly supplanting it. Clemenceau backed down, to the consternation of many of his officials' (MacMillan 2003, 55). Political power ensured that both French and English had equal rights, and other languages none, in this forum. One consequence was that the notion that French was an intrinsically superior language was put to rest in international affairs, even if this francophile myth still exists.

A second goal of the protracted peace conference was to create a new international system for handling international conflict, the League of Nations. A League of Nations document from 1929 (1.3. in this volume) specifies undertakings in relation to minority languages and equitable funding for them. Some of these principles survived the demise of the League of Nations, which became virtually paralysed in the 1930s. The experience of articulating and implementing minority rights throughout most of the 20th century was analysed in depth in a study commissioned by the UN, *Study of the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities* (Capotorti 1979). Capotorti's study is summarised by Gromacki (1.2). For Capotorti's categories of 'Information concerning the right of persons belonging to linguistic minorities to use their own language', see 1.4.

In the age of industrialisation during which European states attempted to impose a single national language on linguistically diverse populations, the language rights of minorities were often a contentious issue. An anthology of studies (Vilfan, ed., 1993), *Ethnic groups and language rights. Comparative studies on governments and non-dominant ethnic groups in Europe, 1850-1940* reveals an extremely diverse picture. The book has chapters covering Belgium, Alsace, Catalonia, Switzerland, Austria, Slovakia, Czechoslovakia, the South Tyrol, Poland, Estonia, Latvia, Lithuania, Finland, and Norway. We have included the 'Conclusion: a legal perspective' by Bruno de Witte (1.16), which lucidly analyses how linguistic minorities fared in relation to the competing claims of rights to freedom and to equality, the absence or presence of legal regulation, the status of official languages, practice in courts of law and in employment in the public sector, and a general increase in regulatory measures during this period[4].

Language rights have in reality always been practised worldwide, whether designated as such or not. They have been contentious in many countries. The challenges have been resolved explicitly in a variety of ways in some European countries/territories, among them Belgium, Finland, Norway, Switzerland, Wales, and Denmark and Germany for the border region. They have been approached in a less open way elsewhere in Europe, at least until the fall of the Iron Curtain and the end of fascism in Spain. Unlike the political norm of many European states and Europeanised countries that have attempted to impose a single national language per polity, multilingualism has been considered a normal societal condition in many other parts of the world, a reality throughout history. Several multilingual countries, e.g. India, the Soviet Union, China, and South Africa, to name a few, have seriously tried in several phases to grant rights to minority languages, at the same time as dominant languages have become still stronger. The multilingualism of countries worldwide is well documented (for a list of languages in the world, see the Ethnologue, 18th edition, www.ethnologue.org). Scholarship in law, sociology, anthropology, and linguistics has actively addressed issues of language rights, explicitly or implicitly.

[4] Similar studies on minorities and their rights are, for instance, Frowein, Hofmann & Oeter 1994/95.

By whom have language rights been studied and discussed, in addition to lawyers? The starting-point for the anthology *Language rights and political theory* (Kymlicka and Patten, eds., 2003) is that political theorists have shown little interest in language policy and language rights. While it is true that few political scientists have concentrated on language issues, these topics have been salient in national and international politics for centuries. There is a significant body of literature on language policy in history (of states, empires, colonialism); in nationalism (its consolidation over the past two centuries); in minority rights (articulated occasionally prior to 1919, but energetically since); in education (from the foundation of universities in Europe in the 12th century, and the progressive shift from Latin to dominant state languages); in language planning (intensively in former colonies and by imperial powers post-1945), and in multilingualism, with many studies by psychologists and educators from 1920 onwards. Multilingualism and language rights have been important for UNESCO since 1953 (see UNESCO 1953).

What determined the choice of texts for the four volumes?

We think that neutrality in science is a politically and morally suspect myth. Parliamentary objectivity (present alternatives, and vote) is a simplification that ignores value judgements that determine selection. A preferable route in research is to try to approach objectivity through openly declaring one's biases, to the extent one is aware of them. We are happy to declare our value judgements and biases. First and foremost, we are keen to activate language rights.

We have travelled professionally worldwide, have worked with, and have personal contact with First Nations citizens in North and South America and Australasia, tribal peoples in India and Nepal, Kurds from four countries, minorities from all parts of Europe, Berbers in North Africa, victims of apartheid in South Africa, people committed to strengthening language rights in many other parts of Africa and Asia, and Deaf people from all over the world. We have worked for decades with Indigenous Saami friends and colleagues who want to establish more human rights, including language rights, for the Saami in Scandinavia and Finland, and for Indigenous peoples everywhere. We have lived for many years as immigrants in a foreign country, and experienced what it is to be in a minority. We lived for almost 30 years on a small ecological farm, growing much of our own food. We are also fully aware of being privileged, living in the rich over-consuming parts of the world. All this experience is one driving force.

A further reason is that as academics we have learned that it is essential to be deeply familiar with the law, international and national, on language rights worldwide, and with the factors that are decisive for national and individual identity: ethnicity, language in all its variations, class and social status, and the origins, history, and contexts within which all of these variables function. This requires a multidisciplinary approach to language rights, one that many are now undertaking

Another central concern has been the organisation of education, and the role of education in reducing or expanding people's language repertoires. In particular, we are keen to be part of the worldwide struggle to ensure that minority and minoritised languages, including those of Indigenous and Tribal peoples are fully respected, and strengthened in education. This will contribute to greater social harmony and peace. Bilingual and multilingual education has been intensively researched worldwide. As a result it is possible to identify the educational policies that implement linguistic human rights (LHRs) and can lead to people with high levels of proficiency in *both* a

minority mother tongue *and* an official language, *and* others. Everyone has multiple identities. Most have multiple linguistic identities (including both inter- and intra-language identities). This complexity has been thoroughly analysed by linguists and anthropologists, but may not be self-evident to political scientists or lawyers. However, lawyers who are concerned with language rights do recognise a close correlation between linguistic and cultural identity, including multiple linguistic identities, e.g. Henrard (1.18, p. 2). Gromacki (1.2, p. 549) also states that 'Language is especially important to the preservation of culture. Since many cultures are defined primarily through language'.

Language rights have come of age in the past half-century. This is what our four volumes present. We are convinced that our selection of contributions does justice to the complexity of the language rights field, to a variety of approaches to it, and the challenges that it seeks to engage with. The geographical spread means that we have contributions from all continents, with their distinct histories and needs.

We are aware of the possible objection that we have included an overweight of texts by ourselves, but the justification for doing so is that we were pioneers in establishing LHRs as a multidisciplinary concern that was impelled by the marginalisation of ITMs. We have for half a century been learning from committed scholars, including the many committed lawyers, sociolinguists, and educators that are strongly represented in our selection of texts. They are using their professional expertise to promote the cause of greater social justice.

Indigenous scholars in Europeanised countries – in North America, Latin America, Australia and Aotearoa/New Zealand – and the far north of Scandinavia and Finland have all had a strong impact on our thinking over many decades. The UN Permanent Forum on Indigenous Issues UNPFII[5], has from its start been concerned with language rights. Its first chairperson, Ole Henrik Magga, is a professor of Saami language at Allaskuvla in Norway (Sámi University College; see http://samas.no/en/node/511). The text by Skutnabb-Kangas and Dunbar (2.1. in this volume) started life as two Expert papers for the UNPFII with Magga as one of the contributors.

We have selected a variety of texts that set out the history and evolution of language rights, and political, philosophical, linguistic, cultural and legal factors that have influenced the field (e.g. Kloss 1.8, Krauss et al. 3.1.1, Capotorti (summarised in Gromacki 1.2), Chen 1.6, Skutnabb-Kangas and Phillipson (1.1), Phillips 1.12.). These form a necessary background for understanding the development of present-day legal principles and instruments that can be drawn on so as to promote LRs and LHRs. Among the challenges are the weaknesses and inadequacies, vague formulations, and substantive and procedural restrictions in legal instruments, the lack of proper complaint procedures and international monitoring in many of them, and the relative lack of implementation, as many committed human rights lawyers have noted.[6]

Research on LRs and LHRs is complicated by the fact that scholars tend to be unfamiliar with the paradigms and approaches of other disciplines. There are distinct and to some degree conflicting approaches in legal studies, education, political theory, history and philosophy, critical theory, sociolinguistics, and anthropology. They lead to different social, political, and educational interpretations and outcomes. These

[5] http://undesadspd.org/IndigenousPeoples.aspx.

[6] For instance, Eide, 1990, 1993, 2010, 2015, Thornberry 1987, 1991a,b, 1995a,b, 1997, 2002, Thornberry and Gibbons 1997, de Varennes 1996, and Alfredsson and Henrard's Foreword in McDougall 2015.

disciplines are all represented in the four volumes. There is a fair measure of repetition in the texts in our volumes, especially in the presentations of legal instruments, but this has been inevitable when selecting and doing justice to the many major contributions to this evolving field. It is vital that people who are professionally concerned with LRs and LHRs are aware of the diverging practices, approaches, and insights, so that they can synchronise and build on whatever is most relevant for their particular concerns. Without this, there is a risk of multiple reinventions of the proverbial wheel, as economist of language François Grin states, when stressing that multidisciplinary theorising is complex, and that there have been

> self-referential families of discourses. The degree of interconnection between them, despite an a priori community of interests, remains limited. […] In practice, this situation means that discussions on language and minority rights often take place in discrete spheres, in which authors may be tempted to reinvent the wheel, at great cost in terms of time - and corresponding limitations to the relevance of some of their results (2003: 173).

We have many legal articles, from fairly basic presentations to more complex and detailed ones. There are articles on specific LRs (e.g. personal names, Jernudd 4.12), criminal proceedings, prisons, the police, etc. (Henrard 1.18, Vogler 1.19). LRs in education are basic for ITM languages to be maintained. There are articles on LRs in education written by educationists, sociolinguists, and lawyers (e.g. Henrard, 2.2). Some articles on education are themselves interdisciplinary (e.g. Skutnabb-Kangas & Dunbar 2.1). There are other LR articles written in a multidisciplinary way by economists[7] (e.g. Grin 1.20, Sen 1.5), a sociologist (May 2.3; 4.12), and an ecolinguist (Mühlhäusler 3.1.14).

Even when many Charters, Covenants, Declarations, and Recommendations are accessible on the internet, tracking the particular Articles or formulations that refer to language is not straightforward. We have therefore included a representative collection of the key documents in Volume 3, ranging from binding international or regional instruments (Charters, Covenants, etc.), via 'morally binding' Declarations that may in time develop to more legally binding ones, to non-binding declarations and recommendations. We have reproduced the Appendix to our 1994 *Linguistic human rights: overcoming linguistic discrimination* (3.2.1), which collates the key formulations on language rights in international covenants and related declarations.

Some instruments and recommendations are about specific groups, e.g. the Deaf or Sign language users (3.2.10; 3.2.11), or the elderly (Gomes de Matos 3.2.12); some are conference resolutions (e.g. The Asmara Declaration, 3.2.3; The Juba Declaration, 3.2.2), or accepted by large organisations or official bodies (e.g. 3.2.5; 3.2.6). Some are the work of expert organisations (e.g. the Hague and Oslo Recommendations, 3.2.8 and 3.2.9, produced by the Organisation for Security and Cooperation in Europe's High Commissioner on National Minorities), one is the work of a single person, in informal consultation with others (Gomes de Matos, 3.2.12). Most of these types are represented in 3.2.1. Skutnabb-Kangas & Dunbar, 2.1, present some of the basic international and regional language rights instruments in detail.

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[7] Clearly the allocation and funding of language rights are issues that are addressed in more detail in more specialised work, e.g. Grin, Sfreddo and Vaillancourt 2010. This is true for all multidisciplinarians: additional references are given in their articles to more specialised work.

There is no simple way of presenting how language rights are covered in national constitutions. A path-breaking book by de Varennes (1996) analyses the status of languages as official or national in a large number of constitutions, but this study has not been updated. An attempt was made by Faingold (2004) to classify and group 187 constitutions that specify languages as official or national, or fail to do so, and to note whether minority languages are formally accorded rights. This is a complex task because a great deal of variation exists in how language rights are formalised. There are also terminological problems when classifying the world's *countries* or *states* as *nations* for the purpose of analysing how language rights are formalised in legislation. Additional problems are that some information is politically controversial, some states have no constitution, and in any case, information on constitutions can soon become outdated.

There are hundreds of various kinds of LRs recommendations that could have been included. Some are sensible and worthwhile, but many represent wishful and unrealistic thinking, and none, of course, are binding on states. They may be useful in raising awareness of the need to strengthen language rights.

Political theorists have begun the process of engaging with language rights is, for instance the anthology edited by Kymlicka and Patten (2003). We have selected one chapter from this work, by Rubio-Marín (1.15), which represents a positive way of conceptualising language rights issues. We are convinced that several of the other contributions (e.g. Laitin and Reich, Pogge, van Parijs) have serious theoretical weaknesses; the authors appear to be unfamiliar with research outside political science, and to be out of touch with relevant empirical realities. We have therefore included articles by a political scientist, Peter Ives (4.11) and a sociologist (Stephen May, 4.12) which faithfully summarise the arguments of these scholars, and of others writing in a similar vein[8]. The introductory chapter by Kymlicka and Patten is a lengthy survey of how normative political theory might contribute to theorising language rights. It summarizes many challenges effectively, but most of the contributors are deeply influenced by a North American monolingual filter, which means that we find ourselves querying some of their generalisations. They seem to have excluded serious engagement with how multilingualism operates, and how education systems can and do promote additive bilingualism without this representing a threat to the integrity of a state. They remain trapped within a monolingual habitus (Bourdieu 1992, Gogolin 2008) that fails to do justice to multilingual realities that the state needs to address, and which lawyers, educationalists, and national policy-makers in most countries are now deeply concerned with.

There are many studies by political scientists of the role of language in the evolution in multilingual countries, language legislation and its implementation. There is an extensive literature on officially bi- or multilingual countries. Kenneth McRae published detailed studies of conflict and compromise in Switzerland (1983), Belgium (1986), Finland (1997), and studies of Canada. Canada has extensive legislation on language rights and French/English bilingualism, and a substantial body of litigation on language rights (see the Introduction to volume 4, and Magnet 4.2). By contrast there is very little on the language rights of First Nations, except for Nunavut and North Territories (see 3.1.3 and 4.2.1).

Most research fields, even in language studies, completely ignore Sign languages and the rights of their users. We have fairly substantial coverage of Sign languages

[8] There are related reasons for criticising, for instance, Archibugi 2005 and van Parijs 2011, See the Introduction to volume 4.

(Branson, 2.14; Bauman & Murray, 2.13; Wilcox, Krausneker & Armstrong, 2.16; Petitto, 2.17; Kontra, 2.18; Skutnabb-Kangas, 2.15), including two Declarations (3.2.10; 3.2.11). There is also some coverage of language rights in the *UN Convention on the Rights of Persons with Disabilities*.[9]

Conditions and histories vary worldwide. We have selected studies from many parts of the world, 'cases', peoples, or countries: *Latvia* (Druviete, 3.1.7); *Sweden* (Cabau, 2.1); *France* (Malloy, 4.6); *Kurdistan* (Beşikçi, 3.1.12; Bayir, 3.1.13; Hassanpour, 4.25); *India* (Pattanayak, 1.7, Annamalai, 2.11, Odisha Guidelines, 4.19, Gandhi, 2.4, Tagore 2.6); *Africa* (Meeuwis, 2.7; Ngũgĩ , 3.16; 4.17, Mateene, 3.15, 4.16,; Akinnaso, 4.13; Namyalo, 4.14; OAU-BIL (Organisation for African Unity Inter-African Bureau of Languages), 4.15; LANGTAG, 4.18); *China* (Zhou, 3.1.10, Zhou & Ross, 3.1.9); *Tibet* (de Varennes, 3.1.11); *Russia*[10] (Leontiev, 2.8; 4.22); *Latin America* (Hamel, 4.1.), *Bolivia*, (Saaresranta, 2.9), *Morocco*, (Kabel, 2.12), *USA* and *Canada* (Magnet, 4.2; Baugh, 4.6; del Valle, 4.7); and from several Indigenous peoples in North Western Europe, the Pacific, and the Americas.

Some conceptual and linguistic challenges

Globalisation pressures have intensified the need for critically aware clarifications and definitions. A key feature of this treacherous territory is the complexity and semantic fuzziness of some concepts. The 'same' concept can mean different things in different countries and languages, for instance basic concepts like (here in English) *language*, *dialect*, *nation*, *minority*, *Indigenous*, and *tribal*. Skutnabb-Kangas and McCarthy (2008) provide definitions of these and other terms that are relevant for multilingual education, and stress the importance of clarifying the ideological and epistemological underpinnings of such concepts for policy, and the implications for planning multilingual education. They provide examples of the consequences of interpreting concepts differently.

The term 'minority' is widely used, but the international legal profession has not been able to agree on a definition despite books and reports on the subject, and reference to minorities in charters in international law (see, e.g. McDougall 2015: 363; see also Cobo 1987). Several of the legal articles in these volumes clarify the concept further, e.g. Gromacki (1.2. e.g. pp. 539, 559, 560) and Barten (4.5).

The 'same' concept may have different referents and connotations in different languages. This is even so within related Indo-European languages in Europe with some shared historical, cultural, and linguistic origins, let alone between the worldviews of totally different cultures (see Fesl, 2.5; Castillo, 4.2.5; Macas Ambuludí, 4.27; Anker, 4.28). In English a *right* is clearly distinct from a *law*, whereas the German *Recht* can relate to either a right or a law. The Danish *ret* and Swedish *rätt* have the same etymological origins as *right* and *recht* but these terms cannot be used when referring to human rights in Danish/Swedish, which are *rettigheder/rättigheter*.

[9] (http://www.un.org/disabilities/convention/conventionfull.shtml).

[10] We have unfortunately failed to find updated summary overviews in English about LRs in Russia, despite having consulted several experts. The large-scale ELDIA project (http://www.eldia-project.org/) has detailed descriptions of the linguistic situations of many Fenno-Ugric minorities in Russia; see Laakso, Sarhimaa, Spiliopoulou Åkermark & Toivanen, in press, for a summary; see also Toivanen & Saarikivi, in press; Marten, Rießler, Saarikivi & Toivanen, 2014).

Rights and duties are clearly distinct categories in English and many other languages. They can be seen as presupposing each other. Some see the two concepts as forming a whole within an overall understanding of morally responsible human behaviour. This is the core of the concept *dharma* in Sanskrit, which can be glossed as 'nature, right, and duty, moral law, characteristic activity of a class of objects or being' (Parekh 2001: 62). Gandhi distanced himself from the idea of separate rights and duties because *dharma*, his preferred term, integrates the concepts, which are intrinsic to the principle of individuals as socially responsible beings. Rights and duties are of the very essence of human nature and morality. Gandhi insists that education should be character building, which multilingual education that builds on LHRs is intrinsic to (2.4). In the Glossary in Iyengar (1993: 309), building on the creator of yoga, Patañjali, *dharma* is defined as: 'Dharma – First of the aims of life, science of duty, religious duty, virtue'. Radhakrishnan's commentaries to *The Bhagavadgītā*, Part IV, The Way of Knowledge, 7 about 'the decline of righteousness' - dharmasya – and 'rise of unrighteousness' – adharmasya (Radhakrishnan 1977: 154), defines *dharma* as follows: 'Dharma literally means mode of being… So long as our conduct is in conformity with our essential nature, we are acting in the right way. Adharma is nonconformity to our nature' (ibid., 155). Thus it is our duty to act in the right way.

Indigenous and tribal thinking and cosmovisions come in many ways close to what *dharma* stands for. People as part of nature have duties towards not only themselves and other people but also towards the rest of nature, material, non-material and spiritual. Many 'western' scholars may feel challenged by concepts such as 'Mother Earth' (and the rights of Mother Earth, as Bolivia has suggested in the UN). Books such as *New Worlds of Indigenous Resistance* (Meyer and Maldonado Alvarado, eds, 2010), might bridge some of the difficulties across cultures and cosmologies. Alternative epistemologies and paradigms have developed from many sources, for instance feminism, as in Harding (1998, *Is Science Multicultural? Postcolonialisms, feminisms, and epistemologies*) or Indigenous studies, as in Linda Tuhiwai Smith's 1999 *Deconstructing Methodologies: Research and Indigenous People* (see also her 2005, 2006). Here we can often experience that the differences are not only semantic, but they are differences of epistemologies and world views.

Semantic diversity and divergence across languages is a major issue in the supranational European Union because Eurolaw, agreed on by the representatives of the 28 member-states (in 2016), has legal force in them all, overriding national law. Eurolaw is promulgated in the Union's 24 official languages.[11] It functions in parallel in all languages, taking effect in legal systems based on civil (Napoleonic) law or common law, republican traditions (France) or ethnolinguistic national criteria (Germany) or a mix of them, countries with a constitution (most) or none (the UK). All 28 countries have passed through distinctive historical trajectories: imperial or colonised, democratic or fascist, communist or liberal, the rule of law of ancient or recent vintage, etc. Eurolaw can be and is understood differently in different member states (Šarčević, ed., 2015, Kjær and Adamo, eds, 2011, Schmidt-Hahn, ed., 2012), even if in principle the law is supposed to be identical in meaning and application. When there is a conflict, court cases can be taken to the European Court of Justice for an authoritative interpretation (Neergaard and Nielsen, eds, 2013).

[11] See the sections on Multilingualism and Translation in *The Oxford Handbook of Language and Law*, Tiersma and Solan, eds, 2012 and Šarčević, ed., 2015.

Such problems multiply when global cultural and linguistic diversity is considered. The regional integration that is underway in the countries of South East Asia (ASEAN) and Africa (African Union), which have very different language policies, is faced with comparable challenges. There is little doubt that *the rule of law* is understood and acted on in differing ways worldwide (see Phillipson 2003, 57 on the complexities of the *rule of law* in three languages). The same may in part be true of the concept *human rights*, a vast normative field that has progressively been expanded.

Some influential sociolinguists working in the area of language policy with postmodernist leanings have challenged even the basic concept 'language', whereas in national and international law the concept is self-evident and problem-free. Obviously in legal documents on language rights these rights cannot be attached to non-existing entities. Dialects seldom if ever exist in law. The only exceptional case that we know of where dialects *are* mentioned, is in fact a prohibition: the European Charter for Regional or Minority Languages explicitly excludes 'dialects', but without defining them (see 3.2.1, Art. 1.a.ii).

Steps towards clarifying linguistic human rights

The multi-disciplinary anthology edited by Skutnabb-Kangas and Phillipson, in collaboration with Mart Rannut (1994), *Linguistic human rights: overcoming linguistic discrimination* was the first substantial academic study of linguistic human rights. The first section has a set of articles of a general, theoretical kind, written respectively by an economist (Grin, 1.20), a psychologist (Leontiev, 2.8), and a language planner (Jernudd, 4.13). These three are reproduced here, two with updates. We have also included our 'Linguistic human rights, past and present' (1.1). In its final section, *From racism to ethnicism and linguicism*, we consider structures, processes and ideologies that limit the enjoyment of LHRs and that tend to result in an unjust allocation of resources to speakers/users of non-dominant languages, including those who do not speak/use dominant languages or are less competent in them. Linguicism is akin to ethnicism, racism, sexism, ageism, etc.

A second section in the 1994 book, 'Country studies: towards empowerment' has case studies of language rights in the USA, Soviet Estonia, Aotearoa/New Zealand, Norway, and Australia. A third section, 'Postcolonial dilemmas and struggles', has studies of rights in Latin America, Kashmir, Africa, and Kurdistan, with educational language rights figuring prominently. From this section we have selected Lachman Khubchandani's analysis of language rights in relation to the reality of fluid cultural and linguistic identities in India (1.10). Plural societies of this kind have always been widespread in countries in Asia and Africa.

What Khubchandani describes in traditional India has close affinities with the 'superdiversity' that some Western scholars working on urban societies have 'discovered', their label posturing as an innovation when the reality has been known to Asian and African scholars for decades. In the same way, the concept of what is now called 'translanguaging' by applied linguists has been known for centuries. Both 'fathers' of bilingualism studies, Uriel Weinreich (1953) and Einar Haugen (1956) have described the phenomenon, as have many of the people presenting and analysing various kinds of code-switching (e.g. Michael Clyne, 1967, 1972, and Nils Hasselmo (1969, 1970, 1974).

Our extracts from Clifford Geertz's classic anthropology studies (1.9) explain much of the complexity of (then) newly independent postcolonial countries needing to

fuse primordial traits of linguistic and cultural identification with the establishment of a viable, uniform modern state. The challenge of merging essentialist traits with 'modernity' (epochalism is his term) has been enormous, and still is, half a century later. The importance of the role of language policy and language rights in such countries cannot be over-estimated. He uses the term *linguism* (completely different from our concept *linguicism*) to refer to language being a key mobilising factor in influencing state policies, citing as examples the establishment of linguistically defined regional states in India (e.g. Tamil Nadu), and competition between Chinese and Malay speakers in Malaysia.

Our 1994 volume built on the experience of an International Working Group on Language Rights which we established in 1987. It was an early attempt to connect empirical experience worldwide with theory development. The founding members were Richard Benton, Juan Cobarrubias, Mikhail Guboglo, Björn Jernudd, Deirdre Jordan, Francisco Gomes de Matos, and ourselves. The initial three areas that the group focussed on were 'clarification of concepts, the elaboration of appropriate declarations on linguistic human rights (partly on the basis of an analysis of existing declarations and national constitutional provisions), and activities designed to promote the acceptance of such declarations in professional associations and international bodies' (from our letter to the rest of the Working Group, 1 February 1988). Several scholars from the group met in Recife, October 7-9, 1987, Brazil, at a conference organised, with UNESCO support, with Francisco Gomes de Matos as the local organiser. UNESCO's representative, Georges Kutukdjian declared that linguistic rights would be a high priority for the organisation. The Recife Declaration (where the Recommendations were largely based on Skutnabb-Kangas, see the Appendix at the end of this Introduction) is described in Gromacki (1.2), pp. 570-572. Researchers who attended the Recife conference and joined the Working Group, George Szepe, and Joseph-G. Turi (see also Turi 1989, 1994), organised later conferences, in Pécs, and in Montreal.

Our 93-page 'Wanted! Linguistic Human Rights' is structured around a set of myths in the Western world, among them that in Europe and Europeanised countries all enjoy LHRs; that many languages divide a nation; that multilingualism is causally connected with poverty; and that Western societies should serve as the model for developments worldwide (Skutnabb-Kangas & Phillipson 1989). The publication has extensive exemplification of the way the Saami in north-east Europe and other linguistic minorities were deprived of language rights.

The Council of Europe had a seminal influence in formulating language rights. Reference is made to the European Charter for Regional or Minority Languages in several texts in the four volumes, e.g. de Witte, 1.17. The Charter itself is included in 3.2.1. Giordan (1992) has coverage of minority languages in many European countries, of human rights, language rights, and the rights of peoples.

Language rights issues in former Soviet Union countries became politically salient in the 1990s. A conference funded by the Soroš foundation in Budapest led to the publication *Language, a right and a resource. Approaching linguistic human rights* (Kontra et al, eds, 1999), from which we have selected the chapter on Latvia (Druviete 3.1.7).

Other volumes devoted exclusively to language rights issues, at least those published in the seven European languages that we are familiar with, include Kibbee's edited *Language legislation and linguistic rights* (1998). This is a volume of conference proceedings with studies from a several countries but mainly a focus on

the host country (USA) and a funding country (France). There is little in the volume of an integrative or theoretical nature.

Language rights and language survival (Freeland and Patrick, eds, 2004) is mostly concerned with sociolinguistic approaches to language diversity (Blommaert, 4.10). There is also a proposal to replace language rights by a principle of linguistic citizenship (Stroud and Heugh 2004), an idea that has little purchase in political science or the social sciences.

Towards a LHR paradigm: Universal norms but widespread impotence?

Norm-setting to determine universal values and their codification has been an ongoing concern since 1945. The human rights system that has evolved through adherence to the UN Charter and to UN covenants represents the creation of international law. The assumption is that states will observe the principles in the UN and regional covenants and charters that they have ratified. There are also international mechanisms for assessing how far countries live up to their commitments.

One of the contentious issues is whether the entire system builds on ethical and moral norms that are Western and incompatible with the cultures of other parts of the world, different religions and cosmologies (see, for instance An-Na‘im and Peng 1990). Several of the texts that we have selected explore the philosophical underpinnings of human rights and language rights, among them Sen, 1.5, and Chen, 1.6.

Significant achievements have been attained in some countries, and in the legal elaboration and interpretation of language rights. The international human rights system represents and is administered by governments, directly or indirectly; many of them do not live up to their commitments. This is also the assessment of experienced international lawyers.

Some of the scholars who support linguistic and cultural assimilation through arguing that ITM languages should be restricted to family use (if even that) and should not have any public rights, in schools or otherwise, claim that granting minority languages public rights would not only be costly but would also lead to conflicts, segregation, and disintegration of communities and states (see May 2.3 and 4.12 for presentation of and countering these arguments). Quite the opposite: unduly *restricting* language rights can trigger major political upheavals. One factor that aggravated the crisis in Ukraine in 2014 prior to the eruption of civil war was a law that restricted the use of the Russian language, the mother tongue of a large majority of the population in the eastern part of the country. The primary factor that led to the creation of Bangladesh in 1971 and its secession from West Pakistan was an attempt by the Pakistani government to impose Urdu, the official language of West Pakistan, as the sole official language for the whole country. Over 90% of the population in Bangladesh have Bangla/Bengali as their mother tongue. The Bengalis won a free election in 1971 that West Pakistan, then run as a military dictatorship with US support, refused to recognize, and attempted to crush opposition by military means. Well over 200,000 were slaughtered, including many professors and students at the university in Dacca, now the capital of Bangladesh. There had earlier, on 21 February 1952, been a massacre of language activists in Dacca. UNESCO decided in 2000, with the unanimous approval of the UN General Assembly, to make 21 February *International Mother Language Day* so as to strengthen the cause of linguistic diversity and peace. Promoting Linguistic Human Rights is an important part of this global effort.

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Appendix

One of us (TSK) has since the mid-1970s advocated for what a Covenant on LHRs should cover at an individual level. In addition to this level, there must of course be collective rights for nations, groups, peoples, to be able to reproduce themselves as nations, groups, peoples. This list was also the basis in Recife (1987, described in Gromacki (1.2), pp. 570-572; see section **Steps towards clarifying linguistic human rights** above):

A binding Covenant should guarantee at *an individual level*

a) *in relation to the mother tongue(s)*

that everybody has the right to

- identify with their mother tongue(s) and have this identification accepted and respected by others;
- learn the mother tongue(s) fully, orally (when physiologically possible) and in writing. This presupposes that minorities are educated mainly through the medium of their mother tongue(s), and within the state-financed educational system;
- use the mother tongue in most official situations (including schools).

b) *in relation to other languages*
that everybody whose mother tongue tongue is not an official language in the country where s/he is resident, has the right to become bilingual (or trilingual, if s/he has 2 mother tongues) in the mother tongue(s) and (one of) the official language(s) (according to her own choice)
c) *in relation to the relationship between languages*
that any change of mother tongue is voluntary (includes knowledge of long-term consequences), not imposed
d) *in relation to profit from education*
- that everybody has the right to profit from education, regardless of what her mother tongue is.