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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, 2013, for a discussion of definitions). For basic presentations of LHRs, including websites for all HR instruments below, see Skutnabb-Kangas 2000, 2013, 2012/2016). For 4 comprehensive volumes on Language Rights, see Skutnabb-Kangas & Phillipson, eds 2017.

LHRs can be *negative/ non-discrimination*, or *positive/ 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/minoritized groups (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) or in 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; the following language policy definition expands the scope:

Sociocultural process that includes official acts and documents as well as everyday language practices that express normative claims about legitimate and illegitimate language forms and uses, and have implications for status, rights, roles, functions, and access to languages and varieties within a given polity, organization, or institution; the scholarly study of how decisions about language are formulated and implemented, often considered a subset of language planning (Skutnabb-Kangas & McCarty 2008, p. 9; see also McCarty & Wyman 2009, p. 280 quoted below).

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 (Bayir 2017, Beşikçi 2017, Miley & Venturini 2018). 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 2010). *Technological planning* (Rannut 2009)), especially for demographically small languages (e.g. for Aanaar Saami, fewer than 400 speakers, see Olthuis & Gerstenberger, in press), 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).

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 many times 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) and will most likely be criticised by Fernand de Varennes, UN Special Rapporteur on Minority Issues (appointed in 2017). The fee-demanding English-medium primary schools which have been mushrooming especially in Asian countries, despite the results in most cases being disastrous (e.g. Mohanty, in press, Coleman (ed.) 2017, Sah & Li 2017), make the situation still worse.

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 based multilingual education – MTM - is offered, minority language teachers are being trained and textbooks developed), 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, for instance, 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. Likewise, there are many positive developments in Asia and even in Africa and Latin America – but it is up-hill (e.g. Benson & Kosonen 2011, 2012, Coleman 2017, Heugh 2009, 2016, Hamel 2003, forthcoming).

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 forbid (e.g. Turkey, see Beşikçi 2017) or restrict supply (e.g. MTM education in the USA, see e.g. Menken 2008) in order to contain the demands. 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 ITM students do not have full access to restricts supply; this may in time increase demand. Not meeting reasonable demands also increases poverty (Amartya Sen, economics Nobel laureate; see Mohanty 2000, Mohanty & Skutnabb-Kangas 2013) and invite conflict.

But even if LHRs exist on paper, they are not always implemented, or they are outright denied. Just two examples. Hawaiian is, since 40 years, according to the constitution, one of the two official languages in Hawai'i. In January 2018, Kaleikoa Ka'eo, an associate professor of Hawaiian Studies at The University of Hawai'i in Maui, had been summoned to court. He had asked for an interpreter in advance, but it was denied because he can speak English. He was asked by the judge if he was present in court. He replied in Hawaiian: "eia no wau ke ku nei" (here I am standing here). Since Judge Kobayashi didn't understand what Ka'eo was saying, he declared the defendant was "Not Present", and issued a warrant for his arrest, saying he had failed to appear in court. See https://splinternews.com/judge-issues-arrest-warrant-to-hawaiian-man-for-speakin-1822421239?utm_medium=sharefromsite&utm_source=Splinter_facebook. Finnish is one of the 5 official national minority languages in Sweden, with many rights on paper. Still in many schools students have been told that they are not allowed to speak Finnish, even during the breaks – the latest news about yet another school came just when I was writing this sentence (2nd February 2018).

Which demands are justified? Is 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 (see, e.g. articles by the editors in Kymlicka & Patten 2003). 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, also linguistically and culturally (especially Articles 13 and 14). The 4 countries that originally 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. All have since conditionally accepted UNDRIP, but Indigenous peoples are still waiting for rights, and for funds to maintain, develop and revitalize their languages and cultures (see, e.g. Fontaine 2017).

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 2005, p. 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, and participating in war crimes in Sudan and many other countries, the underlying universalist human rights principle here being made subservient to military-corporate globalisation (see Phillipson 2009, Kabel 2016). When human rights abuses, such as historical and present linguistic genocide in education is documented and discussed (see Skutnabb-Kangas 2000, Skutnabb-Kangas & Dunbar 2010), LHRs and LPP that denies them must be analysed within the ecolinguistic macro-level context of the economic and political systems. The linguistic capital dispossession that the denial of LHRs in education amounts to, also dispossesses the world of much of the knowledge on how to maintain biodiversity, vital for the existence of humans on the planet. Much of this precious nuanced knowledge is encoded in the small languages of ITMs and other local peoples. Today’s subtractive education through the medium of languages foreign to the children does not transfer this precious biocultural knowledge to the languages that replace the small languages. LHRs are a necessary but not sufficient part of critical subaltern-as-agent-driven LPP, and they can “deliver” when treated as such.

References:

Bayir, D. (2013/2017). Turkey, the Kurds, and the legal contours of the right to self-

- determination. *Kurdish Studies. The International Journal of Kurdish Studies*, 1:1, 5-27. Reprinted in Skutnabb-Kangas, T. & Phillipson, R. (eds). *Language Rights*, Volume III, pp. 225-247. London & New York: Routledge.
- Benson, Carol & Kosonen, Kimmo (2011). A Critical Comparison of Language-in-Education Policy and Practice in Four Southeast Asian Countries and Ethiopia. In Skutnabb-Kangas, Tove & Heugh, Kathleen (eds). *Multilingual Education and Sustainable Diversity Work. From Periphery to Center*. New York: Routledge, 111-137.
- Benson, Carol & Kosonen, Kimmo (eds). (2012). *Language Issues in Comparative Education: Inclusive teaching and learning in non-dominant languages and cultures*. Rotterdam, Boston, Taipei: Sense Publishers.
- Beşikçi, İsmail (2017). The Turkish State's Official Ideology, the Kurdish Language, and Language Rights. In Skutnabb-Kangas, Tove & Phillipson, Robert (eds). *Language Rights*. Volume III, pp. 206-224. London & New York: Routledge.
- Coleman, Hywel (ed.) (2017). *Multilingualisms and development. Selected proceedings of the 11th Language & Development Conference, New Delhi, India, 2015*. London: British Council. www.langdevconferences.org.
- Fontaine, Lorena Sekwan (2017). Redress for linguistic: residential schools and assimilation in Canada. *British Journal of Canadian Studies* 30:2, 183-204.
- Grin, F. (2000). *Evaluating policy measures for minority languages in Europe: Towards effective, cost-effective and democratic implementation*. ECMI Report 6, October 2000. Flensburg: ECMI.
- Hamel, Rainer Enrique (2003). Regional blocs as a barrier against English hegemony? The language policy of Mercosur in South America. In Maurais, Jacques & Morris, Michael. A. (eds). *Languages in a Globalising World*. Cambridge: Cambridge University Press, 111-142.
- Heugh, Kathleen (2009). 'Literacy and bi/multilingual education in Africa: recovering collective memory and knowledge.' In Mohanty, Ajit, Minati Panda, Robert Phillipson and Tove Skutnabb-Kangas (eds), *Multilingual Education for Social Justice: Globalising the Local*. New Delhi: Orient BlackSwan, 95-113.
- Heugh, Kathleen (2016). Metaphors, Diversity and Sustainable Education: Conversations of Multilingual Practices between India, Africa and Australia. In Pattanayak, Supriya, Pattanayak, Chandrabhanu, and Bayer, Jennifer (eds). *Multilingualism and Multiculturalism: Perceptions Practices and Policy. Celebrating the 80th birthday of D. P. Pattanayak*. Delhi: Orient BlackSwan, 36-60.
- Harvey, D. (2005). *The new imperialism*. Oxford: Oxford University Press.
- Kabel, A. (2016). De-centering the Hydra: Towards a more equitable linguistic order. In P. Bunce, R. Phillipson, V. Rapatahana and R. Tupas (Eds.), *Why English: Confronting the Hydra* (pp. 269-284). Clevedon: Multilingual Matters.
- Klein, N. (2008). *The shock doctrine*. London: Penguin.
- Kymlicka, W. & Patten, A. (eds) (2003). *Language rights and political theory*. Oxford: Oxford University Press.
- Lo Bianco, J. (2010). Language policy and planning. In N. H. Hornberger & S. L. McKay (eds). *Sociolinguistics and language education*. Bristol: Multilingual Matters, 143-176.
- McCarty, T. L., Romero-Little, M. E., Warhole, L. & Zepeda, O. (2009). Indigenous youth as language policy makers. In T. L. McCarty & L. T. Wyman, (eds). *Special issue: Indigenous youth and bilingualism. Journal of language, identity, and education* 8:5, 291-306.

- Menken, K. (2008). *English Learners Left Behind. Standardized Testing As language Policy*. Bristol: Multilingual Matters.
- Mohanty, A. K. (2000). Perpetuating inequality: The disadvantage of language, minority mother tongues and related issues. In A. K. Mohanty & G. Misra (eds). *Psychology of poverty and disadvantage*, (pp. 104-117). New Delhi: Concept Publishing Company, 104-117.
- Mohanty, A. K. & Skutnabb-Kangas, T. (2013). MLE as an economic equaliser in India and Nepal: mother tongue based multilingual education fights poverty through capability development and identity support. In Henrard, Kristin (ed.). *The interrelation between the right to identity of minorities and their socio-economic participation*. Leiden and Boston: Brill/ Martinus Nijhoff Publishers, 159-187.
- Olthuis, M-L. & Gerstenberger, C-V. (in press). Strengthening Indigenous Languages through Language Technology: The Case of Aanaar Saami in Finland. In McCarty, T., Nicholas, S. & Wigglesworth, J. (in press). *A World of Indigenous Languages. Politics, Pedagogies, and Processes in Language Reclamation*. Bristol: Multilingual Matters. Series Linguistic Diversity and Language Rights.
- Phillipson, R. (2009). *Linguistic imperialism continued*. New York: Routledge/Taylor & Francis.
- Sah, Pramod Kumar & Li, Guofang (2017). English Medium Instruction (EMI) as Linguistic Capital in Nepal: Promises and Realities. *International Multilingual Research Journal*, November 2017, DOI: 10.1080/19313152.2017.1401448.
- Rannut, M. (2009). Threats to national languages in Europe, In G. Stickel (ed.). *National and European language policies*, (pp. 35-51). Bern: Peter Lang Verlag.
- Skutnabb-Kangas, T. (2000). *Linguistic genocide in education - or worldwide diversity and human rights?* Mahwah, NJ & London, UK: Lawrence Erlbaum Associates. [South Asian updated edition in 2008, Delhi: Orient BlackSwan].
- Skutnabb-Kangas, T. (2008). Human rights and language policy in education. In S. May & N. H. Hornberger (eds). *Language policy and political issues in education*, Volume 1. *Encyclopedia of language and education*, 2nd edition (pp. 107-119). New York: Springer.
- Skutnabb-Kangas, T. (2012). Linguistic human rights. In L. Solan & P. Tiersma (eds). *Oxford Handbook on Language and Law*. Oxford, UK: Oxford University Press, 235-247. Updated version 2016.
- Skutnabb-Kangas, T. (2013). Linguistic human rights. In *The encyclopedia of applied linguistics*, General Ed. C. A. Chapelle; part Forensic Linguistics, Area Ed. K. Kredens; Oxford: Wiley-Blackwell.
- Skutnabb-Kangas, T. & Dunbar, R. (2010). *Indigenous children's education as linguistic genocide and a crime against humanity? A global view. Gáldu Čála. Journal of Indigenous Peoples' Rights* No 1, 2010. Guovdageaidnu/Kautokeino: Gáldu, Resource Centre for the Rights of Indigenous Peoples. <http://www.e-pages.dk/grusweb/55/>.
- Skutnabb-Kangas, T. & McCarty, T. (2008). Clarification, ideological/epistemological underpinnings and implications of some concepts in bilingual education. In Volume 5, *Bilingual Education*, eds Jim Cummins and Nancy H. Hornberger. *Encyclopedia of Language and Education*, 2nd edition (pp. 1-17). New York: Springer.
- Skutnabb-Kangas, T. & Phillipson, R. (eds) (2017). *Language Rights*. London/New York: Routledge, Series Critical Concepts in Language Studies. 4

volumes.

Tomaševski, K. (2001). *Free and compulsory education for all children: the gap between promise and performance*. Right to education Primers 2. Lund: Raoul Wallenberg Institute of Human Rights and Humanitarian Law & Stockholm, Sida (Swedish International Development Cooperation Agency).

van der Stoep, M. (1999). *Report on the linguistic rights of persons belonging to national minorities in the OSCE area*. + Annex. Replies from OSCE Participating States. The Hague: OSCE High Commissioner on National Minorities.