Linguistic Human Rights

Overcoming Linguistic Discrimination

Edited by

Tove Skutnabb-Kangas

Robert Phillipson

in collaboration with

Mart Rannut

Mouton de Gruyter

Berlin · New York 1994

Mouton de Gruyter (formerly Mouton, The Hague)
is a Division of Walter de Gruyter & Co., Berlin.

⊚ Printed on acid-free paper which falls within the guidelines of
the ANSI to ensure permanence and durability

Library of Congress Cataloging-in-Publication Data

Linguistic human rights : overcoming linguistic discrimination / edited by Tove Skutnabb-Kangas, Robert Phillipson, in collaboration with Mart Rannut.
p. cm. — (Contributions to the sociology of language ; 67)
An appendix includes extracts from selected UN and regional documents covering linguistic human rights, proposals for such, and resolutions on language rights.
Includes bibliographical references and index.
ISBN 3-11-014370-4
1. Language policy. 2. Linguistic minorities. 3. Human rights. 4. Language and education. I. Skutnabb-Kangas, Tove. II. Phillipson, Robert. III. Rannut, Mart, 1959– . IV. Series.
P119.3.L56 1994
306.4'49–dc20 94-26525
CIP

Die Deutsche Bibliothek — Cataloging-in-Publication Data

Linguistic human rights : overcoming linguistic discrimination / ed. by Tove Skutnabb-Kangas ; Robert Phillipson in collab. with Mart Rannut. — Berlin ; New York : Mounton de Gruyter, 1994
(Contributions to the sociology of language ; 67)
ISBN 3-11-014370-4
NE: Skutnabb-Kangas, Tove [Hrsg.]; GT

© Copyright 1994 by Walter de Gruyter & Co., D-10785 Berlin.
All rights reserved, including those of translation into foreign languages. No part of this book may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopy, recording, or any information storage and retrieval system, without permission in writing from the publisher.
Disk conversion and Printing: Arthur Collignon GmbH, Berlin. — Binding: Lüderitz & Bauer, Berlin. Printed in Germany.

Contents

Introduction
Robert Phillipson – Mart Rannut – Tove Skutnabb-Kangas . . 1

I THE SCOPE OF LINGUISTIC HUMAN RIGHTS
Section introduction 25

Combining immigrant and autochthonous language rights: a territorial approach to multilingualism
François Grin 31

On the limits of ethnolinguistic democracy
Joshua A. Fishman 49

Linguistic human rights and educational policy in Russia
Alexei A. Leontiev 63

Linguistic human rights, past and present
Tove Skutnabb-Kangas – Robert Phillipson 71

Typology of language legislation
Joseph-G. Turi 111

Personal names and human rights
Björn H. Jernudd 121

II COUNTRY STUDIES: TOWARDS EMPOWERMENT
Section introduction 135

Language policy in the United States: a history of cultural genocide
Eduardo Hernández-Chávez 141

The discourse of disinformation: the debate on bilingual education and language rights in the United States
Jim Cummins 159

Beyond linguistic policy: the Soviet Union versus Estonia
Mart Rannut 179

Māori language rights in New Zealand
Tīmoti S. Kāretu 209

The Sámi Language Act
Ole Henrik Magga 219

Australia's language policies and minority rights: a core value perspective
J. J. Smolicz 235

Combating educational disadvantage among Lebanese Australian children
John Gibbons – William White – Pauline Gibbons 253

III POST-COLONIAL DILEMMAS AND STRUGGLES
Section introduction 265

Indigenous education in Latin America: policies and legal frameworks
Rainer Enrique Hamel 271

Linguistic rights for Amerindian peoples in Latin America
Rainer Enrique Hamel 289

"Minority" cultures and their communication rights
Lachman M. Khubchandani 305

Kashmiri, a majority-minority language: an exploratory essay
Makhan L. Tickoo 317

Language rights in postcolonial Africa
Robert Phillipson – Tove Skutnabb-Kangas 335

Killing a mother tongue – how the Kurds are deprived of linguistic human rights
Tove Skutnabb-Kangas – Sertaç Bucak 347

Appendix
Extracts from selected UN and regional documents covering linguistic human rights, proposals for such and resolutions on language rights 371

Consolidated bibliography 413

Notes on contributors 453

Language index 457

Person index 462

Subject index 468

Hamel, R. E. 1994. Linguistic rights for Indian peoples in Latin America. En *Overcoming linguistic discrimination*, edited by Tove Skutnabb-Kangas and Robert Phillipson, 289-303. Berlin and New York: Mouton de Gruyter.

Linguistic rights for Amerindian peoples in Latin America[1]

Rainer Enrique Hamel

Linguistic rights for minorities[2] are increasingly associated with fundamental human rights in the international debate. Both theoretical discussion and empirical experience are creating a growing consciousness that linguistic rights can only be fully granted if their collective (in addition to their individual) dimension is acknowledged.[3] This presupposes that the state recognizes formal equality between language communities, and provides preferential treatment for minority groups for real equality of not only opportunity but also outcome.[4]

It could indeed be argued that linguistic human rights admirably demonstrate the fundamentally collective character of most human rights for minorities.[5] The acceptance of collective rights, however, can only be based on a pluriethnic, pluralistic concept of society, since it implies the recognition of ethnolinguistic minorities as – at least partially – autonomous groups or peoples inside the state. Yet such a recognition runs counter to the ideology of the monolingual and monocultural nation state that prevails in many areas of the globe, not least in former Spanish and Portuguese colonies.

Legislation for indigenous peoples in Latin America

Ever since independence at the beginning of the 19th century, the young republics have interpreted linguistic and ethnic difference as backwardness, marginalization, and an obstacle to communication within the national society. Programmes to develop Indian communities were therefore based on strategies of socio-economic integration, cultural assimilation, and linguicide; their aim was to "de-Indianize" the Indian peoples.[6] This strategy explains the fact that the constitutions in many Latin American nations do not even recognize the existence of aboriginal peoples on their territories, or include extremely vague references. Liberal and positivist philosophy that inspired most Latin American constitutions

extended the general principles of freedom and equality of all citizens to the Indians as individuals. No-one should be discriminated against because of race, language or religion.[7]

In principle, reference to indigenous minorities (via language or education) can be found on three distinct levels within a state's legal framework: constitutional articles on the status of languages and about fundamental educational rights; general educational laws which refer to ethnolinguistic minorities; and decrees and other lower level regulations about specific forms of education for minorities (cf. Stavenhagen 1988a; von Gleich 1989).

Among the constitutions that do mention the existence of Amerindian groups, some like Argentina have a general reference to aboriginal groups; some have a specific article on Indian protection as part of collective social and cultural rights, such as Guatemala and Panama. Others including Chile, Columbia, and Ecuador refer to human rights and include special legal regulations about Indian communities. Still others have established special statutes on a constitutional level like Brazil, Nicaragua, and Paraguay.

Some countries like Mexico and Peru concede specific economic and agrarian rights to the peasants, a social class based to a large extent on Indian traditions, without however mentioning the indigenous population explicitly.[8]

In most countries with an Indian population, even in those with no constitutional reference to Indian rights, there are isolated laws or groups of laws and decrees concerning indigenous minorities in the areas of agrarian, civil, criminal, educational, and linguistic legislation.[9]

Legislation in some countries limits the incorporation of Indian subjects into the dominant society by assigning the status of minors or other legally disadvantaged groups to them, as in Brazil. In general terms, the integration of two opposed legal principles into the legal framework – formal equality before the law versus legal diversity in the face of unequal situations – has led to a contradictory treatment of Indian legislation (Stavenhagen 1988a: 96) where the existence of indigenous peoples is normally seen as a problem. Almost nowhere do we find a recognition of cultural, ethnic, and linguistic differences as values in their own right[10], i. e. as a potential contribution or resource in the building of a multicultural nation state (cf. Ruíz 1984).

In most cases linguistic rights are not expressed as such, but implicit in educational rights. The general principle that prevails in educational legislation coincides with the overall objective of indigenous laws. Ac-

cording to the official terminology, education has to accomplish the function of "integration", "civilization", and transition to the national language (castellanización).[11]

Spanish is the only official language of the state in *Chile* and *Costa Rica.* Other countries like *Ecuador*, *Nicaragua*, and *Peru* establish Spanish as the only official language, but grant a specific status to indigenous languages. In Ecuador, with 33.9% of indigenous population, Quechua, Aymara and other aboriginal languages are only recognized in vague terms as belonging to the national culture. Paraguay, the only country in Latin America with more monolinguals (40%) in an Indian language (Guaraní) than in Spanish (4%), has no clear constitutional recognition of Guaraní.

Perhaps the only historical attempt to avoid reducing linguistic minority rights to transitional education and to extend the political and legal role of an Indian language (Quechua) to a whole nation took place in *Peru* during the progressive military regime between 1968 and 1975, as mentioned earlier (Hamel, this volume). Nowadays, Quechua and Aymara are stipulated national languages; they have co-official status (Spanish being the official language), with territorial and sectorial delimitations.[12] The other Amerindian languages of the country (mainly those spoken in the Amazonian basin) are defined as belonging to the patrimony of the nation.

Mexico and Brazil: two polar cases

In order to exemplify the wide range of different situations in Latin America, I shall briefly analyse language policy and legislation in Brazil and Mexico, the two most important countries in terms of population, that contrast in almost all aspects in relation to Indian peoples.

Mexico: National identity and liberal legislation

With its 9% of Amerindian population, Mexico represents a very particular case regarding Indian policies that can only be explained in the context of the historical search for national identity. On the one hand, we encounter a peculiarly strong version of the nationalist ideology of a centralized, monolithic nation state that Mexico shares with most Latin American countries; on the other, the historical reference to the Indian

classic cultures of the past, the Aztecs and Mayas, plays a central role in the construction of a national identity.

Ever since the 19th century and even more so after the Mexican revolution (1910–1920), national identity and its ideology have been grounded in the symbiosis of two races and cultures, the occidental Spanish and the New World Indian. This mixture created the new Mexican state and its citizen, the Mestizo, in a conceptual framework where neither the white nor the Indian played an important role any more (Heath 1972; Stavenhagen 1984, 1985).

On the level of language policy and legislation, the still unaccomplished cultural integration of the nation challenges Mexican society to succeed in both finding an internal cohesion and in drawing boundaries on three cultural and linguistic fronts (cf. Villoro 1950; Lara 1987):

- Vis-à-vis Hispanic culture and Spanish, the unquestioned national language and mother tongue of about 90% of the population, specific Mexican norms had to be established which differ from the Castilian standard.
- Vis-à-vis the present day aboriginal ethnias, the necessity of integration and "Mexicanization" places Indian languages in a paradoxical position where they are at the same time a necessary point of reference and a supposed obstacle to national unity.
- Vis-à-vis the US American neighbour, the Spanish heritage creates bonds of solidarity that help to resist the penetration of English and cultural aggression from the north.[13]

This complex constellation provides a framework within which to explain a number of puzzling contradictions, such as the contrast beween the limited economic and demographic weight of the Indian population, and its prominence in public discourse and governmental institutions; or the contradiction between the pioneering role Mexico played in Latin American Indigenist policies, programmes, and institutions as opposed to the lack of constitutional recognition and Indian legislation until very recently.

Nowhere in the colonial, republican, or post-revolutionary constitutions is Spanish defined as the official language of the country. It only became the means of communication for a majority of the population during the 19th century.[14] Neither did the Mexican constitution recognize the existence of Indian peoples as distinct ethnias until 1991. It thus denied the multiethnic reality of the nation. In all areas of legislation the principles of generality and formal equality prevail. Consequently, no

specific chapters in agrarian, civil, criminal or educational law refer explicitly to Indian individuals or communities until now, although certain forms of organization created to preserve Indian and other peasant traditions such as the "ejido", a kind of collective land tenancy with specific individual rights and obligations, are protected by the constitution and specific laws.

In contrast to legislation, indigenist and language policies have been much more explicit in Mexican history. Ever since colonization there have been two basic positions concerning indigenous ethnias that have taken shape after independence at the beginning of the 19th century (cf. Hamel, this volume): the dominant line considered the assimilation of Indian peoples and the supression of their languages to be a precondition for the construction of a unified national state. The other one, generally subordinated to the first, defended the preservation of Indian cultures and languages in the process of building a pluricultural national state.

Given the strong ideological tradition of legal liberalism which objects to any recognition of structural differences such as race or religion as a matter of principle, it is extremely surprising that in 1989, the Mexican federal government launched a proposal to amend the constitution in order to recognize Indian cultural rights.[15] The proposal (Iniciativa ... 1990), submitted to Congress in December 1990 and approved by the House of Representatives in July 1991, suggests that the following text be added to article 4 of the Constitution, an article which protects the social rights of specific groups (women, minors):

"The Mexican nation has a pluri-cultural composition which is based originally on its Indian peoples. The law will protect and promote the development of their languages, cultures, usages, customs, resources, and specific forms of social organization. It will grant their members effective access to the jurisdiction of the state. In the agrarian judgements and processes in which they are a party, their practices and legal customs will be taken into account in terms that will be established by law." (my translation).

Most independent observers and experts agree that the governmental initiative as such is a positive step in the right direction that will establish the constitutional basis for more specific laws that protect Indian rights. It is also hoped that the debates stimulated by the proposal will help to raise the level of consciousness in both majority and minority society about the multicultural, multiethnic, and multilingual nature of the country.

At the same time, the proposal is severely criticized as too limited in content and scope since it seems to be extremely difficult to grant and protect indigenous *cultural* rights in isolation, without granting at the same time their economic, social, political, and educational rights. A full recognition of the Indian peoples would therefore imply amendments to a number of articles in the constitution, a proposal that is not acceptable to the government and the political party in power.[16]

The central controversy is whether the state is prepared to recognize the pluricultural nature of the nation in all its dimensions, which includes the recognition of *autonomy of the Indians as peoples, even as nations.* In this respect the text is considered to be ambiguous at least. Given the past and current policy of the Mexican government it seems to be highly unlikely that such autonomy would be conceded.

In relation to *linguistic* rights, it is considered to be insufficient to grant linguistic rights only as individual rights, as the abstract human right to express oneself in one's own language (cf. Cifuentes – Hamel – Lara 1990; Hamel 1990d). Beyond the right of *expression*, the constitution would have to warrant the collective right of *communication* to the Indian peoples. According to international experience in the protection of minority rights, this presupposes that two aspects be granted: 1. The principle of formal equality must be accorded not only to the members of minority and majority groups, but also to the linguistic communities as such. 2. Specific measures will have to be adopted so as to permit maintenance of the differing ethnic characteristics of the Indian peoples (cf. Braën 1987; Wildhaber 1989; Turi 1989).

In sum, the Mexican case shows with particular neatness some of the general characteristics which are typical of a certain type of Latin American indigenist language policy and legislation: a liberal constitution that places formal equality of all citizens over and above all other principles, and above the reality of economic, social, ethnic and cultural inequality; the effort to build a homogeneous, centralized, monolingual and monocultural nation state; and the consequent orientation to assimilate ethnic minorities into the dominant society via education and other programmes. All this means that minority rights in general and linguistic rights in particular only benefit from comparatively weak protection. Given a political tradition where the law used to play a minor role in the political and economic struggle, it is no surprise that most activities of ethnolinguistic resistence movements developed in a space where reference to legality, even to legitimacy, did not have a major effect.

This fact reflects a remarkable independence between linguistic as well as educational policies, on the one hand, and their legal, namely constitutional framework in the past, on the other hand, an independence which allows a series of contradictions to persist over a long period of time.

The situation, however, is rapidly changing. A movement that demands respect for the law and for human rights in all domains constitutes at present one of the most explosive political challenges to a seventy year-old political system that is undergoing a difficult process of transformation, from a corporate, extremely centralized one-party-regime to the declared aim of a pluralistic democracy. In such a context, the respect for Indian peoples and other minorities becomes a touchstone of democratic transformation.

Brazil: juridical paternalism and political-military genocide

In many aspects of Indigenist policies and legislation, Brazil's tradition stands in sharp contrast with that of Mexico. Ever since colonization Brazil has applied a policy that combined elements of segregation with those of – at least potential – assimilation, if the Indian peoples or individuals were willing to give up their ethnic identity. As a matter of fact, the overall result was genocide and extreme fragmentation of indigenous peoples. The 200,000 Amerindians that have survived are subdivided into 170 language groups.[17]

In Brazil the constitutional principles of freedom and equality of all citizens were not extended to the Indians. Until the present, the principles of paternalism and tutelage rooted in the 19th century characterize Brazilian Indigenist policy and legislation. A special statute both segregated and protected the Indian peoples from the mainstream society.[18] The Brazilian constitution in force until 1988 contained various articles and a special statute (Estatuto do Indio, promulgated in 1974) concerning Indian rights (cf. Carneiro da Cunha 1987; Menezes 1989). Indian individuals[19] were classified as either "isolated", "on the way to integration", or "integrated" (meaning assimilated). In criminal law, for instance, a restricted liability is considered to apply in cases where non-"integrated" Indians are involved.

The civil code (article 6) defines non-"integrated" Indians as having an intellectual and social capacity comparable to minors between 16 and 21 years who need a legal tutor. This function was formerly exercised by juvenile court judges; since 1967 it has been administered by the National

Indian Fundation (Fundaçao Nacional do Indio, FUNAI), a govermental agency which came under the Ministry of Defence or the National Security Council during the military regime.

The Federal Constitution (articles 4, 198) grants *territorial rights* to the recognized Indian peoples of immemorial settlement in a specific area. These include the right to exploit the surface natural resources, and grant a share in the exploitation of mineral resources, which belong to the Union.[20]

Furthermore, the "Estatuto do Indio" granted restricted citizenship, the recognition of Indian habits and customs (*customary law*), the right to make use of national instruction and to receive *alphabetization* in the Indian languages. Education should be geared towards gradual "integration", respecting the cultural heritage, artistic values, religions, beliefs, and rites (cf. Stavenhagen 1988a: 249).[21]

After a long period of debates in the constitutive assembly, a new constitution was finally promulgated in 1988 as a legal fundation for a democracy after more than 25 years of military rule. To the surprise of many observers and participants, one of the topics that stimulated most controversy, public debates, demonstrations, and international attention, was Indian rights (cf. Gaiger 1989a).

Most specialists agree that important gains for Indian rights were made (cf. Rodrígues, 1988; Gaiger 1989b; Carneiro da Cunha 1990), although the principle of state tutelage was not altogether abandoned. Improvements include the abolition of the explicit assimilationist view including the classification of Indians; a better protection of territorial rights; and the guarantee of bilingual Indian education.[22]

In sum, linguistic indigenous rights are on the whole weakly protected in Brazil. Nowhere is the status of the languages clearly defined (Rodrígues 1988), but Brazilian legislation and practice implicitly assumes that Portuguese is the national language. As with Mexico, education represents the only area with some explicit prescriptions about Indian languages. Nevertheless, the new 1988 constitution and several subsequent laws reflect important progress, since they define cultural and educational language rights in a much more specific way than has been the case until now in Mexico. On the whole, different parts of legal texts range on a continuum (cf. Skutnabb-Kangas – Phillipson, this volume) between covert assimilation-oriented toleration (Estatuto do Indio) and a weak maintenance-oriented permission which is in part overt in relation to educational rights.

Indian movements, the struggle for autonomy, and collective linguistic rights

The analysis of Amerindian linguistic rights in Latin America shows a number of common features despite the diversity of cases. No doubt linguistic rights for a minority as such have so far played a minor role in the debates and confrontations, although the aboriginal languages are in most cases a key element for establishing ethnic boundaries from the inside and outside.

The history of Indian movements in Latin America, however, reveals the potential centrality of linguistic rights among other minority rights due to their intrinsically collective nature and their close interdependence with other rights of a collective character.

At the beginning of colonization, the Indians defended their land through violent battles against the conquerors. The confrontation shifted then to the field of legality and negotiation. Indian subjects and groups claimed full recognition as citizens of the colonies or young republics, the jurisdiction of their land and some privileges such as tax exemption. During the past 10 or 15 years, however, the most advanced Indian organizations gone beyond traditional demands that could be satisfied within the established legislation.

The new quality of the struggle consists in the fact that Indian movements – who still represent a minority among the indigenous population – are now increasingly claiming autonomous territories and authority to organize the lives of their communities according to their own traditions and customs. They thus question the legitimacy of the state to organize their lives, and invade the arena of politics and the law, demanding autonomy and self-determination as peoples, even as nations.[23], a challenge that tends to disrupt the juridical basis of the national states, and confronts one legal system with another (Iturralde 1989; Díaz-Polanco 1989, 1990; Varese 1987).

As postulated earlier, the key obstacle to a recognition of such claims is the deeply rooted doctrine of the homogenous nation state that establishes formal equality among its citizens as individuals and denies a specific legal status to any collectivity, at least on an ethnic or linguistic basis.[24]

Indian demands include the claim to respect their territories, to grant official status to their languages, and to recognize their religions, their medical and legal practices. Increasingly a central argument is reference

to customs and habits in use since time immemorial and the fact that *their* legal system is even older and thus more legitimate than the one imposed by the invaders (cf. Stavenhagen 1988b).

This explains why the opposition between positive state law and Indian customary law is central to this conflict, as recent studies reveal (cf. Stavenhagen 1989b; Stavenhagen – Iturralde 1990). Most claims for autonomy in various fields of social, political, economic, and cultural organization are related to legal practices, habits and customs that collide with the legal framework of civil and criminal state law.

Sociolinguistic studies in Mexico point out that there is a close relationship between customary law and Indian languages. Customary Indian and positive state law can be interpreted as two conflicting language-based symbolic systems related to the two languages in contact (cf. Hamel 1990a). Specific cultural styles and discourse structures of Indian languages are basic to the development of activities in the domains of local government, dispute resolution, conflict solving, ethnic organization, etc. (Sierra 1990, 1991, 1993 a). And in the clash between customary law and the imposition of positive state law on Indian individuals and groups, language conflict and inter-ethnic miscommunication play a major role. This is a field outside education where claims for linguistic human rights are vital and more research is called for.

The question is then what would be the minimal legal framework necessary to render the ethnic survival of Indian peoples possible? And what role could Indian languages and linguistic rights play in this context?

Whether favourable conditions for language maintenance and ethnolinguistic revitalization obtain will depend on the role indigenous movements assign to their languages as central or peripheral elements of ethnic identity, and as tools for organization and action.

The debate about linguistic rights reveals the complex relationship between individual and collective rights, and their correlates in language policy, the principles of personality and territoriality. The new constitutional amendment in Mexico is predominantly based on the principle of personality and individual rights granted to members of an ethnic group. Access to the juridical institutions of the state (and "fair treatment" taking into account Indian customs, using interpreters, etc.) may at best solve an *individual* problem of justice, but only within the legal framework of a different, the dominant culture. It can never replace the *collective* needs of a people to organize their own legal system based on their beliefs, customs, and languages.[25] Collective rights and the principle of territo-

riality thus appear to be a necessary basis for granting linguistic (and other) rights to the Amerindian peoples.

Since most observers agree that the future of Latin American Indian minorities is closely related to territorial autonomy in most cases, and the right to organize economic, social, political, and cultural life according to their own ethnic principles, it seems evident that a series of fundamental changes affecting the legal basis of Latin American states will have to be put into practice, including a recognition of distinct legal systems based on indigenous cultures.

Given the diversity of situations, traditions, numbers and density of population, degrees of acculturation or ethnolinguistic vitality, there is certainly no one single answer for all cases.

In the Amazonian Indian regions for example, the state of ethnic development, relative isolation and geographic distribution of Indian communities may allow for solutions based on the principle of territoriality for language use, education, and socio-economic organization. The clearcut dualism of ethnic boundaries between the Indian and non-Indian society in Brazil may help to mobilize the principle of personality as a resource as well.

Mexico, on the other hand, is characterized by a long tradition of contact between in part highly complex Indian cultures and the "mainstream" society. Sociolinguistic research[26] reveals that the cultural and linguistic hegemony of the dominant Mestizo society has significantly affected most Indian domains and regions. Cultural syncretism, language conflict, and social bilingualism are therefore typical for most Indian ecosystems.

In several areas with a high density of Indian population in the south and south-east of the country (Oaxaca, Chiapas, Yucatán), indigenous movements are beginning to demand partial autonomy based on the principle of territorial control and government (cf. Díaz-Polanco 1990).[27] Like in other Latin American regions with a high concentration of Amerindian population (Guatemala and the Andean areas of Bolivia, Perú, and Ecuador), a certain combination of the two principles of language policy could be envisaged. In specific pluriethnic, predominantly indigenous regions (territoriality) with partial autonomy, members of Indian ethnic groups (personality) would have the right to use and to demand use of their languages in specific public and social domains like local administration, and public service institutions in the areas of health, justice, and education. No doubt the conquest of new functional domains for Amerindian languages from a position of local control would con-

tribute significantly to the maintenance and revitalization of indigenous idioms and initiate a process of language planning and extension.

Certainly ethnic survival will not depend on legislation as its main support. As I have argued throughout this chapter, the recognition of Indian minority rights, including linguistic human rights, will only be successful in the long run as part of the developing Indian movements, their gains in ethnic and political awareness, and their capacity to struggle for ethnic survival. At the "First Continental Meeting of Indian Peoples" held in Quito in July 1990, indigenous representatives decided to improve international Amerindian cooperation, and they approved a line of action which includes the struggle for self-government, territorial autonomy, and control of their resources.[28]

Given the increasing relationship between the traditional demands of the Amerindian movements and new international issues like human rights and the preservation of the world-wide ecological balance[29], some aboriginal movements and their struggle have acquired considerable international support that brought pressure to bear on national governments in a very effective way.[30] Thus world-wide globalization also helps indigenous movements in Latin America to improve their international coordination and to channel external support for their struggle within which the claims for linguistic and educational rights are central.

Notes

1. Financial support from the Mexican National Council for Science and Technology ("Consejo Nacional de Ciencia y Tecnología", CONACYT) under title A128CC0E900410 (CS-7) is gratefully acknowledged.
2. Although in this chapter I shall only deal with autochthonous minorities, the terminology I use (linguistic minority rights, linguistic rights of minorities) refers in principle to all kinds of minorities, including those not recognized by international law, such as migrants.
3. For a debate, see de Witte (1989) and several other contributions in Pupier — Woehrling (1989).
4. In Latin America there is an extensive debate on this topic; cf. Arizpe (1988), Díaz-Polanco (1988, 1989), Iturralde (1989), Stavenhagen (1988c, 1989a).
5. See the debate on the relationship between the right of expression vs. right of communication in Braën (1987), for Latin America see Hamel (1990a).
6. It is the merging of the concepts of "state" and "nation" that renders governmental recognition of the Indian ethnies as "peoples" or "nations", and not only as minorities, so extremely difficult.
7. The first republican constitution in Argentina from 1819, for example, grants in art.

28 the same rights to Indians and abolishes all kinds of feudal services as well as slavery (art. 29) (cf. Stavenhagen 1988a: 48).

8. In Peru to address Quechuas and Aymaras as "Indios" is considered an insult, even more so than in many other countries. The term was practically abolished and replaced by the term "Campesinos" after the military revolution in the sixties. Only the Amazonian Indian groups on Peruvian territory are still called "Indians".
9. Since territoriality is considered to be a prime source of conflict and at the same time the single most important feature of Indian peoples' identity, it is not surprising that legislation on land ownership, particularly the collective possession of community land, occupies a salient place in Indian legislation (cf. Aylwin Oyarzún 1990 for the Chilean case).
10. One of the most interesting exceptions in recent times is Nicaragua's new constitution (approved in 1986 during the Sandinist Front government) which recognizes the multiethnic nature of the nation and grants extensive autonomy including education and language use to the ethnic groups on the Atlantic coast (cf. Comisión de Autonomía 1987; Lau 1983). Whether these rights that were conquered with so much sacrifice will be respected by the new Nicaraguan government remains to be seen.
11. On educational legislation, see my chapter on indigenous education in this volume (cf. also Hamel 1990d).
12. The only domain where this legislation is still relevant is education. It mus be noted that these definitions contained in the 1978 constitution are a step backwards in relation to previous decrees from 1972 (decree-law 19326 on education and 21156 on the status of Quechua) which established Quechua as official language in the whole country with equal status to Spanish.
13. Indian language policies in Mexico can indeed only be explained consistently if the complex and contradictory policies concerning the national language are taken into account. This fact raises doubts about the commonplace practice in sociolinguistics of investigating language policies for minority languages without considering the correlating – usually implicit – policies concerning the majority language(s) (cf. Hamel 1988c).
14. In 1981 an attempt was made to establish Spanish as the official language in the constitution, a proposal that never even reached parliament. This initiative was part of a governmental campaign to "defend" the Spanish language against the spread of English in a period of political tension with the USA (cf. Lara 1987).
15. Some critics regard this initiative as an attempt to anticipate and thus weaken the claims for autonomy and recognition as independent peoples put forward by the growing Indian movements (cf. Díaz-Polanco 1990). Intensive public debates took place throughout 1989 and 1990 with the participation of indigenous organizations, political parties, and academic specialists (cf. Marcó del Pont 1990).
16. Note that the text that was finally submitted to Congress contains some important reductions as compared to the original proposal launched by the government, which established the consideration of Indian legal customs in *all* kinds of legal affairs: "In the processes of federal and local order to which an Indian is a party, ...".
17. The largest groups are the Makuxi (14,500) and the Yanomami (8,400) in the areas of Roraima and Amazônia. Only 5 languages have more than 5,000 speakers, 13% up to 1,000, and more than 25% have less than 100 members (cf. Rodrígues 1986; Spires 1987).
18. This policy created a non-inclusive ethnic identity and reproduced ethnic boundaries,

maintaining a clearcut opposition between Brazilians (= whites, blacks, all immigrant races) and non-Brazilian Indians in the consciousness of both sides.

19. The "Estatuto do Indio" defines Indians as persons of pre-colonial descent who belong to ethnic groups with cultural characteristics that differ from those of the national society. They are supposed to live in communities that are either completely isolated or in contact with but not integrated into the national community (cf. Stavenhagen 1988a).
20. Here again a marked difference with legislation in Mexico has to be acknowledged. In Mexico no territorial rights for Indians exist. All mineral and water resources belong to the state. This position was reinforced with the expropriation of the big British and US-American oil companies in 1938.
21. Although it includes a set of measures, the "Estatuto" does not explicitly establish the right to *benefit* from education, i. e. to receive the type of instruction that enables the indigenous student the learn and succeed, given his cultural, sociolinguistic, and pedagogic circumstances.
22. Article 210 concerning public education establishes that primary school education is in Portuguese. Indian communities are granted the use of their mother tongues and their own learning procedures during primary education (see my chapter on Indian education in this volume).
23. Recognition as nations would change their legal status significantly, since international law grants the universal right of self-determination only to nations, and not to minorities as such, international support of which encounters severe legal restrictions (cf. Wildhaber 1989; Díaz Müller 1991).
24. The identification of the nation with the state, i. e. the ideological belief that each state is a nation (cf. Seton-Watson 1977), prevails in spite of a counterfactual reality, because the dominant ethnies identify themselves with the state as nations (cf. Stavenhagen 1988b) and tend to establish their cultural and ideological hegemony over all other ethnies with the ultimate aim of assimilating or exterminating them.
25. In the same way, alphabetization in L2, the dominant language, can perhaps satisfy *individual* literacy needs, but only education in L1, the ethnic group's own language, will be able to solve the *collective* problems of literacy and lead to an appropriation of a writing system for their own culture, provided the ethnic language still serves as their principle means of socialization and communication within the community.
26. Only a few publications can be referred to here; cf. Aubague et al. (1983), Hill – Hill (1986), Roth Senneff et al. (1986), Hamel (1988 b, c,) Hamel – Muñoz Cruz (1982, 1988), Hamel – Lastra de Suárez – Muñoz Cruz (1988). An extensive bibliography is to be found in Hamel (1988a).
27. E.g. the "Independent Front of Indigenous Peoples (FIPI)" demands that the state should grant autonomy at the district and regional level, and recognize their own indigenous authorities and representatives (cf. Castellanos Guerrero 1990).
28. See the Declaration of Quito 1990.
29. E.g. the indigenous reserves in the Amazonas basin, where 40% of the earth's reserves of fresh water are threatened with destruction.
30. Some critics note that the sudden interest in, e.g., Amazonian Indians which comes along with bushels of money (see the Sting foundation "Mata Virgen") causes perhaps more disruption than help. They also point out the opportunist basis of the unforeseen "support" of Indian movements, say, by the Dutch government (Holland would be immediately affected by a melting process at the poles as a consequence of ecological

destruction in the Amazonas basin) which is not rooted in a genuine interest in the indigenous peoples themselves; and that the connection between indigenous and ecological demands is therefore tactical, and perhaps of short duration. Nevertheless the factual relationship between the two types of claims supplies the Amerindian movements with a magnificent strength at present on which they have managed to capitalize for their own struggle.