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Linguistic Human Rights from a Sociolinguistic Perspective

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Introduction: linguistic human rights in a sociolinguistic perspective

RAINER ENRIQUE HAMEL

Over the past two decades the international debate on the status of ethnolinguistic minorities has increasingly associated the protection of linguistic minority rights with fundamental human rights, thus creating the concept of *linguistic human rights*. Supporters of linguistic minority rights have been working toward basic definitions and a minimal set of conditions that must be fulfilled in order to grant linguistic human rights to minorities. At an *individual* level they imply the right of every person to "identify positively with their mother tongue, and to have that identification respected by others" (Phillipson et al. 1994: 2). At the level of linguistic communities it means the *collective* right of peoples to maintain their ethnolinguistic identity and alternity, that is, their difference from the dominant society (1994: 2). The core rights are the rights of individuals to learn their mother tongue, to enjoy education through the medium of that language, to use it in socially significant official contexts, and to learn at least one of the official languages in one's country of residence. For communities it entails the right

> to establish and maintain schools and other educational institutions, with control of curricula and teaching in their own languages ..., [as well as] autonomy to administer matters internal to the groups, at least in the fields of culture, education, religion, information, and social affairs, with the financial means [...] to fulfil these functions (1994: 2).

These and other more specific standards should be considered an integral part of language legislation, since historical experiences have shown that implicit formulations and vague definitions usually serve as a loophole to avoid the implementation of minority rights. Many of the components of these definitions are controversial among experts and divergent political and social positions. We therefore have to explore the characteristics of linguistic human rights and their relations to general human rights, which include the collective (in addition to the individual) nature

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of many linguistic human rights. And we have to ask ourselves in which ways research on central topics in sociolinguistics, such as language policy and planning, language maintenance and shift, and language usage in institutions, may contribute to the definition of linguistic human rights and their implementation and defence. At the same time a complex concept such as linguistic human rights may well become a touchstone with which to scrutinize the scope and relevance of sociolinguistic and other approaches.

The nature and place of linguistic human rights in legal frameworks

Until recently linguistic rights have not been the object of legislation in the vast majority of cases, since languages (and linguistic rights) belonged to the nonlegislative domain, the realm of customs and traditions (Abou 1989). Persistent biological metaphors — languages are born, grow, decline, and die — contribute to a general common-sense belief that there is nothing to plan, regulate, or legislate about languages since they exist like living beings whose life cycle is largely resistant to social ordinance. And many analysts would agree with Mackey (1989) that language laws as such have had little impact on actual language behavior ever since. The biological metaphor, however, ignores the essentially historical and social nature of language, at the same time constituent and expression of society. And it does not admit that politics, policies, and regulations interfere with language in multiple ways, especially in its organization as discourse. The question arises, then, how what is conventionally regulated by traditions and habits could be transferred to the realm of legal regulation when necessary, without suffocating the very sociohistorical dynamics that brought these habits about. But this is a central problem for any kind of legislation that presumes to regulate human behavior.

Linguistic legislation typically emerges as a necessity to protect the rights of one language group against another when a linguistic group sees its language menaced by some other language(s) — or rather by their speakers — within the same national territory. Where the dominant majorities did not feel any such threat they usually showed little interest in legislating their language rights. The upsurge of the English-only movement in the USA, however, is a case in point to show how speakers of a language, the world's least menaced or "oppressed" language in this case, may well get organized to pursue the legislation of their dominant language status, which is basically legislation *against* plurilingualism and the rights of other language groups. Most of the time the claim for linguistic rights and their legislation seeks to grant at least some of the

support and conditions for survival to subordinate languages that dominant languages naturally enjoy (cf. Phillipson and Skutnabb-Kangas 1995). Thus linguistic rights relate either to subordinate minorities and peoples, or to dominant groups who want to perpetuate their linguistic rule and privileges through legislation.

To reach the kind of definitions quoted at the beginning the debate had to travel a long way. It seems that in the western world at least, the geopolitical reorganization of the shattered territories after each important war served as a trigger to discuss the state and fate of minorities. Consequently, a military dimension has frequently been involved when minority rights were in focus, from the Vienna Congress in 1815 to the peace negotiations in Chiapas (Mexico) in 1996.

According to Capotorti (1979), the first efforts in modern history to establish protection of national minorities, including linguistic rights, in international treaties date back to the Final Act of the Congress of Vienna mentioned before.[1] The League of Nations attempted to protect minorities between the World Wars, defining them as collectivities in some of their characteristics.

After World War II the UN and other international organizations discussed and approved three subsequent sets — now known as "generations" — of universal human rights. The first generation established fundamental civil and political rights and prohibited discrimination based on race, sex, religion, or language. It also included the right of self-determination for native peoples in the postwar process of decolonization. The second generation formulated economic, social, and cultural rights. A third more recent generation refers to solidarity rights of peace, development, and unspoiled environment, on the one hand (Skutnabb-Kangas and Phillipson 1994a), and to ethnic rights on the other (Stavenhagen 1992, 1995). The more the definition of human rights moved from universal, individual rights to the realm of the social and other more collective rights, intended to create the conditions for basic human rights to be enjoyed by members of subordinate groups and minorities, the more complex and controversial the definition of these rights became. Collective rights, a fairly recent concern, are controversial as such in ethical, philosophical, and juridical terms (cf. Olivé 1993; Villoro 1993) since they may always conflict with individual rights. And their implementation can become critical because in many parts of the world they question deep-rooted power structures.

Linguistic human rights have had an ambiguous status and no clear location within different legal frameworks. Lawyers and other scholars have discussed whether linguistic rights constitute specific rights or are inherent in universal human and natural right (Abou 1989). In general

linguistic human rights are not clearly and exclusively considered as fundamental human rights of the individual. In the juridical debate a distinction emerged (cf. Braën 1987; Wildhaber 1989) between two functions of language: its expressive function and its communicative function. This distinction, which is in a way merely analytical in the linguistic tradition, has led to the attribution of an ambiguous, sometime contradictory status to linguistic human rights and their placement in two different categories.

As a means of *expression*, that is, as the right to free speech,[2] they are considered fundamental human rights like the right of freedom of conscience or religion regarded as natural attributes of the individual. As a means of *communication*, however, linguistic human rights lose their status as fundamental human rights and are associated with social and cultural rights from the second generation of human rights granted to specific groups. Whereas fundamental human rights should be recognized by the state and can be exercised by the individual, rights of the second and third generation have to be created by an initiative of the state (Braën 1987), for example in education. They cannot be implemented in the absence of a community.

Some scholars in the field of law, however, criticize the dichotomy between general fundamental (individual) rights granted to everyone and linguistic (collective) laws granted to specific groups. They argue that

> [L]e raffinement de la théorie des droits fondamentaux, pour un grand nombre de textes constitutionels et de décisions judiciaires intervenues dans les vingt dernières années, permet de démontrer que l'utilisation créatrice des droit fondamentaux [...] permet une protection réelle de la diversité linguistique (De Witte 1989: 85).

According to this author, the defence of linguistic freedom could be promoted *through* the principle of the freedom of expression on the basis that this latter fundamental human right should safeguard not only the content of a message, but also its form or instrument (i.e. a specific language). Thus, Anglophone citizens of Quebec successfully evoked a violation of their right of expression in a disposition (art. 58 of the *Charte de la langue française* in its 1977 version) that prohibited the use of any language but French in posting and commercial advertising. The argument is that linguistic rights should profit from the unquestionable universal validity of fundamental human rights, and their defenders should not risk to come under attack through demands for "affirmative action", that is, special privileges for specific groups. In this line of argument, the *European Charter for Regional or Minority Languages* (1992) is consid-

ered an important step forward although its implementation is left to individual countries in a flexible way, since it aims at the protection of languages, not of linguistic minorities, in order to avoid the delicate question of autonomy (Woehrling 1989).

Given generalized mistrust among specialists in linguistic minority rights against an exclusively individual definition of linguistic rights, however, linguistic legislation evolved with great conceptual autonomy from other branches of law and created its own definitions (e.g. language status as official, national, the principles of territoriality and personality, etc.), for whose development other more general juridical concepts were considered of little use (De Witte 1989: 89). Similarly, many representatives and supporters of linguistic minorities, as well as scholars in the social sciences (Stavenhagen 1988; Skutnabb-Kangas 1990; Maurais 1992; Skutnabb-Kangas and Phillipson 1994a; Hamel 1994c), agree that the framework of fundamental human rights alone could not protect a specific ethnolinguistic minority efficiently against assimilation. They consider that the international covenants of the postwar period offer but a weak basis for the defence of minority rights, particularly linguistic rights.[3]

The second generation of human rights was already grounded in the recognition that basic human rights could not be fully protected and enjoyed by individuals and subordinate groups unless specific provisions were adopted to grant the economic, social, and cultural basis for these rights. A further consequence in recent years was to take up, once again,[4] the central question of ethnolinguistic minorities and their legal status in the international debate, although to date no agreement has been reached about the definition of the term "minority" in international law. The most important consensus may be that it does not refer to numbers only, although size is a component, but to power relations: practically all texts refer to dominated or subordinate minorities (so-called "sociological minorities" that could sometimes be majorities).[5] Skutnabb-Kangas and Phillipson (1994a: 107) propose a comprehensive definition that focuses on immigrant minorities but encompasses native minorities; it is based on numbers, ethnical, religious, or linguistic features, the group's will to preserve their alternity, and each individual's choice to belong or not to the minority. And their definition does not depend on whether a state recognizes the existence of such a minority or not.

Whereas European and specifically language-oriented documents (the Declarations of Recife 1989 and Tallinn 1991, the Draft Universal Declaration on Indigenous Rights) have stressed common rights for *all* types of linguistic minorities or groups, there is a growing tendency elsewhere to separate aboriginal peoples from others, especially immigrant minorities. Definitions on an international level state that native

communities or populations are not to be identified with minorities; they add the component of continuity in relation to precolonial societies to the previous list of criteria.[6] As a matter of fact, a growing number of native peoples no longer accept being labelled as a "minority" but claim recognition as peoples and even as nations. Notwithstanding new problems that arise with these definitions (Who was there first? What kind of continuity after 500 years of colonization can be claimed?; cf. Stavenhagen 1992), the claim of "first" peoples or nations is gaining significant strength, at least in the Americas.

Two recent international covenants advance significantly toward granting specific ethnic rights to native peoples: the *Convention 169* issued by the ILO (1989), and the *Draft Universal Declaration on Indigenous Rights*. Convention 169[7] recognizes indigenous children's right to acquire literacy in their own language and to learn the national language (art. 3, 28).[8] The Draft Universal Declaration (as contained in document D/CN.4/Sub.2/1988/25) is much more explicit since it establishes as fundamental human rights for aboriginal peoples the right to develop, promote, and use their own languages for administrative, juridical, cultural, and other purposes; "the right of children to have access to education in their own languages and to establish, structure, conduct and control their own educational systems and institutions"; the (collective) right to autonomy in matters relating to their own internal and local affairs, including education" (quoted in Skutnabb-Kangas and Phillipson 1994a: 97). According to these authors, this declaration "represents the overt maintenance-oriented promotion of minority mother tongues. It stands in striking contrast to the *UN Convention on Migrant Workers and their Families*, which accords minimal rights to the mother tongues and is assimilation-oriented" (1994a: 97).[9]

Thus, minority rights in general seem to drift apart, rather than converge, between native peoples and populations of recent immigration. Whereas substantial legal gains for native peoples' rights can be observed at least in many American states in spite of many setbacks (Richstone 1989; Maurais 1992; Hamel 1994b), there is less advancement in immigrant minority rights. As a matter of fact, immigrant minorities have seldom had encoded rights. In the USA, Latin America, and many European countries it seems to be quite clear today that the dominant majorities are not prepared to support maintenance-oriented policies for immigrant minorities.

Linguistic human rights are a case eminently suited to demonstrate the fundamentally collective character of most human rights. Many of the legal obstacles, however, that the nation states interpose to avoid the full recognition of ethnolinguistic groups as — at least partially — autono-

mous ethnoses or peoples inside the state materialize in the states' opposition to admitting the existence of *collective* rights.[10] Such a recognition runs counter to the ideology of the monolingual and monocultural nation state, and the identification of the state with the dominant nation, that prevails in many areas of the globe. Frequently cultural diversity is seen by the dominant classes as a threat to national unity and the territorial integrity of the state. In many cases this threat may be a myth (Phillipson et al. 1994) used by dominant majorities to prevent minorities from obtaining their rights. On the contrary, some scholars suggest that granting linguistic, cultural, or indigenous rights may be an effective way to prevent or reduce ethnic conflicts (Stavenhagen 1990; Phillipson and Skutnabb-Kangas 1995; Eide 1995), which would therefore even be in the interest of the dominant majorities and classes.[11]

Gaining rights, access, and the resources to implement such rights, however, is usually a threat to an existing status quo. Certain rights *to* something are — inevitably in my view — at the same time rights *against* something or someone, such as the privileges of the dominant groups. Very often, as the struggles for indigenous rights in Latin America demonstrate very plainly, such movements are a threat to the ruling elites and extreme forms of exploitation.

At present new practical organizational and theoretical efforts emanate (Díaz-Polanco 1991; Díaz-Polanco and Sánchez 1995; Stavenhagen 1993) to conceptualize a people's right to (local and regional) *autonomy* as the specific and modern form of self-determination within pluralistic nation states, a modality that does not necessarily include the perspective of segregation. This may be the way the still predominant Euronationalism of Latin American states could transit to some kind of heteronationalism without entering a phase of confrontation with radical ethnonationalism (cf. Comaroff 1993 for definitions), as is happening in many parts of the world.

A series of proposals to classify linguistic rights has emerged over time (cf. Turi 1989, 1993). In his "universal" design Kloss (1969a) relates ethnopolitics to ethnic and linguistic rights in a multilayered framework. His work on immigrants to the USA (Kloss 1971, 1977) yielded the influential distinction between tolerance-oriented and promotion-oriented rights. Based on this and other distinctions by Cobarrubias (1983), Skutnabb-Kangas and Phillipson (1994a) developed a scheme to evaluate to what extent legal texts (covenants, constitutions) provide support for the defence of minority languages and language rights. Their grid is based on two continua; on a vertical axis they place the degree of overtness vs. convertness; the horizontal axis ranges from prohibition to tolerance, nondiscrimination, prescription, permission, and promotion. Their analy-

sis of a series of documents not only reveals that in most national and international covenants the protection of minority languages is fairly weak, but also that contradictions exist, for example in five UN conventions, between general clauses mentioning language, and educational clauses where the defence of language rights is much weaker. "Minorities may use their languages in private, but not in school" (1994a: 83–84), which refers to state-financed education. Therefore, heterogeneous legislation or covenants would have to be located in different spots on the grid. As with all typologies of language planning, bilingual education programs, and the like, the necessary simplicity of any scheme and the reduction of variables to just a few require that the real complexity and diversity of cases be reduced and idealized in the process of classification.

Most analysts would probably agree that two basic component must be taken into account if linguistic human rights are to play a role as an instrument in the protection of linguistic minorities:

– the principle of equality in the treatment of the members of minorities and majorities, and the formal equality of their communities;

– the adoption of special provisions designed to maintain the minority group's specific characteristics including language.

It is the combination of these two components that constitutes a basis for language guarantees (Braën 1987: 20) as part of a policy of linguistic and cultural pluralism. On the whole, many central and controversial issues of linguistic human rights are common to other minority rights, although linguistic rights have a worse standing compared to other minority rights in a number of covenants. Perhaps language, as a means of communication and the reproduction of collective identity, highlights more than other cultural traits the impossibility of enjoying minority rights defined individually, hence the necessity to recognize collective rights.

Sociolinguistics and linguistic human rights

In spite of a strong language-as-right orientation in the USA (Ruíz 1984), only a few authors (Kloss 1971, 1977; Heath 1976, 1981; Macías 1979, 1982) have related sociolinguistic concerns to language legislation and human rights during the early period of sociolinguistics. This is even the case with founding scholars in sociolinguistics who initiated research on linguistic (Labov 1970) or educational inequality related to language (Gumperz and Herasimshuk 1973; Cicourel et al. 1974, to mention just a few), and on sociological aspects of language contact and dominance (Fishman 1964, 1967, etc.). Kloss's monumental European work on

ethnopolitics (1969a) and his US American research on immigrant linguistic rights (1969b, 1971, 1977), which today is considered foundational for the language-rights and language-planning debate, did not find a significant echo, in either US or European sociolinguistics at that time. This is perhaps not surprising, since sociolinguistics explored mainly nonlegislative domains, the fields of habits and traditions.

In many Western European countries there was probably even less interest in relating sociolinguistic issues to legal questions except in officially multilingual states. This tendency is reflected in the debate about social class and codes (Bernstein since 1959) in Britain; the German research on linguistic codes, compensatory education (Oevermann 1970), and immigrant workers' language development (Heidelberger Forschungsprojekt 1975; Klein and Dittmar 1979); the French research on the linguistic reproduction of class differences (Bourdieu and Passeron 1964; Cohen 1956, 1971; Marcellesi 1971); or the Italian transition from dialectology to the neo-Gramscian themes of cultural and linguistic regional diversity (Sobrero 1973; Grassi 1969, 1977). Even in Spain, where the language question played a central role in the Catalan mass movement against the perpetuation of the Franco regime and in favor of regional autonomy (Vallverdú 1973, 1980), central language-policy concepts (e.g. *conflicte*, *normalització*; Ninyoles 1972, 1975, 1976; Vallverdú 1979)[12] emerged, but there was little theoretical elaboration about the relation between crucial sociolinguistic topics and language rights.

In Latin America the question of language rights was largely absent in sociolinguistic research (Lavandera 1974; Hamel et al. 1988), except for the attempt to assign official status to Quechua in Peru, until the upsurge of the anthropological debate on indigenous and human rights in the 1980s (Stavenhagen 1988; Stavenhagen and Iturralde 1990).

The massive development of bilingual education programs in Europe and the Americas[13] since the 1970s have begun to reverse this tendency. A highly controversial debate emerged about the sociopolitical objectives (transition vs. maintenance) and teaching methods (L1, L2 literacy, interdependence, etc.) including the role of research for policy (cf. Cummins 1994). This debate forced the parties to spell out their rationales and sustain their methods in a far more explicit way than was previously common in education, a discussion that rapidly implied the question of linguistic and educational rights and their legislation. A similar process developed in relation to public services (especially legal services; see Berk-Seligson 1990; Valdés, this issue) to be offered in minority languages.

The question is, then, in which ways sociolinguistics, educational linguistics, and other branches of social linguistics are in a position to

contribute to the definition and implementation of linguistic human rights. Certainly sociolinguists cannot do the legislator's job, but they can describe societal processes in detail where linguistic human rights are at stake, identify the needs of ethnolinguistic minorities, and highlight shortcomings, as well as "perverse" effects (Laponce 1984), of language policies and language legislation wherever possible.[14]

Such objectives helped to develop linguistic human rights research as a field in its own right. Many claims for human and minority rights were sustained on the basis of research, institutional reports (e.g. Capotorti 1979; Martínez Cobo 1987; Skutnabb-Kangas 1990), and detailed documentation of the violation of linguistic rights. As Macías (1979) claimed long ago, all branches of sociolinguistics and related disciplines can contribute to this enterprise.

Language policies and planning have been the natural fields where sociolinguistic and linguistic legislation interact. Although language policies have probably existed since one organized ethnolinguistic society has exercised dominance over another, it was only after Haugen's (1959) coining of the term *language planning* that an enormous wealth of studies and activities developed this topic into a disciplinary field of its own.[15]

What has in my view limited the potential of this discipline is a number of theoretical and methodological reductions, out of which I will only mention two: the absence of a (human) rights perspective or any other relation to legislation, and the isolation of planning from policies and politics.

In an overview of the field Nancy Hornberger (1989: 7) identifies 16 language-planning goals with regard to language status and corpus, which range from officialization (status) to graphization (corpus). As is common practice in the field, none of them relates directly and explicitly to language rights or legislation. In a rather exceptional proposal to establish the foundations of language policies, however, Abou (1989: 23) defines linguistic rights as the centerpiece of language policies: "Les politiques linguistiques ont pour objectif de reconnaître et de sanctionner par des normes juridiques les droits linguistiques des gens." Language planners (except e.g. Kloss 1969a; Ruíz 1984) have rather concentrated on other goals such as status planning, medium of instruction, communication, and identification.

The divorce of language planning from other political activities related to language, and a concept of politics reduced to explicit interventions underlying many models, have in my view limited the scope of the field and its possibilities to serve as a point of reference for the definition of linguistic human rights. Such a perspective ignores the fact that the measures of major consequences are very often not the explicit ones, but

activities and attitudes that stem from general orientations that may be contrary to the explicit goals of a given policy. In many frameworks these forces appear only on a practical level as obstacles to implementation, but not on the conceptual level as the expression of power relations between conflicting social formations.

Sociolinguistic research should therefore take language policies in a broad sense as a starting point, focusing on the contradictions between explicit political decisions and measures and counteracting interventions of social forces, as has been practiced by Fishman (1985, 1991) and others. Central to such a focus are general ideologies or orientations, not only toward languages and their roles (Ruíz 1984), but also to the communities that identify (or are identified) with them. Examples abound where explicit measures of language planning were unsuccessful or produced effects contrary to their aims.

Thus, the attempt of an antifeudal military regime in Peru to officialize Quechua in 1972 and 1975 and extend it to the whole country was rapidly aborted due to the violent reaction on the part of the Spanish-speaking bourgeoisie (Escobar 1988). Their response reflected not so much a negative orientation toward Quechua as a language, but a scornful and racist attitude toward the indigenous peasantry of the country.

According to Laponce (1984) a "perverse" effect could be caused by the Canadian language legislation (*Loi sur les langues officielles, Charte canadienne des droits et libertés*) designed to protect French and to allow a greater mobility for Francophones across Canada. Such a dispersion of speakers would probably contribute to intergenerational language shift, given the fact that a minority language is best protected, at least in the Canadian context, through a concentration of its population in a physical space. In this case the error consists in attempting to protect a language by means of individual, transportable rights instead of protecting it through collective, nontransportable rights (1984).

A broad, comprehensive approach to language policy (of which language planning is a subfield) could draw upon a wide range of studies in the fields of sociolinguistics, discourse analysis, sociology, and anthropology to contribute to a better understanding of how politics function in relation to language issues. Many studies in the history of language contact (e.g. Cerrón-Palomino 1993; Barros 1993) or historical discourse analysis (Orlandi 1990, 1993; Gal and Woolard 1995) have been — or could be — reanalyzed in terms of the intervening, often hidden language policies. The same goes for many studies in the fields of language shift, the ethnography of communication, or interactional sociolinguistics, which identify fundamental mechanisms of the constitution and repro-

duction of social meaning and relations in interaction but seldom spell them out in terms of the political forces and policies at work.

The contributions in this issue

Most of the articles in this issue are intended to contribute to the general sociolinguistic enterprise outlined above. A brief, descriptive presentation will have to suffice.

The first three papers are written by members of the Latino community in the USA who analyze different aspect of a policy of increasing restrictions on all languages other than English in the US.

Guadalupe Valdés's article deals, not with Latinos whose English proficiency is limited, but with the problems fairly proficient bilinguals encounter in court or at the workplace *because* they are bilingual. Thus in the *Hernandez* decision Latinos were excluded from jury duty because they might not have been able to disregard the original Spanish version of the testimony in court and abide only by the interpreter's version; an almost impossible task, as anyone who has some basic understanding of bilingualism knows. Valdés states that in the US the well-being of the bilingual Spanish-speaking population "is almost exclusively in the hands of English-speaking monolingual individuals who [...] have little or no understanding of the condition of bilingualism," and that such monolingual policies "inevitably deprive members of bilingual populations of essential human rights." The author shows how language policies and legal decisions are ultimately based on common-sense beliefs and "folk"-theories, rather than on psycho- and sociolinguistic knowledge about bilingualism. The paper highlights the effects of an implicit and partially explicit policy that uses language as an expression of antiimmigrant feelings. In my view, another real scandal is the fact that all nine justices who had to decide the case were English-speaking monolinguals, and that this was considered an asset. First, the limited competence of these justices on the matter is more than evident. Second, in any of the developed countries I know it would have been technically impossible for a person to graduate from college, obtain an advanced degree, and occupy a distinguished professional position as a justice, and remain *monolingual.* Should this happen in any case, it would be kept as a shameful secret and under no circumstances be celebrated as an asset. Such cases, together with decreasing percentages of individual bilingualism in officially bi- or multilingual states, call into question many scholars' humanistic optimism about a generalized multilingual future of the world.

Reynaldo F. Macías analyzes a case of communication at the workplace, a hospital, which occurs in the same general language-policy context as the case before. An English-only rule in force for several years in various departments was revoked upon complaint by bilingual employees. The previous English-only policy had been justified on the grounds that bilingual speech affected work performance and security, and, above all, based on the pleas from English monolinguals not to be exposed to hearing other languages ("they talk about us"). Workshops including information about discriminatory behavior underlying certain language attitudes and training in cross-cultural communication helped supervisors to evaluate the new policy positively. For the bilingual workers the new permissive policy had positive effects since it improved their morale, their work performance, and patient care. Macías concludes that "[t]he right to speak a language outweighs any other person's individual interest in not overhearing or listening to that language." He draws attention to the important role of the dominant group's attitudes, fears, and prejudices, which are often neglected when it comes to establishing language policies for minority languages. And he shows how in the microcosm of workplace interaction satisfactory solutions can be found that reduce conflict based on divergent language-rights claims.

In the third article Ana Celia Zentella studies how the linguistic rights of 32 million members of language-minority families could be affected by English-only legislation. The pressure against Spanish as the main minority language in the US has united diverse groups of Latinos despite other differences of background. A survey carried out in 1988 and 1994 in New York City showed that a majority of Puerto Ricans, other Latinos, African Caribbeans, and African Americans opposed official English legislation, whereas a majority of European Americans voted in favor. Even among the European Americans, however, a majority backed services (emergency calls, education, ballots) in other languages than English, contrary to what US English propaganda would have the public believe. In this paper the author reveals the complex relationship between the language question and underlying fundamental problems of inequality and racism.

The three papers deal with bilingual minority communities in the US that encounter growing difficulties in having their bilingualism accepted and respected. They reveal different aspects of how the very Occidental ideology of monolingualism attempts to establish the cultural supremacy of monolingualism over bilingualism. Monolingualism is American, bilingualism is suspected of being an anti-American attitude. In 1983 Heath and Mandabach (1983: 102) still concluded that "[T]he status of English in the US today is based not only on the British custom of no legal

restrictions on language, but also on an intolerance to linguistic diversity akin to that which has been prevalent throughout British history." Fifteen years later we observe that the intolerance is prevailing and increasing, but that the custom of no legal restriction is being abandoned step by step.

Nancy H. Hornberger contrasts three different ethnolinguistic communities — the Puerto Ricans as cyclical immigrants and US citizens, the Cambodians as newly arrived refugees in the US, and the indigenous Quechuas in highland Peru. Her study shows that no simple, direct, or causal relationships can be established between literacy, minority language maintenance, and linguistic human rights. In the case of the Puerto Ricans, ethnic identity maintenance is to a certain degree independent from language and literacy. In all cases empowerment plays a role, since minority language maintenance and literacy are menaced and require specific communal and individual efforts and sacrifice, perhaps even the passage from tolerance to promotion-oriented policies in order to succeed. Our attention is drawn to the central, complex question of competing rights and the ethical choices involved. Hornberger advocates a balance between rights-to and rights-against, tolerance and promotion, individual and communal freedoms, an objective that is certainly difficult to achieve.

The starting point in my own contribution is sociolinguistic research on language conflict, shift, and maintenance between Spanish and indigenous languages in Mexico. I study how these processes reflect language policies and affect linguistic human rights in two key areas of indigenous organization: in bilingual education and the administration of justice. Language conflict and shift take place on at least three distinguishable levels of organization: linguistic structure, discourse structure, and cultural models. Important ruptures and phase dislocations typically occur between these levels in shift processes. I argue that the sociolinguistic study of language-contact situations as a basis for the analysis and definition of language policies and linguistic rights cannot remain on the level of language forms as they appear on the surface. A policy that only establishes the use or nonuse of a minority language in a given context (e.g. education) and does not take into account discourse structures and underlying cultural models will hardly be able to contribute to minority language maintenance. Hence linguistic policies and rights will have to be defined in terms of cultural, discursive, and linguistic structures, and resources that allow minorities to develop their languages as core values of their ethnic identity if they wish to do so. Finally the paper proposes a set of minimal criteria for defining and evaluating linguistic human rights.

In our last section we turn to the language situation of two geographical areas where the fate of *regional majority* languages is at stake: Quebec and the Baltic States.

Jacques Maurais from Quebec starts with a summary of the legal protection of minority rights in international covenants. Whereas aboriginal languages have received a great deal of attention, according to the author, regional majority languages such as French in Quebec or Catalan in Catalonia have been left out completely. He explains and defends the Quebecois language policy in force since the 1970s, which opposes and restricts the principle of free choice, since "freedom of choice paves the way to ethnolinguistic assimilation." Therefore, Francophones and non-Anglo immigrants (with specific exceptions) no longer have a choice but have to send their children to French schools. The article then addresses the debate about worldwide language loss and the ethical implications of conflicts between collective and individual rights and proposes a set of sociolinguistic principles of language planning based on the Canadian experience. They include the need for sociolinguistic description prior to legislation, for state intervention, and for visible change (e.g. the "Francization" of public commercial signs and terminology at the workplace in Quebec), the definition of domains of nonintervention, and a specific status for bilingualism.

Ina Druviete from Latvia outlines the state of the art in language policies and linguistic human rights in the Baltic States. In 1988, three years before independence, Estonia, Latvia, and Lithuania had already adopted language laws that established that the titular language in each country was to become the only official state language. Since they regained independence in 1991 the Baltic State languages have been struggling to make this status real, to develop the full range of their sociolinguistic domains, and, above all, to convince all citizens (including the powerful Russian minorities) that everyone needs to know and speak those languages. During the 50 years of Soviet government the Baltic languages were the target of a contradictory language policy. On the one hand, they experienced a significant process of *Sprachausbau* in all the "high" domains, including sciences, of which minorities in other parts of the world could only dream. On the other, the policy of bilingualism (for non-Russians only) and the leading role of Russian in the Soviet Union led to language shift and increasing restrictions of their sociolinguistic functions. In other words, a peculiar divergence between poor status and rich corpus development took place. Today the major conflicts all relate, as in the previous papers, to competing language rights and claims, but in a significantly different scenario. The main obstacle for the Baltic languages to the development of their full status as official languages is the resistance of many resident Russians to learning the local languages. They claim the right to stay monolingual, a right they never conceded to the citizens of the Baltic States during Soviet government, and call the

official language policy a human rights violation of the Russian-speaking population. The Baltic governments in turn reject the proposal to declare Russian an official language of the state because then their own languages would never reach a state of "normalisation", given the local and regional asymmetries of power. This case, like others mentioned in Maurais's paper, shows how difficult it is to redress historical injustice and to convince a group in power (or previously in power) that the privileges they acquired during the period of their rule violate the rights of others.

Maurais's and Druviete's articles make a strong case for collective rights that restrict the individual right or claim to free language choice. Regional majority languages, which feel menaced from above and from below, can only acquire full status as the official language of the state if the more powerful language present in the area is *not* granted the same status. To apply Grin's (1994) principle of granting special rights to the dominant language group, namely to use their language in all contexts (see Brookes and Heath's review in this volume), would only perpetuate the inequality between language groups and allow the dominant group in the area (English, Russian) to remain monolingual.

In her epilogue Christina Bratt Paulston comments on the articles in this volume and on the field in general. She points critically to some of the utopian, weak, and controversial aspects in the debate on linguistic human rights and language policy, which proponents of minority rights and language maintenance, as all the other authors in this issue are, sometimes tend to overlook. She emphasises the well-known and controversial position she has developed over many years (Paulston 1977, 1980, 1992) on language shift, language maintenance, and their relation to bilingual education, namely that the "choice of medium of instruction in the schools, especially for minority groups, has very little predictive power in the final language choice of the ethnic group," and that "most immigrant groups will shift, willingly, to the national dominant language, given opportunity of access to the language (primarily in schools) and incentives (primarily in the form of jobs), whatever some linguistic human rights proponents may think." Her critique is addressed to the future development of linguistic human rights as a scholarly topic rather than to those who publish in this issue, none of whom proposes, I think, any simple, straightforward solutions. Her critique posits a number of useful caveats and invites us to rethink a series of assumptions that we may take for granted too easily.

The critical mood continues in Heather Brookes and Shirley Brice Heath's extensive review of what seems to be at present a benchmark and one of the most comprehensive texts in the field: *Linguistic Human Rights*, edited by Tove Skutnabb-Kangas and Robert Phillipson in collab-

oration with Mart Rannut. Like Paulston, the reviewers draw our attention to the limits in theories and arguments that may characterize an ensemble of authors who share the conviction that "languages must not be lost and [that] all speakers will view their mother tongue as essential to continuation of their identity." They caution about overgeneralizations that emanate from the attempt to cover whole continents in a single article; they also criticize covert paternalism and finally raise a series of challenging questions on the actual concern about maintenance of minority languages and the reframing of the issue in terms of human rights.

The review section concludes with two very informative reviews, one by Robert Phillipson on recent developments in European language policy, the other by Stephanie Maietta on language policies in Latin America.

The collection of articles in this volume certainly does not pretend to give a comprehensive overview of the field, nor to represent all positions, controversies, or areas where language rights and policies are of relevance. Different perspectives and experiences meet and maintain their divergence.

First versions of the papers were presented in a session on "Linguistic Human Rights" as part of the program of the Society of Linguistic Anthropology (SLA), at the 93rd Annual Meeting of the American Anthropological Association in Atlanta in December, 1994. Christina Bratt Paulston was the discussant. I want to express my gratitude to all participants for their active involvement and the thorough revision of their papers, and to Jane H. Hill, then President of the SLA, for her support in organizing the session. Joshua A. Fishman encouraged our publication project and supported submission to *IJSL*. Christina Bratt Paulston supported my editorial work throughout the whole process and did a very detailed, thorough revision of this introduction. I also received very valuable, critical comments from Robert Phillipson, María Teresa Sierra, and Tove Skutnabb-Kangas on an earlier version of this text.

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Notes

1. It is not my purpose to present a historical account of this topic here. For detailed overviews, see Capotorti (1979), Braën (1987), and more recently Skutnabb-Kangas and Phillipson (1994a).
2. See the debates on the history of the right of free speech, e.g. in the USA (Heath 1981; Heath and Mandabach 1978).

3. See e.g. the early arguments in the European (Kloss 1970) and later in the Latin American debate (Stavenhagen 1988; Stavenhagen and Iturralde 1990; Díaz-Polanco 1995).
4. The League of Nations adopted a definition of minorities after the First World War. Negative experiences with these definitions, however, as well as the reluctance of the independent states after World War II to recognize minorities as collective entities, led the UN to abandon attempts to revive this focus and to concentrate all efforts instead on individual human rights.
5. See the debate in Capotorti (1979), Braën (1987), Maurais (1992), Stavenhagen (1992, 1993, 1995), and Phillipson et al. (1994).
6. See the definition of the UN Subcommission for the prevention of discrimination and the protection of minorities, Martínez Cobo (1987).
7. This Convention replaces Convention 107 passed in 1957, which referred to "tribes" and had a clearly assimilationist orientation, according to various specialists (Gómez 1991; Stavenhagen 1992). The new covenant explicitly establishes (Art. 1) that the term "peoples" used to refer to the beneficiaries of this law cannot be understood in terms of international law; that is, it could not be used to claim self-determination. In order to acquire the status of a law in any country the Convention has to be ratified by each state. The first two countries to ratify the Convention in 1990 were Norway and Mexico.
8. The text is, however, not specific enough to grant alphabetization and primary education through the medium of the mother tongue. For a more detailed analysis of its language-related components, see Hamel (1994c).
9. This Draft Declaration, however, is not yet a legal instrument. And, given the relatively successful claims of territorial and some other collective rights based on Convention 169, at the time of writing this text (January 1996) the Declaration was blocked in the UN Human Rights Committee. There seems to be severe opposition, especially from the US, to all gains related to peoples' rights.
10. For the general debate on collective minority rights, see Stavenhagen and Iturralde (1990), Skutnabb-Kangas (1990), Skutnabb-Kangas and Phillipson (1989, 1994a), Coulombe (1993), Hamel (1993a, 1994c).
11. Thus, in the peace talks between the Mexican government and the indigenous Zapatist Liberation Army in 1995 and 1996 (see my paper in this issue), the government clearly applied a strategy to divorce indigenous cultural rights, which they were willing to grant, from the fundamental question of social, political, and economic inequality and the necessity of a transition to democracy. The Zapatist representatives and their supporters, on the contrary, maintained that the basic indigenous claims and regional conflicts could only be solved in the context of a radical national reform of the state.
12. Overviews of the early stages of sociolinguistics in France are found in Wald and Manessy (1979), Gardin et al. (1980); for France, Italy, and Catalonia in Dittmar and Schlieben-Lange (1982).
13. The literature on this topic is immense; therefore no general references will be given here. Whereas in the industrialized countries bilingual programs (including maintenance curricula) for immigrant populations were often supported on psycholinguistic grounds (Cummins 1984, 1989), in Latin America anthropological arguments based on historical and ethnic rights prevailed to justify bilingual education for indigenous populations (López and Moya 1990; Hamel 1994a).
14. In my own contact with lawyers defending indigenous rights over the past decade, it was our initial mutual nonunderstanding that helped us to clarify basic concepts in

each domain, and to remember the basic principle that, ultimately, laws should conform to people's needs and not people to laws.

15. Critical appraisals are found in Williams (1986, 1992) and Phillipson (1990). For a review of other concepts in language politics and planning such as the Catalan *normalització* (Boyer 1991), the Quebecois *aménagement linguistique* (Corbeil 1980; Maurais 1993), or the German debate on *Sprachpolitik* vs. *Sprachenpolitik* (Glück 1981; Januschek and Maas 1981) in relation to Anglo-Saxon notions, see Hamel (1993b).

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