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Language as a Human Right: Legal Perspectives

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ABSTRACT

Language rights, although often equated with human rights, occupy a unique and complex position in legal and political discourse. This paper examines the legal dimensions of language as a human right by examining its historical evolution, international and regional legal frameworks, and constitutional provisions. It investigates how language rights operate both as individual and collective entitlements and how they are enshrined in domestic law, often amid shifting political ideologies and legal ambiguity. Minority and indigenous language speakers are frequently marginalized within monolingual state frameworks, and global challenges such as nationalism, globalization, and language extinction further threaten linguistic diversity. The paper also explores language rights movements and the impact of digital globalization on linguistic justice. It argues that while language is essential to identity, dignity, and participation in public life, the inconsistent legal recognition and implementation of linguistic rights globally leave many communities vulnerable. As such, a robust and adaptive legal approach is required one that prioritizes both the ethical imperative and the practical enforcement of linguistic human rights.

Keywords: Language rights, human rights, linguistic minorities, legal frameworks, indigenous languages, globalization, constitutional law.

INTRODUCTION

Language rights allow individuals to use and preserve their language within a specific region, existing regardless of political recognition. Linguicide refers to the systematic destruction of a language through decreased speakers or shifts in language habits. Language is essential for understanding cultures and individuals, presenting diverse perspectives on the world. The relationship between language rights, particularly for indigenous and minority groups, and human rights can be unclear, leading to misconceptions about their nature and status. Equating language rights with human rights oversimplifies legal and political contexts. Language rights can be stated in statutes or constitutions, aimed at limiting authority actions. Human rights typically involve obligations on public authorities, such as prohibiting torture or detention. In contrast, language rights can encompass the rights of communities to maintain their languages, including majority languages and those designated as official by a state, without requiring formal legal frameworks. The right to use one's language in a specific territory is a fundamental aspect of language rights. Although there can be rights to choose a language variety in particular contexts, this does not always equate to human rights. Language rights can persist independently of political recognition. The concept of innate rights, like Manifest Destiny or rights of conquest based on language, remains even in cases of linguistic decline. A community's claim to its language can endure despite external pressures, and the paper elaborates on these topics in the subsequent sections [1, 2].

Historical Context of Language Rights

Language is central to culture and identity, encompassing various languages like Tibetan, Welsh, Hindi, and Tamil. The turmoil in the modern world stemming from threats to languages and cultures has sparked discussions about language and cultural rights, which protect and promote languages while ensuring dignity and safety. Language rights are essentially human rights aimed at correcting grievances faced by any language group, particularly relating to discrimination and oppression. The academic

approach to linguistics often neglects human aspects, suggesting a need for a paradigm shift to make the field more humane. The discourse surrounding language rights has historical roots in public and academic thought over the last two centuries, largely in response to language imperialism and genocide. Examples of early demands for language rights include the push for Dutch in schools in The Netherlands, Irish in Ireland, and Gaelic in Scotland. Global recognition of language rights arose from awareness of historical injustices against post-colonial ethnic nations, illustrating the impact of linguistic imperialism. The United Nations' Constitution in 1945 clearly asserts fundamental human rights, and the first Convention on Linguistic Rights was adopted in Barcelona on March 6, 1996, marking a significant moment. While literature on language and linguistic human rights has deepened contemporary understanding, it has also led to confusion regarding the definitions and distinctions between these rights. The concepts of language rights and linguistic human rights have been co-opted into a unified framework, often equating the two [3, 4].

International Legal Framework

Linguistic rights claimants are generally more likely to be members of minority groups ethno-linguistic communities at greater risk of extinction than of majority groups. This is not to deny that the linguistic rights of the majority may be ignored or diminished by the State; for example, in the cases of accommodating immigration, proscribing a dominant language, or exterminating a language. Nevertheless, general references to linguistic rights might lead to the false impression that they affect majority languages equally, which is usually not the case. In any case, the conceptual differentiation of these rights in terms of majority and minority is justified because of their conceptualization in very different legal terms. While the generative right is universally recognized in a few international human rights conventions, non-discriminatory use of language rights remains a matter for political processes. The international legal status of positive linguistic rights is limited and amalgamated at best; only upon a permissive basis could they be applied as constraints on public power, and almost always they remain as obligations for States parties in highly vague terms. On the other hand, the provisions mandating the respect for the language rights of linguistic minorities are broader and more precise than those prescribed for linguistic majorities, thus offering better legal protection for the group with a higher risk of language loss. Presumably, upon satisfaction of specified criteria, the former may translate into specific obligations of conduct on the part of some recognition of a language as an official language for some purposes and some application of procedural guarantees in the political, cultural, and judicial spheres [5, 6].

Regional Legal Instruments

The diversity of languages across continents is reflected in regional legal frameworks that safeguard linguistic rights. While there is no broad human rights treaty for this purpose, some international agreements exist to address language preservation. In North America, agreements focus on mitigating threats to indigenous languages; Africa's African Charter on Human and Peoples' Rights emphasizes the need to safeguard linguistic heritage. Asia includes language rights in the Institutional Agreement of the Asian Regional Conference on Language and Human Rights, whereas Europe is represented by the Charter for Regional or Minority Languages. Adopted in 1986 and ratified by twenty-one states, the African Charter aims for unity and peaceful coexistence among African nations. It promotes active participation in its implementation and encourages cooperation with the U.N. on related international conferences. Monitoring its compliance falls to the African Commission on Human and Peoples' Rights, composed of eleven members serving six-year terms, which can hear complaints from individuals, states, or the African Union regarding non-compliance. On March 1, 2007, the U.N. Permanent Forum on Indigenous Issues adopted the Cultural Rights Declaration, affirming that language is central to cultural identity. This Declaration grants indigenous peoples the right to preserve their languages, encompassing their use, development, teaching, and learning. It clarifies that these rights must not infringe upon the rights of majority language speakers, ensuring that no discrimination arises between majority and minority languages [7, 8].

Constitutional Provisions on Language Rights

The relationship between language and law can be viewed from two perspectives: the existence and regulation of legal language, and the legal regulation of language as a social practice. This paper focuses on the second perspective, examining language rights as human rights, particularly those that protect linguistic pluralism. Legal safeguards for language rights are found in international treaties, supranational acts, and national constitutions, generally framed in positive and negative terms. Positive rights include using one's language, accessing information in that language, educational opportunities, and receiving court decisions translated into one's first language. Concerns about recruitment and training related to languages often arise here. Negative rights involve prohibiting linguistic discrimination and ensuring defendants understand the language used in legal proceedings, raising issues

of language corrosion or homogenization. The role of group rights as human rights is debated; language rights are seen as hybrid, combining individual and collective elements. Notably, many regulations frame language rights as individual rights, guaranteeing the use of one's mother tongue in public and private life and requiring state entities to respect citizens' languages. This framing can also reflect broader cultural rights, enabling individuals and groups to advocate for their languages and cultural practices. This perspective is particularly relevant in states with dominant official languages, where other cultures and languages are often marginalized, reminiscent of the dynamics seen in the French, English, Spanish, or Portuguese empires, and in today's globalized context [9, 10].

Language Rights in Domestic Law

The concept of human rights related to language significantly differs from individual rights like freedom of conscience, expression, and the right to a fair trial. Language rights are primarily group rights, lacking individual manifestation and subject to collective interpretation and politicization. Often tied to ethnic or national identities, these rights can surpass ethnic boundaries. For instance, indigenous languages with limited speakers are of global interest, and larger languages like Basque or Welsh concern many who don't speak them. Language rights shape negotiation spaces in public, administrative, educational, and audiovisual matters, distinct from mere language protection, which addresses non-interference. Additionally, linguistic human rights involve punitive measures against interference, presenting a conflicting concept. Language rights arise amid shifts in national identity and power dynamics, proposing claims against the state and reflecting a new global agenda after the UN's 1993 declaration. These rights coexist with various legislator acts, though their voluntary nature allows for broad interpretation and claims about language-based identity. Often employed in legal contexts, these rights expand claims' scope, but the predictability of the legal framework remains uncertain due to selective enforcement. Ultimately, the political viability of claims embodies the essence of living language rights, irrespective of the strength of the legal framework [11, 12].

Challenges to Language Rights

Challenges to Language Rights are divided into four groups: external challenges such as globalization, violent nationalism and language extermination, the changing legal and political frameworks within which language rights are developed and protected, the vagueness and inherent contradictions of language rights, and finally the accountability of language rights and their failure to protect linguistic minorities effectively. "It is important to look for solutions, strategies and tools in order to address those four groups of challenges". There are different external challenges. The first group is related to the broader ideological and overall constraints under which state language, education language and language policy are formulated and developed, especially drawing on the respective National Constitutions and Languages Acts. There is a challenge concerning globalization and the complicity therein of governments and state agencies in English language expansion in state domains. Such an expansion of English damages the status and prospects of minority languages in their states and warrants the need for comparative international law studies on barriers to the growth of bilingualism as a language right. The proposal here therefore is to adopt a model with language rights-recognizing National Constitutions and Language Acts in interpreting state final decisions relating language issues. Language extermination is another external challenge, especially the brutality of state nationalism that leads to war and bloodshed as experienced in Kosovo, Tirana, and Kumanovo. Greek and Turkish chants to characterize the inhabitants of Cyprus have also impelled the need to scrutinize the efficacy or efficiencies of language rights when states are compelled to turn violent in exerting their nationalistic sentiments. Geopolitical realities shape states' foreign relations with buffer or buffer zones and are another external challenge. Conflicts between the People's Liberation Army and People's Liberation Armies are also over geopolitics and challenges to the question of national languages, language statuses and developments. A special language right is here, related teaching of heritage or introduced languages into curricula area [13, 14].

Language Rights Movements

As human rights movements gain momentum, language rights are increasingly recognized as essential human rights. However, legal scholars remain concerned about their status. In the U.S., language use isn't politically protected, but the European Charter for Regional or Minority Languages condemns linguistic imposition, reflecting broader EU political trends. Language rights mobilization, exemplified by the Catalan case, is a strategy to defend pluralistic citizenship. Language remains a boundary between citizenship forms requiring comparative study. In democracies, language rights can coexist with the predominance of one language, though they often lack legal enforcement. Social movements advocate for these rights politically, addressing the exclusion of citizens from work or entitlements based on language. Major movements include national minority, regional autonomy, and bilingualism, but many unique cases exist outside these categories. The archival and heuristic aspects of language rights frames are

noteworthy. The definition of language rights varies but generally includes collectives within a political unit that are territorially autonomous without being outnumbered by other rights holders needing political protection. While various definitions exist, there is agreement on the ethical basis of language rights [15, 16].

Impact of Globalization on Language Rights

The emergence of new technologies and an increasingly interconnected world have brought about a globalized context in which we live and do business. Geographically, globalization denotes a massive spatial reconfiguration of the social world, one that treats the globe and its population as a single, culturally pluralistic entity. This characterization calls attention to the spatially, economically, and ecologically connected set of human interactions, actions, and contexts that constitute global historical processes. From a legal point of view, globalization has tremendous implications. For example, to meet the challenges posed by globalization, laws that are traditional, parochial, and non-responsive to the new conditions must be adapted to the rapidly changing world. Though there is considerable ambivalence concerning the overall impact of technology and globalization on language issues, they have given rise to a somewhat new set of language-related questions. The new social changes brought about by technology and globalization has produced the need for new responses that could deal with them from a language-rights perspective. The questions refer to the validity and relevance of existing responses, the effectiveness of interpreting the language situation from the rights perspective, and the necessity of a rights-based response. Underlying these questions is the more fundamental one of the efficacy of a language-rights approach to language-related issues today. Globalization and the new sociolinguistics have made some existing rights-based responses to language question less relevant and have created the need for new responses that could adequately grapple with the new questions raised by globalization and the new realities they have produced. The increasingly inter-connected world offers new challenges, but articulating and implementing language rights effectively in globalizing and technologically interconnected settings is no easy task [17, 18].

Case Law on Language Rights

The present section summarizes some important decisions from across the globe where courts have directly adjudicated language rights issues or indirectly endorsed an interpretation of linguistic human rights without the express use of the term. A complete survey of all pertinent decisions from all jurisdictions would vastly exceed any scope or limits. The following paragraphs will address such decisions from the Council of Europe member states, Canada, the United States, some Latin American countries, India, Israel, South Africa, New Zealand, and Singapore. The decisions presented are not exhaustive, nor are they necessarily the most prominent or the most recent. They may not even be the most pertinent to the concept of language rights as human rights. They are selected merely because they make a significant contribution to or endorsement of a legal interpretation of language rights. As such, they speak to the existence, nature, and limitations or derogations of such rights, at times endorsing an explicit human right perspective, but oftentimes without this explicit legal umbrella. The European Court of Human Rights (ECtHR) has been particularly active in adjudicating language rights issues, especially those related to Article 6 (right to a fair trial) and Article 2 of Protocol No. 1 (right to education) of the European Convention on Human Rights. Prohibitive decisions concerning any formal or procedural language were issued in *Pavlovs v. Latvia* and *B. v. Poland*. As much as it is tempting to classify as decisions of dismissal in an inverse fashion those decisions that reject broad interpretations of language rights or that refuse to adjudicate language rights issues, it is worth pointing out that these decisions could be interpreted as discouragements to resort to the Court to adjudicate similar language rights issues in the future. Most of these dismissals stem from the Court's regrettable lack of examination of the merits of the complaints, judging that domestic remedies had been "not exhausted" [19, 20].

Language Rights and Education

In this short reflection on the nature and scope of language rights, the author, while addressing themselves mostly to English-educated lawyers, anthropologists, and language activists, discuss case law and recent developments from outside the United States. As language-medium rights, particularly as they pertain to education, tend to be better recognized than some other language rights, articles and cases related to their legal context and treatment in various countries are emphasized. Examples of recent and current struggles for language rights throughout the world, including their consideration by international bodies, are also given. While acknowledging that language rights differ from most other human rights due to their specificity of scope and density, one argues that language rights and language rights discourse represent a powerful, untapped, and largely unrealized domain for the expansion of human rights. Balance is required on such an important topic. As language rights broadly construed may conflict with human rights standards, these rights must be kept at a distance from abuses such as

ethnocentrism, linguistic intolerance, or speech regulation by some authorities. Language rights should be framed as generally prohibitive non-discrimination rights rather than as entitlements to language use. Exaggerated claims such as that there are language rights whose violation amounts to genocide should be rejected. Such cautious framing helps ensure the solidarity of language rights discourse with human rights discourse. Balancing awareness of the limitations of language rights with awareness of their power is a particularly pressing challenge for language rights activists in the context of austerity and rapid change. As predictive models about the future of languages and of language rights continue to collapse, activists must confront the possibility that language rights, far from expanding further, may erode or even recede. Balancing optimism and pragmatism in this uncertain climate is a particularly significant challenge [21, 22].

Language Rights in the Workplace

This section examines the use of language as a worksite right by analyzing NLRB jurisprudence under the NLRA, focusing on its uniqueness, potential, limitations, and challenges. It will review cases addressing workplace language and the interpretation of Section 8(a)(1) regarding discipline or termination for speaking a different language than employers. Despite some nuanced interpretations, gray areas persist that make NLRA violations hard to demonstrate, particularly regarding language restrictions on private property. The NLRB is responsible for protecting US workers' rights and adjudicates unfair labor practice claims under Section 8 of the NLRA. Section 7 guarantees "employees the right to self-organization," covering mutual aid or protection. Section 8(a)(1) prohibits employers from interfering with these rights. While the NLRB addresses various employee rights issues, the right to speak one's language at work lacks nuance. Often, either monopolistic or unrestricted language use, or complete restrictions, are deemed acceptable. Despite a growing body of literature on language-related claims, the NLRA has not been thoroughly analyzed in this context [23, 24].

Future Directions for Language Rights

The concept of linguistic human rights focuses on the needs of language users and their languages — including language resources and spaces. A right to use a language is seen as a language right, even if not claimed legally. "Language rights" is preferred over "linguistic human rights," as the enforcement of such rights is complex. Language rights encompass various entitlements, such as collective and individual rights, which safeguard the use of specific languages. A language user's rights expectations depend on their community's historical context. For example, speakers of foreign languages may have multilingualism in their countries, ensuring access to information. In contrast, Sweden lacks support for indigenous languages, restricting language rights. Ideally, users wish for widespread language use, but local geopolitics often confine language to specific areas. Language rights are usually managed by local courts, with administrative rules guiding implementation. Thus, they depend more on usage than the language itself. Language rights can also be granted to communities, emphasizing social values over individual entitlements. Personal rights generally recognize basic legal entitlements, reflecting our natural human rights [25, 26].

CONCLUSION

The recognition of language as a human right underscores the fundamental role of language in shaping identity, enabling participation, and preserving cultural heritage. Despite international efforts and regional instruments to safeguard linguistic rights, their enforcement remains fragmented and often symbolic. The legal treatment of language rights varies significantly depending on geopolitical, cultural, and historical contexts, frequently disadvantaging minority and indigenous communities. Moreover, globalization and technological advancements introduce new threats and opportunities, requiring the development of innovative and responsive legal tools. Ultimately, the future of language rights hinges on the political will to treat linguistic diversity not as a threat, but as an asset worth protecting. A consistent and enforceable legal framework, rooted in both ethical justification and practical mechanisms, is essential to ensuring that language rights are not merely aspirational but actionable human rights.

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