

‘MA PATRIE, C’EST LA LANGUE FRANÇAISE’ – LINGUISTIC IMPERIALISM AND MINORITY LANGUAGE RIGHTS IN INTERNATIONAL LAW

*Kartik Tripathi**

Orwell’s dystopian masterpiece, 1984, describes a society where the government manipulates the thought process of its subjects by forcing them to communicate in a watered-down version of English called ‘newspeak’, incapable of expressing ideas like ‘liberty’. While a causative function between language and thought process has been debunked in modern-day linguistics, it is a reality that legal systems across the world accord gratuitous value judgments to one of the most primordial facets of human identity in an effort to consolidate artificial constructs of nationalism, often with punitive consequences for those who refuse to conform. At this juncture, with increasingly fervent language right campaigns in Ukraine and Northern Ireland and unprecedented rates of language extinction, what legal mechanisms are in place to bind governments into granting minority linguistic communities the rights they are due and keeping threatened languages from vanishing for posterity? This paper seeks to first analyse the processes that underlie linguistic imperialism, by tracing the history of legally enforced linguistic homogenisation in France, and then to mark out patterns of normative language regimes worldwide, before an analysis of international instruments on minority language rights, limitations thereof, and need for substantive overhaul. This paper is part linguistic research and part legal critique. The title has a quote attributed to Albert Camus which translates to “my fatherland is the French language”.

I. INTRODUCTION

It might baffle anyone today to be told that until a couple of centuries ago, a single language called ‘French’ being spoken across the extent of present-day France was as absurd to imagine as a single language called ‘Indian’. Yet, France is perhaps one of the most eloquent examples of what a prescriptivist language policy at all levels of administration can accomplish

* Kartik Tripathi is a 4th year student of the B.A. LL.B. (Hons) programme at NALSAR, Hyderabad. He identifies as an amateur linguist and writes on language policy and language preservation.

within a few short generations – the creation of a national identity solely through a language policy of homogenisation.

Simplistic constructs of one-nation-one-language are standard in governmental discourse; until recently, it was illegal to use Kurdish in public spaces in Turkey,¹ while public signboards still urge Hong Kong residents to “Be Civilized, Speak Mandarin”.² In many nation states, such language politics take on a violent character, as is examined later in this paper. In the context of the long-running language dispute between Walloon and Flanders, a former deputy prime minister of Belgium remarked, “This is not a conflict where people will get killed, but it has the same structure as most big international conflicts”.³ Language politics have repercussions on a multiplicity of areas of international concern, spanning the intersectionality of native language and ‘identity’ as well as broader affairs of national security. However, language rights are addressed but indirectly in most international or regional instruments that accommodate such issues, and with little efficacy.

Starting with the example of legally codified linguistic imperialism in France, Part II will illustrate political repression of regional languages in exercises of nation-building. Part III will elaborate on how language is often a legal fiction and how states legislate to restrict or expand the definition of language to suit political ends and bolster arbitrary national constructs, disenfranchising linguistic minorities in the process. Part IV concerns current international and regional instruments on linguistic rights, how they demarcate linguistic minorities, the efficacy and real-world impact of these instruments, and their limitations. Part V builds on the preceding sections to suggest a way forward in terms of future legislation on language rights. Part VI concludes with a case in favour of language diversity.

II. LINGUISTIC HOMOGENISATION AND THE INVENTION OF FRANCE

A. ‘MY FATHERLAND IS THE FRENCH LANGUAGE’

In 1790, a year after the French Revolution began, the nascent National Assembly of France executed what was perhaps the world’s first

¹ Hürriyet Daily News, *Class time for a ‘foreign language’ in Turkey*, October 12, 2010, available at <http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=universities-experiences-courses-in-kurdish-2010-12-10> (Last visited on June 15, 2015).

² Zoe Lam, Canadian Broadcasting Corporation News, *Cantonese Language Could Disappear, says UBC linguist Zoe Lam*, April 29, 2015, available at <http://www.cbc.ca/news/canada/british-columbia/cantonese-language-could-disappear-says-ubc-linguist-zoe-lam-1.3053933> (Last visited on June 15, 2015).

³ Ian Traynor, The Guardian, *The language divide at the heart of a split that is tearing Belgium apart*, May 9, 2010, available at <http://www.theguardian.com/world/2010/may/09/belgium-flanders-wallonia-french-dutch> (Last visited on June 15, 2015).

language survey.⁴ The results of the report, submitted in 1794, may still surprise foreigners today. By the turn of the nineteenth century, France was a potpourri of various languages and cultures; of a population of twenty-eight million, fewer than three million could speak and understand French, as it is known today, and even fewer used it as a written language – barely over fifteen percent.⁵

For several centuries prior to the homogenisation policy, Latin was the prestige dialect in all of France, with official documentation, literature, the sciences, and diplomacy using it as the medium of choice.⁶ In the public sphere, France was dotted with several hundred native dialects, diverse in their history and origins, and often mutually unintelligible.⁷ The north-east of France spoke Germanic dialects,⁸ the south used a group of languages termed the *langues d'oc*, including Provençal, Occitan, and Gascon,⁹ and parts of the south-west spoke Basque, which, like Korean, is a 'language isolate' – implying that it is unrelated to any other language in existence.¹⁰

The process of linguistic homogenisation was perhaps started by the historic *Ordinance of Villers-Cotterêts*, a reform legislation signed into law by Francis I in 1539, which decreed that all administrative and governmental documentation in France will be in French '*et non autrement*' (and none other). Though this reference was aimed mostly at Latin, it also encompassed the several regional languages of France, or the *patois* – a pejorative term for 'regional dialect'.¹¹ This ordinance sought to appease Francis I's increasingly Protestant citizenry, which viewed the usage of Latin in all official spheres of life as a direct manifestation of the Vatican's undue influence on the French monarchy.¹² It also had the added effect of granting the French language a semblance of dignity that its status as a vulgar, popular tongue, superior to the *patois* yet unfit

⁴ James Costa & Patricia Lambert, *France and Language(s): Old Policies and New Challenges in Education. Towards a Renewed Framework?*, March 6, 2010, available at http://halshs.archives-ouvertes.fr/docs/00/43/91/99/PDF/CIDREE_final.pdf (Last visited on July 24, 2014).

⁵ *Id.*

⁶ Site for Language Management in Canada (SLMC), University of Ottawa, *History of the French Language*, available at http://www.slmc.uottawa.ca/french_history (Last visited on April 15, 2015).

⁷ JEAN-BENOÎT NADEAU & JULIE BARLOW, *THE STORY OF FRENCH* 85 (2008).

⁸ See Ethnologue - Languages of the World, *Indo-European*, available at <http://www.ethnologue.com/subgroups/indo-european> (Last visited on July 25, 2014) ('Germanic' refers to a family of languages that descend from proto-Germanic, including modern-day German, English, and Dutch, as compared to 'Romance languages' - progenies of colloquial Latin - which include French, Spanish, Italian, and Romanian.)

⁹ BBC, *Languages across Europe - France*, October 14, 2014, available at http://www.bbc.co.uk/languages/european_languages/countries/france.shtml (Last visited on July 25, 2014).

¹⁰ Ethnologue - Languages of the World, *Language isolate*, available at <http://www.ethnologue.com/subgroups/language-isolate> (Last visited on 25th July, 2014).

¹¹ William Safran, *Language, Ideology, and State-Building: A Comparison of Policies in France, Israel, and the Soviet Union*, 13(4) INTERNATIONAL POLITICAL SCIENCE REVIEW 397 (1992).

¹² NADEAU & BARLOW, *supra* note 7, 41-42.

for higher forms of discourse, had denied it. This ordinance started a process, at the peak of which French was the prestige dialect of world diplomacy. In an era before British colonialism would propel the English language to this stature, this ordinance would firmly establish French as the forerunning contender for the status of a world language.¹³ Its rise in prominence continued until the late eighteenth century,¹⁴ evidenced by how the Berlin Academy organised an essay competition in 1782 on the topic “How has French become the world’s universal language?”¹⁵

Historians have argued that the idea of the French language as a fixed, immovable part of the state apparatus first surfaced in the war of 1795 between France on one side, and Prussia, Austria and Britain on the other.¹⁶ It was during this arduous military struggle that France’s iconic national anthem ‘*La Marseillaise*’ was written, and that linguistic identity in the presence of the enemy gained traction. Speaking French was essential to evince allegiance to the Republic; speaking the *patois*, or worse, a Germanic dialect, was tantamount to treason.¹⁷ One had to speak French to be a true nationalist.¹⁸ France’s other dialects, all collectively banished to the lowly category of the *patois*, were seen as marks of ignorance, ‘lesser *idiomes*’, and jarring corruptions of ‘correct’ Parisian French.¹⁹ This idea of regional languages being innately antithetical to a unified, sovereign, and prosperous France was voiced rather eloquently by renowned French journalist and politician, Bertrand Barère, when he said, “federalism and superstition speak Breton, emigration and hatred of the Republic speak German, anti-revolutionism speaks Italian, and fanaticism speaks Basque”.²⁰

The French Republic managed not only to establish Parisian French as the unequivocal unitary language of the French nation, thereupon legitimising French nationalism, but also elevated it to the status of undisputed *lingua franca* of the world,²¹ at least until English came to displace it. French was seen as the language of refinement throughout Europe, in contrast to “unsophisticated” or “pedestrian” languages like German or Russian.²² Indeed, several classical Russian authors code-switched between Russian and French

¹³ *Id.*, 45-46.

¹⁴ *Id.*

¹⁵ Elizabeth Eisenstein, *Print culture and enlightenment thought*, 6(31) RÉSEAUX - FRENCH JOURNAL OF COMMUNICATION 7 (1998).

¹⁶ NADEAU & BARLOW, *supra* note 7, 136-154.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Jeanne Grillet, *The Patois Situation in France*, 16(6) ANTHROPOLOGICAL LINGUISTICS 197 (1974).

²⁰ HAROLD SCHIFFMAN, LINGUISTIC CULTURE AND LANGUAGE POLICY 294 (2002) (“*Le fédéralisme et la superstition parlent bas-breton ; l’émigration et la haine de la République parlent allemand ; la contre-révolution parle l’italien, et le fanatisme parle le basque.*”).

²¹ Sue Wright, *French as Lingua Franca*, 26 ANNUAL REVIEW OF APPLIED LINGUISTICS 35 (2006).

²² JEFFRA FLAITS, THE IDEOLOGY OF ENGLISH: FRENCH PERCEPTIONS OF ENGLISH AS A WORLD LANGUAGE 3-12 (1988).

in their works. Leo Tolstoy's 'War and Peace' had its entire opening paragraph and several lines of dialogue entirely in French. Alexander Pushkin, often considered one of the best Russian poets of all time, having been born in an aristocratic family, spoke naught but French in the early years of his life, relying on his peasant nurse to secretly teach him the language of his motherland.²³ English, in terms of the global prestige it enjoys today, is only a recent successor to what was once the domain of French.

Meanwhile, however, even as late as 1863, one in four French citizens had absolutely no functional proficiency in French.²⁴ The decline of France's regional tongues, initiated by their active exclusion from education and all facets of administration and augmented by the rise to prominence of standard French, has continued with indefatigable vigour even throughout the twentieth century. As of today, France has 80,000 Basque speakers,²⁵ 270,000 Breton speakers,²⁶ 185,000 Catalan speakers,²⁷ 20,000 Flemish speakers,²⁸ and 90,000 Corsican speakers left.²⁹ Many of the non-French languages of France display the most telling characteristic of a dying language: the age distribution of native speakers is gradually slipping into a much higher concentration of older age groups³⁰ - a mark of a language being abandoned by newer generations.³¹ This phenomenon of language obsolescence has been witnessed in other areas and demographics. Manchu, the language of a nomadic tribe from north-eastern China that once ruled the country during the Qing dynasty, followed

²³ *Id.*

²⁴ F. Laroussi & J. B. Marcellesi, *The other languages of France: Towards a Multilingual Language Policy* in *FRENCH TODAY: LANGUAGE IN ITS SOCIAL CONTEXT* 85-104 (1993).

²⁵ Ministry for Language Policy, Basque Government, *Fifth Sociolinguistic Survey, Basque Autonomous Country, Navarre and Iparralde*, July 16, 2012, available at http://www.euskara.euskadi.eus/r59-738/en/contenidos/informacion/sociolinguistic_research2011/en_2011/ad-juntos/Euskal%20Herria%20inkesta%20soziolinguistikoa%202011_ingelese.pdf (Last visited on May 19, 2015) (It is pertinent to note here, that France does not ask for native language in its periodic census reports. Such figures for the extent of each regional language of France, therefore, are necessarily based on indirect sources including surveys and informed estimates by organisations like the Public Office of the Breton Language – as in this footnote, and the Universitat Oberta de Catalunya.)

²⁶ Office Public de la Langue Bretonne, *Les ChiffresClés de la Langue Bretonne*, available at <http://www.fr.opab-oplb.org/5-chiffres-cles.htm> (Last visited on May 19, 2015).

²⁷ Universitat Oberta de Catalunya, Institut de Sociolinguística Catalana, *Catalan in France*, available at <http://www.uoc.edu/euromosaic/web/document/catala/an/i5/i5.html> (Last visited on May 19, 2015).

²⁸ Universitat Oberta de Catalunya, Research Centre on Multilingualism, *Flemish in France*, available at <http://www.uoc.edu/euromosaic/web/document/neerlandes/an/i1/i1.html> (Last visited on May 19, 2015).

²⁹ European Research Centre on Multilingualism and Language Learning, *The Corsican language in education in France*, available at http://www.mercator-research.eu/fileadmin/mercator/dossiers_pdf/Corsican_in_France-webeditie.pdf (Last visited on May 19, 2015).

³⁰ See generally MARI C. JONES, LANGUAGE OBSOLESCENCE AND REVITALIZATION: LINGUISTIC CHANGE IN TWO SOCIO-LINGUISTICALLY CONTRASTING WELSH COMMUNITIES 1-98 (1998) (on obsolescence in several dialects of Welsh and other Celtic languages, and the statistical patterns that characterise it).

³¹ *Id.*

a similar trajectory to the brink of extinction – less than a hundred people still speak any Manchu, nearly all of them over sixty years old.³² Similarly, Breton, a Celtic language spoken by a million at the start of the twentieth century, is now down to a paltry 270,000 speakers, two-thirds of whom are over sixty. Breton is estimated to be losing an average of 10,000 speakers a year.³³

B. LANGUAGE POLITICS IN CONTEMPORARY FRANCE

Language remains a delicate issue till date in France. The French regime – through sustained language policy of aggressively promoting standard French and restricting the domain of the regional languages alongside – has precariously fostered a sense of oneness amid groups of people with divergent identities by supplying them with a common denominator to recognise as theirs to the exclusion of foreigners, a *shibboleth* to identify the outsiders.

Proposals for France to ratify the Council of Europe’s Charter on Regional and Minority Languages (‘Minority Languages Charter’)³⁴ were met with vehement opposition from all sections of the country’s political spectrum.³⁵ If we are to believe the rhetoric surrounding the opposition, the very acknowledgement of France’s regional languages would threaten the constitutional fabric of the nation and initiate “a linguistic balkanization which will evolve into a political balkanization [...] a collective suicide”.³⁶ This stark insecurity is particularly baffling in a nation where regionalist and secessionist movements are relatively quiet compared to its neighbourhood. Regionalist, centrifugal forces have never enjoyed popular support in France; parties like the *Abertzaleen Batasuna* (or ‘The Basque Alliance’) remain marginal entities, too weak to influence national politics.³⁷ Demands for separation have long been abandoned, and the most that such parties argue for is semi-autonomous *départements* within the federal structure of France.³⁸ Indeed, Jospin’s government grounds its support for the Minority Languages Charter on the grounds that the regional languages no longer pose any threat to the integrity of

³² Verna Yu, South China Morning Post, *A Language Lost*, August 29, 2011, available at <http://www.scmp.com/article/977469/language-lost> (Last visited on October 15, 2015).

³³ Simon Hooper, CNN (France), *Bretons fight to save language from extinction*, January 5, 2011, available at <http://edition.cnn.com/2010/WORLD/europe/12/11/brittany.language/> (Last visited on October 15, 2015).

³⁴ See Network to Promote Linguistic Diversity, *France to Ratify European Charter for Minority Languages*, available at <http://www.npld.eu/news/archived-news/21/france-to-join-the-24/> (Last visited on April 15, 2015).

³⁵ Paul Cohen, *Of Linguistic Jacobinism and Cultural Balkanization: Contemporary French Linguistic Politics in Historical Context*, 18 FRENCH POLITICS, CULTURE & SOCIETY 21 (2000) (“*une balkanisation linguistique qui déboucherasurune balkanisation politique ... un suicide collectif*”).

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

France.³⁹ France's neighbouring states, despite a history of a similarly unitary language policy, have followed different political trajectories. Spain has seen bomb blasts regularly carried out by members of the *Euskadi Ta Askatasuna*, a militant Basque nationalist group advocating secession for Spain's Sikkim-sized Basque country – responsible for over 800 deaths and 1,600 terrorist attacks since 1968,⁴⁰ the United Kingdom ('UK') has seen decades of violent incidents perpetrated by the Irish Republican Army,⁴¹ along with several political movements for 'devolution' or granting of greater statutory powers to Scotland, Northern Ireland, and Wales,⁴² which culminated in the rather narrow vote in favour of preserving the union in the 2014 Scottish referendum.⁴³ France is one of the few nations in Western Europe undisturbed by major separatist movements. The issue, perhaps, is not so much actual danger as the fact that the Minority Languages Charter stirs up fundamental questions as to how French identity is to be conceived.⁴⁴ Should French not be the only language recognised and guaranteed by a nation that is built on a solidly linguistic foundation?

The violent rhetoric of the opposing lobby to the ratification of this Charter seems entirely out of proportion with both the socio-political scenario in France and the real-world impact this charter can be expected to have. The Minority Languages Charter leaves member states the option of complying with as many or as few of its Articles as they desire. France has only endorsed to sign thirty-nine of its ninety-eight articles,⁴⁵ which *inter alia* contain measures which include translation of legal and administrative documents into regional tongues, to provide interpreters to assist linguistic minorities in communicating with judicial institutions and to employ traditional place names. It has cautiously avoided any Articles which may, however tenuously, call into

³⁹ See Interview of Catherine Troutmann, Minister of Culture of France in the Lionel Jospin cabinet 1997–2000, *Libération Culture*, May 14, 1999, available at <http://www.liberation.fr/culture/1999/05/14/75-langues-quelle-richesse> catherine-trautmann-soutient-l-adoption-de-la-charte-qui-fait-debat_273013 (Last visited on April 15, 2015) ("*Aujourd'hui, le gouvernement estime que les autres langues de la France ne constituent plus un danger pour l'unité de la nation...*").

⁴⁰ Council on Foreign Relations, *Basque Fatherland and Liberty (ETA) (Spain, separatists, Euskadi ta Askatasuna)*, November 17, 2008, available at <http://www.cfr.org/separatist-terrorism/basque-fatherland-liberty-eta-spain-separatists-euskadi-ta-askatasuna/p9271> (Last visited on August 1, 2014).

⁴¹ Kathryn Gregory, Council on Foreign Relations, *Provisional Irish Republican Army (IRA) (aka, PIRA, "the provos," Óglaighna hÉireann) (UK separatists)*, March 16, 2010, available at <http://www.cfr.org/separatist-terrorism/provisional-irish-republican-army-ira-aka-pira-provos-oglaigh-na-heireann-uk-separatists/p9240> (Last visited on August 1, 2015).

⁴² Cabinet Office, Scotland Office, Northern Ireland Office and Wales Office, *Devolution of Powers to Scotland, Wales, and Northern Ireland*, February 18, 2013, available at <https://www.gov.uk/devolution-of-powers-to-scotland-wales-and-northern-ireland> (Last visited on August 3, 2015).

⁴³ Andrew Black, BBC News, *Scottish independence: Referendum to be held on 18 September, 2014*, March 21, 2013, available at <http://www.bbc.com/news/uk-scotland-scotland-politics-21828424> (Last visited on August 1, 2015).

⁴⁴ Cohen, *supra* note 35.

⁴⁵ *Id.*, 23–24.

question the very status of French as the sole language of France, including much of Article 10⁴⁶ and Article 9.⁴⁷

France's touchiness on imparting legal legitimacy to speakers of minority languages, out of fear of any jolt to the nation's linguistic foundation leading to an existential jeopardy,⁴⁸ while perplexing, is hardly unique. National boundaries the world over encompass ethnic and linguistic groups of the most eclectic character shoved together into an agglomeration of *prima facie* incongruous identities. Inevitably, one or more of these groups, by virtue of strength either of numbers, economy, or culture, comes to establish dominance. Within the artificial construct of this nation state, this dominant group is the 'self', the deviants are the 'others'.⁴⁹ Nationalism is modelled on the dominant group's worldview, and to be true patriotic citizens of this random conglomeration of landmass and people, the deviant groups must aspire to emulate them as closely as possible.⁵⁰

While France is certainly one of the most intriguing examples of the phenomenon, the next section will analyse how widespread this process of nation-building by suppressing 'deviant' linguistic identities is, and the different methodologies it has been moulded into.

III. THE LEGAL FICTION OF LANGUAGE

A. *THE LEGAL DOGMA OF HOMOGENEITY*

Language is a fluid idea; there are a multitude of opinions on what distinguishes one language from the other. At what level does one standardised register of speech begin to become sufficiently different from another so as to merit being labelled as a different language? What marks the 'transition' from difference of dialect to difference of language? There have never been universally accepted answers to these questions.⁵¹ Even if mutual comprehensibility were to be taken as the bare minimum benchmark, exceptions are likely to outnumber instances of conformity. A fictitious idea of the sameness of language has been promoted by governments across the world to stoke common

⁴⁶ European Charter for Regional or Minority Languages, 5.XI.1992, ETS No. 148 (1992), Art. 10 (Encouraging or facilitating the usage of regional languages in administration).

⁴⁷ *Id.*, Art. 9 (Usage of regional languages by judicial authorities and in statutes).

⁴⁸ *Id.*

⁴⁹ See FARIMAH DAFTARY & FRANÇOIS GRIN, *NATION-BUILDING, ETHNICITY AND LANGUAGE POLITICS IN TRANSITION COUNTRIES* 3-25 (2003).

⁵⁰ *Id.*

⁵¹ See generally Oscar Diaz Fouces, *Translating Ausbausprachen* in *THE CHANGING SCENE IN WORLD LANGUAGES: ISSUES AND CHALLENGES*, 65-82 (1997) (on the two completely different sets of criteria – objective, linguistic on the one hand and socio-cultural on the other – that inform the idea of language); EDWARD SAPIR, *LANGUAGE: AN INTRODUCTION TO THE STUDY OF SPEECH* 13-30 (2007) (on definitions of language and the idea of language as a cultural function).

nationalist sentiments among groups of people with diverse ethno-linguistic identities.⁵²

As an example of this politicised idea of language, the single ‘Arabic language’ may be seen as another state invention, motivated by the Arab world’s desire to be seen as a cohesive, monolithic ethnic group.⁵³ ‘Dialects’ of Arabic display varying levels of mutual intelligibility; at the extreme, Moroccan Arabic is opaque to native speakers of nearly all other varieties.⁵⁴ These Arabic ‘dialects’ constitute what could be considered a group of languages in its own right. From any objective parameter, such a theoretical ‘Arabic group’ of languages would be no less legitimate than the Germanic branch that spans Norwegian, Swedish, and German.⁵⁵ The twenty-two member states of the Arab league have followed such determinedly assimilationist policy approaches towards linguistic minorities in the twentieth century that there is a verb in everyday Modern Standard Arabic to describe the process – ‘*ta’rib*’, or ‘*to Arabise*’.⁵⁶ This process was accelerated dramatically by the pan-Arabism wave of the 1950s and 60s, as the idea of Arabs as a single ethnic unit from the Atlantic Ocean to the Red Sea gained traction.⁵⁷ By and large, Modern Standard Arabic – an artificially created standard based on the Arabic of the Quran – is the sole official language in Arab nations.⁵⁸ This standard is used exclusively in administration and education, or sometimes in conjunction with French or English in tertiary or technical education,⁵⁹ creating an incentive structure similar to that for French in France, even in nations where publication in dialects or non-Arab minority languages – Amazigh and Kurdish being recurring examples – is tolerated to a limited extent.⁶⁰

Similarly, in China, the official language and the sole medium for administration and education is the Mandarin dialect of Chinese, spoken widely in the western and north-western territories of China, with Beijing at its epicentre.⁶¹ An understanding of the interlinking of state and language emerged relatively early in China, when the Qin dynasty emperor undertook the first official standardisation of the Chinese script in 221 BCE.⁶² Having successively

⁵² See Kanavillil Rajagopalan, *The Politics of Language and the Concept of Linguistic Identity*, 24 REVISTA DE FILOLOGÍA Y SU DIDÁCTICA 17 (2001).

⁵³ See Omar F. Zaida & Chris Callison-Burch, *Arabic Dialect Identification*, 40(1) COMPUTATIONAL LINGUISTICS 171 (2014).

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Heather J. Sharkey, *Language and Conflict: The Political History of Arabisation in Sudan and Algeria*, 12(3) STUDIES IN ETHNICITY AND NATIONALISM 427 (2012).

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ Charles N. Li & Sandra A. Thompson, *Chinese: Dialect Variation and Language Reform in LANGUAGES AND THEIR STATUS*, 295-321(1994).

⁶² Minglang Zhou & Heidi A. Ross, *Introduction: The Context of the Theory and Practice of China’s Language Policy* in LANGUAGE POLICY IN PEOPLE’S REPUBLIC OF CHINA THEORY AND

unified the many warring states that spanned the extent of present-day China, the government sought to consolidate state power by standardising weights, measures, legal systems and ultimately language.⁶³ Language planning started cruel and bloody with books written in non-standard Chinese being burnt, and scholars opposing the standardisation effort executed.⁶⁴

Contact with the European powers began in earnest in the mid-twentieth century, with the epicentre of world power having shifted westwards from its place in the Middle Kingdom.⁶⁵ Contemplating efforts to modernise China's economy and society and bring the nation back to a convincing simulacrum of its original stature, the intellectuals of China were particularly enamoured by two linguistic concepts that reigned in the West: the idea of 'one nation, one people, one language' and the Roman script,⁶⁶ which in its simple notations for consonants and vowels was exponentially simpler than the Chinese inventory of 9,000 to 50,000 logographic symbols in which each single character represents a meaning, a concept in addition to having a (never unique) pronunciation.⁶⁷ Since 1949, the Communist Party of China has continued this legacy of meticulously maintaining homogeneity of spoken language, though efforts for Romanisation were more or less abandoned completely after the 1980s.⁶⁸ It was only in the late 1990s that the concept of China as a single nation with diversity gained currency in the party rhetoric. This culminated in the far more inclusive 'Law of the People's Republic of China on the Standard Spoken and Written Chinese Language of 2001'.⁶⁹ Article 8 of this law granted the minorities of the People's Republic of China ('the PRC') the "freedom to use and develop their own languages".⁷⁰ However, in Article 14, it also delineated that Mandarin, officially called *Putōnghuà* or 'Common Speech', must be the sole language used in radio, film, television, "publicly used facilities", "signs and advertisements", in the names of profit and non-profit organisations and the "wrappings and instructions of all products used domestically".⁷¹ China is home to over 298 languages – many of these are considered 'dialects' of 'standard Chinese' despite lack of mutual comprehensibility.⁷² However, Mandarin

PRACTICE SINCE 1949 1-18 (2004).

⁶³ *Id.*, 2.

⁶⁴ *Id.*

⁶⁵ Giulia Valentini, E-international Relations, *China and Japan's Responses to the West in the Nineteenth Century*, November 4, 2013, available at <http://www.e-ir.info/2013/11/04/chinese-and-japanese-responses-to-the-west-during-the-19th-century/> (Last visited on May 19, 2015).

⁶⁶ ZHOU & ROSS, *supra* note 62, 4.

⁶⁷ Ulrich Theobald, *The Chinese Script*, March 23, 2011, available at <http://www.chinaknowledge.de/Literature/Script/hanzi.html> (Last visited on August 1, 2015).

⁶⁸ ZHOU & ROSS, *supra* note 62, 5.

⁶⁹ *Id.*

⁷⁰ John S. Rohsenow, *Fifty Years of Script and Written Language Reform in the PRC - the Genesis of the Language Law of 2001* in LANGUAGE POLICY IN PEOPLE'S REPUBLIC OF CHINA THEORY AND PRACTICE SINCE 1949, 22-43 (2004).

⁷¹ *Id.*

⁷² Ethnologue- Languages of the World, *China*, available at <https://www.ethnologue.com/country/cn/default/> (Last visited on August 1, 2015).

is what most people refer to when they talk of the ‘Chinese language’ (which, I believe, should be considered as problematic as the jarring ‘do you speak Indian?’). For formal writing and correspondence with any governmental machinery also, they must use the same standard.⁷³

Despite concessions granted in recent overhauls in the nation’s language policy, China’s current language regime harks back to the European model of bolstering the growth of a nationally supported standard by restricting the usage of regional languages. Across France as well as China and the Arab World, such assimilationist positivist legal definitions of language negate the need for positive state measures for fostering and protecting languages of the minorities and curb any large-scale movements against the authority of the ruling majority by essentially convincing the populace over generations that minority languages do not exist – there is the national language, and petty corruptions of said national language.

B. THE LEGAL DOGMA OF SEPARATENESS

Governments may also choose to reverse the usual flow of this politicisation of language and enforce differentiation where there is substantially none – differentiating between classes of people who may otherwise share an intimate facet of their ethno-linguistic identity. While assimilationist policies rob linguistic groups of their identity, differentialist schemes serve political ends by giving otherwise similar ethno-linguistic groups a concrete basis for paying allegiance to separate national constructs.⁷⁴

The purely cosmetic nature of the differentiation of Hindi and Urdu would be apparent to all but the most obstinate minds. The two are entirely mutually comprehensible, with hindrances to communication arising when only speakers tap into technical vocabulary, for which the former, by relatively modern convention, sources terms from Sanskrit, while the latter relies more heavily on Arabic and Persian.⁷⁵ The now deeply entrenched idea of Hindi and Urdu as separate languages used by separate communities did not gain widespread acceptance until after the partition of the subcontinent, when the Constitution of India declared “Hindi as written in the Devanagari script” as the official language of the Union; Hindi was now the ‘self’, Urdu was the ‘other’.⁷⁶ In the process of polarising identities, one primordial facet of human identity mixed with another. Infinitely fond of generalisations as the human mind is, it was easy for the layman to conclude in light of the developments and

⁷³ Linguistic Policy for Labour Market, *China Language Policy*, available at <http://www.lilama.org/uploads/documents/China%20Language%20Law%20-%20China.pdf> (Last visited on August 9, 2015).

⁷⁴ Rajagopalan, *supra* note 52, 19-21.

⁷⁵ ABDUL JAMIL KHAN, THE POLITICS OF LANGUAGE URDU/HINDI: AN ARTIFICIAL DIVIDE 3-9 (2006).

⁷⁶ *Id.*, 253-273.

state rhetoric post-1947 that Urdu is a “Muslim language”, spoken by Muslims in a Muslim state. It was completely ignored that this Muslim language was the *lingua franca* and vehicle of literary and artistic thought for nearly all of northern India, regardless of religion, for centuries.⁷⁷

As another example of artificially imposed differentiation of language, strictly speaking Scandinavian nations effectively use the same language,⁷⁸ with the sole exception of Finland.⁷⁹ The difference (or lack thereof) between the various languages of Scandinavia has been the source of much comic relief for denizens of that region. A journalist from Denmark once spoke of how, while watching an eclectic mix of television channels from all over the Nordic nations, Swedish sounded like a string of “sing-song, slightly off pronunciations of generic Danish terms”.⁸⁰ The distinction meticulously maintained here is not, as always, a question of fact, but is merely the law trying to underscore the difference in nationality by an imposed differentiation of language. Norway, for example, for several centuries a Danish province, never had its own standard language until independence from Denmark.⁸¹ The elite spoke standard Danish, while the common folk used dialects that were regarded as localised variants of Danish.⁸² Independent Norway consolidated its separate identity by adopting the newly standardised Norwegian language as its official tongue.⁸³ Curiously, Norway concurrently uses two different standardised registers of the Norwegian language, *Nynorsk*, or ‘New Norwegian’, and *Bokmål*, or ‘Book Tongue’, the predominant standards of most of south-western Norway and eastern Norway respectively. Likewise, many of the constituent republics of the former Yugoslavian state use mutually comprehensible dialects for everyday communications – dialects that could be considered a singular language as per all objective parameters. Yet, what water can objective parameters possibly hold in the wake of considerations of polity and legal dogma?⁸⁴

⁷⁷ *Id.*

⁷⁸ DAVID CRYSTAL, *LANGUAGE DEATH* 8 (2012).

⁷⁹ Irene Thompson, *Indo-European Language Family*, May 13, 2012, available at <http://about-worldlanguages.com/indo-european-language-family> (Last visited on August 2, 2015) (The Finnish language belongs to the entirely separate Finno-Ugarian language family and is vaguely related to Estonian and Hungarian, while the Swedish, Norwegian, and Danish languages belong to the Germanic branch of the Indo-European family, closely related to each other and to English and German, and tenuously to French, Russian, and indeed, Oriya and Punjabi).

⁸⁰ *The Economist*, *Of dialects, armies, and navies, revisited*, January 4, 2011, available at <http://www.economist.com/blogs/johnson/2011/01/scandinavian> (Last visited on August 2, 2014).

⁸¹ Lars S. Vikør, *Northern Europe: Languages as Prime Markers of Ethnic and National Identity* in *LANGUAGE AND NATIONALISM IN EUROPE*, 105-129 (2000).

⁸² *Id.*

⁸³ Lars S. Vikør, *Språkrådet (Language Council): Nynorsk in Norway*, available at http://www.sprakradet.no/Vi-og-vart/Om-oss/English-and-other-languages/English/Nynorsk_in_Norway/ (Last visited on May 19, 2015).

⁸⁴ CRYSTAL, *supra* note 78, 8.

There is a plethora of case studies, several of which have been explored, that demonstrate how difference of language and dialect is always politically constructed to some degree, and at times entirely artificially fabricated. If a certain community wanted its own manner of speaking – whether unique or not – to be considered a ‘language’ and had the political means to support such a decision, what force on Earth could endeavour to stop them?

The law’s function in forging and consolidating identity manifests itself in its treatment of language;⁸⁵ the repercussions are varied, but always far-reaching. Linguistic imperialism, codified in domestic law, systematically commits acts of violence on human culture and intellectual traditions the world over, branding certain manners of communication and by extension, certain identities as ‘wrong’, and deviating from a singular correct ‘norm’.⁸⁶ At times, the law goes beyond merely imposing an arbitrary distinction, and actively punishes instances of deviance from a glorified standard, either by imposing penalties – anything from a rudimentary fine⁸⁷ to death,⁸⁸ or by hyper-aggressively incentivising the standard language over others. Language, therefore, exists on a legal battleground and survives at the mercy of the State.

IV. STEMMING THE TIDE – THE CURRENT MINORITY LANGUAGE REGIME

A. THE JURISPRUDENTIAL BASIS FOR LINGUISTIC RIGHTS

This battleground is a strikingly expansive one – of the roughly 6,000 languages that still exist on the planet, between one-half to two-thirds are expected to die out by the end of this century.⁸⁹ In the wake of the exclusive usage of a handful of prestige dialects at the level of governance, higher education and the likes, minority languages are far less likely to survive in the absence of specific governmental schemes to soften the inevitable impacts of globalised linguistic domination. Promotion of regional languages, however, tends to bring to the fore issues of national integrity – as language politics tend to be characterised by secessionist or regionalist movements (as, of course, we observe in France). Governments, therefore, tend to be lackadaisical in their

⁸⁵ DICLE CEMILODLU, LANGUAGE POLICY AND NATIONAL UNITY: THE DILEMMA OF THE KURDISH LANGUAGE IN TURKEY, 5-16 (2009).

⁸⁶ *Id.*

⁸⁷ BBC, *Welsh and 19th Century Education*, May 21, 2014, available at http://www.bbc.co.uk/wales/history/sites/themes/society/language_education.shtml (Last visited on May 19, 2015) (Describes the infamous ‘Welsh-Not’ campaign in schools in Wales in the nineteenth century, wherein students ‘caught’ speaking Welsh would be penalised.)

⁸⁸ ZHOU & ROSS, *supra* note 62, 2 (On how scholars who opposed the language standardisation efforts under the Qing dynasty’s nation-building program were put to death).

⁸⁹ CRYSTAL, *supra* note 78, 3.

patronage of minority tongues. Legislation on this topic is complicated by the fact that there is no universal understanding on language rights, even insofar as their very legitimacy as human rights is concerned.⁹⁰

Language rights are conceptualised in two broad paradigms.⁹¹ The first holds that language being a fundamental constitutive element of human identity, a safe and conducive linguistic environment is crucial to healthy personal development.⁹² This view informs the idea of language rights as interpreted from Article 2 of the Universal Declaration of Human Rights (‘the UDHR’), which extends the provisions of the instrument to all humankind without regard to difference of “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.⁹³ This necessarily translates into a difference-aware conception of equality, wherein public culture and institutions need to reflect and accommodate the divergent religions, communities, and languages of minority groups, or positive measures of state support, as opposed to a difference-blind conception, which would simply ensure negative rights of freedom from discrimination.⁹⁴ This ideology of linguistic rights was well elucidated in the Oslo Recommendations Regarding the Linguistic Rights of National Minorities of 2008 (‘Oslo Recommendations’).⁹⁵ Equality of “dignity and rights”, seen as vested in all humankind regardless of birth or creed, presupposes respect for an individual’s identity as a human being.⁹⁶ It implies that respecting a person’s dignity equates with respecting their identity, and language is an integral part of such identity.⁹⁷

The second paradigm is the ‘ecological’ perspective, which values language diversity *per se*, with the idea that diversity of language and plurality in human heritage has its own innate value and therefore merits preservation.⁹⁸ This narrative informs the sub-discipline of ‘linguistic ecology’, which couches language rights in the abstraction, *i.e.*, language itself, rather than in the in-

⁹⁰ Xabier Arzoz, *The Nature of Language Rights*, 6(2) JOURNAL ON ETHNO-POLITICS AND MINORITY ISSUES IN EUROPE 31 (2007).

⁹¹ Moria Paz, *The Failed Promise of Language Rights: a Critique of the International Language Rights Regime*, 54(1) HARVARD INTERNATIONAL LAW JOURNAL 157 (2013).

⁹² Will Kymlicka & Alan Patten, *Introduction: Language Rights and Political Theory: Context, Issues and Approaches*, in LANGUAGE RIGHTS AND POLITICAL THEORY 1 (2003).

⁹³ Universal Declarations of Human Rights, G.A. Res. 217A, U.N. Doc. A/810 (December 12, 1948), §2.

⁹⁴ Parry Keller, *Rethinking Ethnic and Cultural Rights in Europe*, 18(1) OXFORD JOURNAL OF LEGAL STUDIES 29 (1998).

⁹⁵ ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE, OSLO RECOMMENDATIONS REGARDING THE LINGUISTIC RIGHTS OF NATIONAL MINORITIES AND EXPLANATORY NOTE, 5-9 (1998).

⁹⁶ Robert Dunbar, *Minority Language Rights in International Law*, 50(1) THE INTERNATIONAL AND COMPARATIVE LAW QUARTERLY 90 (2001).

⁹⁷ RECOMMENDATIONS REGARDING THE LINGUISTIC RIGHTS OF NATIONAL MINORITIES, *supra* note 95, 11-12.

⁹⁸ See David F. Marshall & Roseann D. Gonzalez, *Why we should be Concerned about Language Rights: Language Rights as Human Rights from an Ecological Perspective* in LANGUAGE AND THE STATE: THE LAW AND POLITICS OF IDENTITY, 289 (David Schneiderman eds., 1990).

dividual. This is the language rights discourse which spoke of romanticised ideas of the innate value of diversity of language, rather than more pragmatic concerns of the usage of language as a political instrument.⁹⁹

Language is particularly important to minority groups seeking to maintain their distinct cultural identity in situations of exclusion and marginalisation, given that linguistic suppression generally operates in tandem with suppression on multiple axes.¹⁰⁰ It is not entirely coincidental that a highly disproportionate number of threatened languages in the Indian subcontinent belong to tribal groups¹⁰¹ or that nearly all aboriginal languages of Australia currently stand endangered.¹⁰² In situations such as these, acquiescence to language extinction accelerates homogenisation of already subjugated groups and contributes to patently iniquitous power structures. Rita Izsák, UN Independent Expert on minority issues, described linguistic rights as essential in “preventing conflict and in building politically and culturally stable societies”.¹⁰³ It flows that in extreme cases, linguistically marginalised proto-nations may erupt in violence against sustained political hegemony by the dominant group, leading to conflict of the nature that characterised the experience of the Basque Country in Spain.¹⁰⁴

However, linguistic rights are hard to allocate for the simple reason that the very distinction between a language and a dialect is one of the most difficult theoretical issues in linguistics.¹⁰⁵ As prior case studies have already established, the conventional standard of mutual comprehensibility is mired with numerous exceptions, with more lines being drawn with regard to political and historical considerations than purely linguistic ones.¹⁰⁶ Yet, a legal distinction between dialects and languages is crucial, as otherwise, given the *ad infinitum* fragmentation of dialects and sub-dialects, the number of social groups claiming linguistic rights would be endless. Seeing that minority rights protection concerns risks posed by a domineering group to members of a relatively

⁹⁹ DUNBAR, *supra* note 96.

¹⁰⁰ Thomas Hylland Eriksen, *Linguistic Hegemony and Minority Resistance*, 29(3) JOURNAL OF PEACE RESEARCH 313 (1992).

¹⁰¹ Ben Doherty, *India's tribal people fast becoming lost for words*, April 29, 2012, available at <http://www.smh.com.au/world/indias-tribal-people-fast-becoming-lost-for-words-20120429-1xted.html> (Last visited on April 12, 2015).

¹⁰² See Australian Government, Attorney General's Department, Ministry of Arts, *National Indigenous Languages Policy*, September 11, 2012, available at <http://arts.gov.au/indigenous/languages> (Last visited on April 14, 2015).

¹⁰³ Office of the High Commissioner for Human Rights, United Nations, *Thousands of minority languages threatened by assimilation, conflict and forced displacement – UN expert*, March 12, 2013, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13124&LangID=E#sthash.5bIFJhEM.dpuf> (Last visited on April 13, 2015).

¹⁰⁴ *Id.*

¹⁰⁵ See Julie M. Groves, *Language or Dialect—or Topolect? A Comparison of the Attitudes of Hong Kongers and Mainland Chinese towards the Status of Cantonese 7-31 (Sino-Platonic Papers, Paper No. 179, 2008)*.

¹⁰⁶ *Id.*

less influential set of people, it is also essential to chart out the preconditions to identifying linguistic minorities eligible for protection, as distinguished from a general recognition of languages – which involves languages which may belong to minorities or the majority. This need for protection connotes that ‘language’ cannot simply refer to any form of speech, but specifically those forms of speech whose distinction arouses either conflict or domination.¹⁰⁷ To quote an Indian example, while Urdu might not qualify as a separate language on purely linguistic criteria, given its near-complete mutual comprehensibility with standard Hindi, its status as the literary vehicle of a minority cultural group would nonetheless accord minority language status to it.¹⁰⁸

B. COUNCIL OF EUROPE JURISPRUDENCE: THE MINORITY LANGUAGES CHARTER AND ITS SPHERES OF EXCLUSION

To address the issue of eligibility and allocation, the Council of Europe’s Minority Languages Charter compartmentalises linguistic communities into classes, some of which are entitled to more comprehensive governmental support and positive rights.¹⁰⁹ However, instead of a conflict/domination based classification, the Minority Languages Charter advocates different measures of support to two groups of minority languages. The first is “regional languages” – minority languages that have their own ‘home turf’ in the state concerned where they are spoken by a considerable percentage of people. The second is “non-territorial languages” – minority languages that are otherwise similar to regional languages, except they cannot be identified with any specific area. In a strictly Indian context, while the likes of Tamil, Assamese and Kannada would qualify as regional languages, Sindhi and Urdu would be considered non-territorial languages. On a broader scale, Romany, the language of the gypsies of Europe (closely related to Indic languages like Hindi and Punjabi¹¹⁰) and Yiddish and Ladino (Hebrew-influenced standards of German and Spanish spoken by the Ashkenazi and Sephardi Jewish communities respectively¹¹¹) qualify as non-territorial languages.

The Minority Languages Charter substantively differentiates between the rights and positive acts of endorsement either of these categories is entitled to. Both regional or minority languages and non-territorial languages

¹⁰⁷ Philip Vuciri Ramaga, *The Bases of Minority Identity*, 14(3) HUMAN RIGHTS QUARTERLY 409 (1992).

¹⁰⁸ KHAN, *supra* note 75.

¹⁰⁹ European Charter for Regional or Minority Languages, 5.XI.1992, ETS No. 148 (1992), Art. 1.

¹¹⁰ Yaron Matras, *Archive of Endangered and Smaller Languages: Romani (Romanes, Romane, Romnes, Romacilikanes)*, November 10, 2010, available at <http://languagecontact.humanities.manchester.ac.uk/ELA/languages/Romani.html> (Last visited on August 2, 2015).

¹¹¹ Lorne Rozovsky, *Will Ladino Rise again?*, available at http://www.chabad.org/library/article_cdo/aid/1085545/jewish/Will-Ladino-Rise-Again.htm (Last visited on August 2, 2015).

are entitled to the benefits of Part II of the Minority Languages Charter, which incorporates certain basic anti-discrimination objectives and principles that the State is expected to adhere to, including provisions for encouraging study and research of such languages in universities, the ‘facilitation’ of their usage in public and private life, and their recognition as an expression of cultural wealth. However, only regional languages are extended the benefits guaranteed under Part III of the Minority Languages Charter, which lays down more active measures of state support, including usage in governmental machinery, administration, and in the courtrooms.¹¹²

It seems manifest that the ‘hierarchy’ of forms of language thus drawn under the Minority Languages Charter and the exclusion of certain nonetheless suppressed languages – partially in case of non-territorial languages and completely in case of ‘migrant’ languages – from the protection guaranteed thereunder is patently antithetical to the notion that language rights are innate to all persons and therefore fundamental. It is also antithetical to the idea that language rights should be promoted for their own sake, to protect linguistic diversity and shield minority groups from the more pervasive effects of nation-building policy structures. Perhaps fuelled by a preoccupation with the threatened autochthonous languages of Europe,¹¹³ the Minority Languages Charter’s differential treatment does not incorporate the linguistic needs of threatened languages *per se* in its broad categorisation. To quote an earlier example, a non-territorial language like Ladino may be far more seriously threatened within Spain than a minority language like Catalan or Galician, and yet receive much less support under the terms of the Minority Languages Charter. Under this regime, the likes of Romany, Yiddish, and Ladino are left in a particularly tight spot;¹¹⁴ for what state would be obligated to support and foster a language that does not have any territory of its own?¹¹⁵ Within the current scheme of differentiation, states may still pick and choose which non-majority language to grace with the basic legal mechanism they would need to survive, leaving ample scope for political bias.

The Minority Languages Charter’s complete exclusion of immigrant communities from language right benefits is yet another issue. In Scotland, signboards, restaurant catalogues, and BBC radio stations alike are today functional templates of Britain’s own version of *Vergangenheitsbewältigung* – in this case a process seeking to somehow reverse centuries of state-supported linguistic homogenisation and cultural annihilation in the United Kingdom. Scottish Gaelic, a language of the Celtic sub-group of the Indo-European family

¹¹² European Charter for Regional or Minority Languages, 5.XI.1992, ETS No. 148 (1992), Art. 7.

¹¹³ Council of Europe, *Explanatory Report to European Charter on Regional and Minority Languages*, available at <http://conventions.coe.int/Treaty/EN/Reports/Html/148.htm> (Last visited on August 3, 2015).

¹¹⁴ Alexander Caviedes, *The Role of Language in Nation Building within the European Union*, 27(3) DIALECTAL ANTHROPOLOGY 249 (2003).

¹¹⁵ Matras, *supra* note 110.

of languages, once spoken as a native language by the overwhelming majority of the Scottish populace, began retreating into increasingly tinier enclaves in the Highlands as early as the thirteenth century, losing the battle against Scots-English.¹¹⁶ English sentiments about the native language of their northern neighbours were summed up in an Act passed by the Privy Council in 1616 on the construction of schools in Scottish parishes, reproduced here in the English of that era, “the Irische language, whilk is one of the cheif and principall causes of the continewance of barbarite and incivilitieamongis the inhabitantis of the Illis and Heylandis, may be abolishit and removeit”.¹¹⁷ ‘Irische’ here is being used as an umbrella term for the two major Celtic languages of the British Isles. By 1755, barely twenty-three percent of the Scottish population spoke Gaelic, declining further to four-and-a-half percent in 1901, and an appalling one percent by the turn of the millennium. The decline of Gaelic continued as successive education acts excluded the language from centralised and formalised education in the region, consolidating an obsolescence pattern akin to Breton and Manchu.¹¹⁸ The language’s fate began to look up in the twentieth century, with concessions granted to Scotland and Wales as part of the process of decentralisation of powers in the UK dubbed ‘devolution’.¹¹⁹ Since 1904, it has been possible to study Gaelic in Scottish schools as a subject in its own right, rather than as a means to acquiring English.¹²⁰ Gaelic departments in Scottish universities and Scottish-medium schools began to emerge after the 1950s.¹²¹ Scottish Gaelic finally gained official recognition in Scotland “commanding equal respect to the English language” with the Gaelic Language (Scotland) Act, 2005.¹²²

Nevertheless, as of today, Scotland houses barely 60,000 speakers of this ancient Celtic language – concentrated in the Western Isles and nearly all bilingual in English. On the contrary, five times as many people across the UK speak Cantonese at home, ten times as many converse in Punjabi, and twenty times as many speak Urdu, Bengali, or Sylheti (a dialect native to the Sylhet region of northern Bangladesh); yet, none of them have been extended the privilege of the protection of parliamentary acts or a publicly subsidised television

¹¹⁶ Ian Jack, *Saving a language is one thing, but I’m saddened by Scotland going Gaelic*, December 11, 2010, available at <http://www.theguardian.com/commentisfree/2010/dec/11/ian-jack-saddened-by-scotland-going-gaelic> (Last visited on August 5, 2014).

¹¹⁷ Even J. Innes, *The Social, Economic and Political Reasons for the Decline of Gaelic in Scotland*, April 20, 1993, available at http://www.scottishhistory.com/articles/highlands/gaelic/gaelic_page1.html (Last visited on August 9, 2015).

¹¹⁸ Kenneth McKinnon, *Scottish Gaelic Today*, September 23, 2014, available at http://www.bbc.co.uk/voices/multilingual/scots_gaelic.shtml (Last visited on May 19, 2015).

¹¹⁹ Cabinet Office, *supra* note 42.

¹²⁰ 117 Bòrd na Gàidhlig, *Primary Education*, available at <http://www.gaidhlig.org.uk/bord/en/our-work/gaelic-education/primary-education/> (Last visited on May 17, 2015).

¹²¹ Bòrd na Gàidhlig, *Further and Higher Education*, available at <http://www.gaidhlig.org.uk/bord/en/our-work/gaelic-education/further-higher/> (Last visited on May 17, 2015).

¹²² See Gaelic Language (Scotland) Act, 2005, Introductory Text.

channel of their own. At the same time, BBC Alba uses thirty percent of BBC Scotland's revenue to service a mere one percent of the Scottish populace.¹²³

Why, then, not extend the same language rights to the more numerous Sylheti and Cantonese-speaking ethnic minorities of the country? What legitimises this distinction? It may be argued that this is based on the idea that Scotland is the last bastion of Scottish Gaelic. While Sylheti and Cantonese have other regions where they could still flourish despite the lack of positive language rights legislation in the UK, Scottish Gaelic hardly stands a chance if not for such measures in its home turf. While this line of reasoning is entirely valid insofar as the need for positive legislation for Gaelic is concerned, the other implication, that 'immigrant' languages – their share of demographics notwithstanding – are unworthy of such benefits, can have several unsavoury connotations. The concept of 'native' *vis-à-vis* 'immigrant' is fairly nebulous – for how many generations does an immigrant community have to inhabit a host nation before being truly accepted? Alternatively, is the idea of nativity entirely a function of assimilation? The logical extension of this stand on non-autochthonous languages would be to deny basic language rights to the nearly thirteen percent of the population of the United States that claims Spanish as a native language.¹²⁴ This is particularly ironic a situation, since the dominant language in the country is also an immigrant language if we were to broaden the time scale by a few centuries. In stark contrast, the Constitution of South Africa, 1996, grants "parity of esteem" and "equitable treatment" to languages like Hindi, Telugu, Portuguese, Urdu and German spoken by varyingly numerous communities in the country, in addition to Afrikaans, English and nine indigenous languages, with no overt preference for sons of the soil.¹²⁵ The Minority Languages Charter's exclusive favour for autochthonous languages (Article 1 expressly ousts application of its provisions to 'migrant languages'¹²⁶) and ample room for governmental discretion in demarcating beneficiaries of minority language legislation lends itself to quite a few such logical quandaries.

C. FOLLOWING-UP: THE REAL WORLD IMPACT OF THE MINORITY LANGUAGES CHARTER

The Minority Languages Charter requires very precise commitments by member states and has a monitoring mechanism to keep track of them.¹²⁷ The real-world impact of the Charter and states' diligence in adher-

¹²³ *Id.*

¹²⁴ Claudio Iván Remeseira, *US is 5th largest Spanish-speaking country: new Census interactive map*, July 8, 2013, available at <http://nbclatino.com/2013/08/07/us-is-5th-largest-spanish-speaking-country-new-census-interactive-map/> (Last visited on August 2, 2015).

¹²⁵ Arzoz, *supra* note 90, 22.

¹²⁶ European Charter for Regional or Minority Languages, 5.XI.1992, ETS No. 148 (1992), Art. 1.

¹²⁷ Dr. Robert Dunbar, *Article 7 of the European Charter for Regional or Minority Languages* in XORNADAS DE ANÁLISE SOBRE A CARTA EUROPEA DAS LINGUAS REXIONAIS OU MINORITARIAS 1-15 (2010).

ing to the provisions thereof is recorded in decadal implementation reports. The Swedish Government's 2011 report painted a fairly encouraging picture of the language rights situation in the sparsely populated Scandinavian nation. Delineating Finnish, Sami and Meänkieli (related to Finnish) as minority languages, and Romany and Yiddish as non-territorial languages for the purpose of implementation of the Charter,¹²⁸ the Swedish government, since its ratification of the Charter, has introduced two new Acts on the right to use minority languages with public authorities and in courts of law. Universities provide courses in Sami and Meänkieli, giving minorities the option of studying their native language. Newspapers and periodicals are published in minority languages aided with government subsidies. Government aid is also provided for production of films in minority languages, and the government has undertaken to "remove any legislation" that places speakers of minority language at any economic disadvantage.¹²⁹ The UK's implementation report is somewhat less satisfactory. The UK has recognised Scottish Gaelic, Scots, Ulster Scots, Cornish, Irish, and Welsh as minority languages for the purposes of the Minority Languages Charter; enforcement of the provisions of the Charter, however, varies in extent across them. While Scottish Gaelic and Welsh enjoy official recognition, support in the educational system and media, legislation for promotion of the Irish language is still on hold in the British Parliament.¹³⁰

Within the Council of Europe, even despite the Minority Languages Charter, state-level linguistic imperialism is hardly a settled issue. Protests rage on in Northern Ireland against the UK's continuing laxness in enforcing language rights legislation for the Irish tongue.¹³¹ The campaign, apart from such legislation, calls for a "properly resourced Irish medium education system" and "adequate resources for the Irish language community".¹³²

The language question remains highly controversial in Ukraine, where President Oleksandr Turchynov recently vetoed the national Parliament's February 2014 repeal of a diverse language law that allows usage of 'regional' languages: Tatar, Hungarian, Romanian, and crucially, Russian, in courts and certain government functions where the concerned linguistic minority exceeds

¹²⁸ Regeringskansliet, *Sweden's report on the Council of Europe Charter for Regional or Minority Languages*, September 20, 2007, available at http://www.coe.int/t/dg4/education/minlang/report/PeriodicalReports/SwedenPR3_en.pdf (Last visited on August 10, 2015).

¹²⁹ *Id.*

¹³⁰ Council of Europe, *European Charter for Regional or Minority Languages- Application of the Charter in the United Kingdom- 3rd Monitoring Cycle*, 4, April 21, 2010, available at https://www.coe.int/t/dg4/education/minlang/Report/EvaluationReports/UKECRML3_en.pdf (Last visited on August 3, 2015).

¹³¹ BBC News Northern Ireland, *Belfast protest over Irish language rights*, April 12, 2014, available at <http://www.bbc.com/news/uk-northern-ireland-26997500> (Last visited on August 11, 2015).

¹³² *Id.*

ten percent of the population.¹³³ The repeal was condemned by Ukrainian human rights agencies, the Russian government and the European Union alike. However, the nation's ultra-right wing led by the *Svoboda* (independence) party continues lobbying for an outright ban on the use of Russian and revocation of Ukrainian citizenship for native Russian speakers.¹³⁴

The Council of Europe's Framework Convention for the Protection of National Minorities ('the Framework'),¹³⁵ is a more general and less effective counterpart to the Minority Languages Charter, recognises language rights insofar as a "genuinely democratic society" must create appropriate conditions for national minorities to "express, preserve, and develop" their "ethnic, cultural, linguistic, and religious identity".¹³⁶ The Framework talks of the right to promotion and creation of minority language media¹³⁷ and the right to use minority languages in private, public and in displaying information.¹³⁸ It also mandates that states endeavour to ensure the right to use the minority language before administrative authorities¹³⁹ and recognises the rights of minorities to set and up and manage their own educational establishments and to learn their own language.¹⁴⁰ However, the Framework is ineffective largely due to the fact that it failed to define what it meant by "national minority" and stated commitments placed upon participant states in only very general terms as opposed to the Minority Languages Charter which required constant commitments in the form of reports.

D. OUTSIDE THE COUNCIL OF EUROPE – HUMAN RIGHTS INSTRUMENTS, RECOMMENDATIONS AND THE MCINTYRE DECISION

Outside the Council of Europe, Article 27 of the International Covenant on Civil and Political Rights ('the ICCPR') provides that to claim language rights, a minority should exist and the concerned individual should be a member of that minority, visualising language rights as incidental to minority

¹³³ Palash Ghosh, *Watch Your Tongue: Language Controversy One of the Fundamental Conflicts in Ukraine*, March 3, 2014, available at <http://www.ibtimes.com/watch-your-tongue-language-controversy-one-fundamental-conflicts-ukraine-1559069> (Last visited on August 11, 2015).

¹³⁴ *Id.*

¹³⁵ Framework Convention for the Protection of National Minorities, 1.II.1995, CETS No. 157 (February 2, 1995).

¹³⁶ DUNBAR, *supra* note 96.

¹³⁷ Framework Convention for the Protection of National Minorities, §9, 1.II.1995, CETS No. 157 (February 2, 1995).

¹³⁸ Framework Convention for the Protection of National Minorities, §§10, 11, 1.II.1995, CETS No. 157 (February 2, 1995).

¹³⁹ *Id.*

¹⁴⁰ Framework Convention for the Protection of National Minorities, §§13, 14, 1.II.1995, CETS No. 157 (February 2, 1995).

right protection.¹⁴¹ However, Article 27 is a weak article due to its vagueness; while imposing positive obligations on states to protect their minorities, its lack of specificity means that individual states are free to decide on the modalities of implementation. For example, France has made a reservation to Article 27 to the effect that such a right to state recognition of one's minority characteristics does not apply to the citizens of France. While it may be said that the tacit silence as to objective parameters is a necessary concession to ensure acceptance by member states of the Council of Europe, as with any other international or regional instrument, it has often been argued that the Minority Languages Charter's abject silence in this regard goes to the extent of reducing it to no more than purely symbolic relevance.¹⁴² Within the framework of the Minority Languages Charter, individual states may well choose to effect implementation in a manner consistent with prejudices that the Minority Languages Charter portends to combat in the first place.

However, Article 27 of the ICCPR did add an interesting new facet to international jurisprudence on language rights, which can be seen through an interpretation by the United Nations Human Rights Committee in *Ballantyne, Davidson, McIntyre v. Canada*.¹⁴³ The Charter of the French Language of Canada's Francophone province of Quebec mandated that commercial signage be only in French, banning native English speakers, for example, from advertising "chocolate ice cream" at their street-side delicatessens rather than "*glace au chocolat*".¹⁴⁴ A group of three businessmen from the province challenged these provisions claiming to be victims of violation of Articles 19 (freedom of expression), 26 (ban on discrimination), and 27 (minority rights) of the ICCPR.¹⁴⁵ What is interesting is that while French is a majority language in the province of Quebec, it is a minority language in Canada as a whole. The United Nations Human Rights Committee held the impugned sections of the Charter of the French Language unsustainable, reasoning that while the legislation itself may have been intended to promote a minority language, it is nonetheless conceivable that protective measures for minority languages can violate the rights of the majority community. It employed the principle of proportionality, reasoning that while the broader objective of protecting the Francophone community of Canada was sound, it was not necessary to prohibit commercial signage in English to achieve this purpose.¹⁴⁶ It thus articulated the idea that where a pro-

¹⁴¹ International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), U.N. Doc. A/6316 (December 16, 1966), §27.

¹⁴² Dorian Sosa, *No Country Left Behind: Will Ratifying the Charter Truly Empower France's Regional and Minority Languages?*, May 28, 2014, available at <http://eucenterillinois-language.blogspot.in/2014/05/no-country-left-behind-will-ratifying.html> (Last visited on May 19, 2015).

¹⁴³ *Ballantyne, Davidson, McIntyre v. Canada*, U.N. Doc. CCPR/C/47/D/359/1989 and 385/1989/Rev.1 (1993).

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

vincial language majority and national language majority are also minorities in each other's domains, the legislation in favour of a national linguistic minority can infringe on the rights of the national linguistic majority. However, this idea was quickly retracted in the subsequent ruling of the Court of Québec in *Attorney General of Québec v. Boulangerie Maxie's*, where the Court reasoned that non-discrimination in this regard must be subordinated to 'higher ideals' of safeguarding the French language.¹⁴⁷

Across other international charters and treaties, while linguistic rights do seem to recur as a concern, nearly all these cases are restricted to the principle of non-discrimination.¹⁴⁸ While this does ensure protection of minority language groups from outright suppression at the hands of the State, it does not provide for positive language right measures and certainly does not envision state-sponsored measures to arrest the accelerating extinction of less-prominent languages. Within this restrictive framework, the issue of minority language rights is indirectly addressed in Articles 3(1) and 4(1) of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities,¹⁴⁹ which concerns the right of a minority to preserve and celebrate its own identity, without specific reference to language or linguistic rights. The resultant scenario is that the majority of the world's states live in a veritable legal vacuum with regard to positive language rights.

In 1996, the Minority Languages Charter's somewhat vague provisions on educational rights of linguistic minorities were addressed in the Hague Recommendations Regarding the Educational Rights of National Minorities, in which the Organisation for Security and Co-operation in Europe conceptualised an inclusive educational infrastructure that would allow minorities to study their native language as a subject in elementary schools.¹⁵⁰ The recommendations advocate pre-school and kindergarten education to be entirely in the native language, with instruction gradually shifting into the state language at the secondary school stage.¹⁵¹ Vocational training, it was said, should be provided in any subject in the minority language should the minority state a demand for it, and should their numerical strength justify it.¹⁵² The same widespread demand model was advocated for education at the tertiary level. The Office of the High Commission for Human Rights read these demands into Article 26 of the UDHR which elucidates on the right to compulsory elemen-

¹⁴⁷ Quebec (Attorney General) c. 156158 Canada Inc. (*Boulangerie Maxie's*), 2015 QCCQ 354 (CanLII).

¹⁴⁸ See Will Kymlicka & Alan Patten, *Introduction: Language Rights and Political Theory*, in LANGUAGE RIGHTS AND POLITICAL THEORY 1, 33–37 (2003).

¹⁴⁹ Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, G.A. Res.47/135, U.N. Doc. A/RES/47/135 (December 18, 1992), § 3-4.

¹⁵⁰ ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE (OSCE), THE HAGUE RECOMMENDATIONS REGARDING THE EDUCATION RIGHTS OF NATIONAL MINORITIES & EXPLANATORY NOTE 5-17 (1996).

¹⁵¹ *Id.*, 6-7.

¹⁵² *Id.*, 7-8.

tary education in addition to parents' right to choose the kind of education they deem appropriate for their children.¹⁵³ It further supports its model on Article 27 of the ICCPR, Article 30 of the Convention on the Rights of the Child, Article 5 of the UNESCO Convention against Discrimination in Education, and Article 14 of the abovementioned Framework.¹⁵⁴ The Oslo Recommendations, while not laying down much that has not already been read into liberal interpretations of the statutes examined, do provide a valuable framework for successive legislations in this regard. It advocates measures such as availability of judicial services in the language(s) of the minority, making possible the use of minority languages in engagements within public administration to receive and impart ideas in the minority language, and the right to follow their own naming conventions, locating these ideas within the framework of broader human rights instruments.¹⁵⁵ Both of these normative guidelines talk of a 'balanced' approach that would reconcile promotion of minority languages with the parallel goal of facilitating their active participation in 'mainstream' society, mindful of avoiding an 'isolationist' scheme. The Universal Declaration of Linguistic Rights, 1996, talks of a scheme of positive and negative language rights similar to that of the Minority Languages Charter, but differs inasmuch as it withholds the envisioning of a scheme of stratification within 'language communities' akin to the Minority Languages Charter's differing provisions for regional, non-territorial, and migrant languages.¹⁵⁶ This is a refreshing new scheme, but not yet ratified by the United Nations General Assembly.¹⁵⁷

E. 'PRIMORDIAL ATTACHMENTS': AN INDIAN PERSPECTIVE

India's approach to language, identity, and nationalism makes for a fascinating contrast with its European counterparts. Unlike France, it was never the intent of India's leaders or of the Constituent Assembly to create a truly monolingual state with one language supplanting all others.¹⁵⁸ Rather, they had the relatively moderate goal of establishing one language as a pan-Indian language, for usage in administration and as a *lingua franca*.¹⁵⁹ Nevertheless, India's vastly diverse language communities sent the strong message that even

¹⁵³ *Id.*, 15.

¹⁵⁴ *Id.*, 9-10.

¹⁵⁵ RECOMMENDATIONS REGARDING THE LINGUISTIC RIGHTS OF NATIONAL MINORITIES, *supra* note 95, 11-32.

¹⁵⁶ World Conference on Linguistic Rights, June 6, 1996, *Universal Declaration of Linguistic Rights*.

¹⁵⁷ Interview of Gomes de Matos, Language rights activist, Angéline Martel, available at http://www.telug.quebec.ca/diverscite/SecEntre/matos/matos_ang.htm (Last visited on August 3, 2015).

¹⁵⁸ See Jason Baldrige, *Reconciling Linguistic Diversity: The History and the Future of Language Policy in India*, (University of Toledo Honors Thesis), August, 1996, available at <http://www.ling.upenn.edu/~jason2/papers/natlang.htm> (Last visited on May 19, 2015); see also CONSTITUENT ASSEMBLY DEBATES, VOL. IX, (1949).

¹⁵⁹ *Id.*

this arbitrary ‘national language’ could not be imposed through coercion by the Centre.¹⁶⁰ India continues to follow a relatively inclusive language regime, with constitutional provisions for collective rights to maintain distinct linguistic heritage¹⁶¹ and the right to establish minority-language institutions.¹⁶² Therefore, modern-day concerns as to linguistic rights in India are largely not about negative safeguards against systematic political repression, rather about positive injunctions to arrest language extinction. UNESCO’s Atlas of Endangered Languages describes 196 Indian languages as “endangered”, with eighty only in the north-east,¹⁶³ while 220 languages have already been lost in the last five decades.¹⁶⁴ These endangered languages include Manipuri (Meitei), the Karbi language of Assam and Khasi in Meghalaya.¹⁶⁵ There have been some very recent efforts to preserve dying languages, both at the private¹⁶⁶ and governmental¹⁶⁷ front. However, India lacks any policy structures akin to those for Scottish Gaelic in the UK for facilitating and promoting usage of endangered languages, an unsustainable situation from the viewpoint of maintaining language diversity.

V. THE WAY FORWARD: FUTURE LEGISLATION

In developing more pervasive legislation in the interest of minority language rights, it is crucial to understand that even if it is necessarily incidental to minority protection, language preservation has a value unto itself. In consonance with this view, a hypothetical international instrument on language rights would do good to dispense with the Council of Europe’s fixation on autochthonous languages and to restrict the sole criterion for entitlement

¹⁶⁰ Duncan B. Forrester, *The Madras Anti-Hindi Agitation, 1965: Political Protest and its Effects on Language Policy in India*, 39(1/2) PACIFIC AFFAIRS 19 (1966) (Referring, of course, to the planned imposition of Hindi as the sole official language of the Union and the violent response thereto by several states).

¹⁶¹ The Constitution of India, 1950, Art. 29 (Rights of linguistic minorities to conserve their distinct linguistic heritage and to not be denied admission to any state-supported educational institutions on the basis of their native language).

¹⁶² The Constitution of India, 1950, Art. 30.

¹⁶³ Christopher Moseley, *Atlas of the World’s Languages in Danger*, available at <http://unesco.org/images/0018/001870/187026e.pdf> (Last visited on August 3, 2015).

¹⁶⁴ David Lalmalsawma, *India Speaks 780 Languages, 220 Lost in the Last 50 Years*, September 7, 2013, available at <http://blogs.reuters.com/india/2013/09/07/india-speaks-780-languages-220-lost-in-last-50-years-survey/> (Last visited on May 19, 2015).

¹⁶⁵ Tribal Cultural Heritage in India Foundation, *Cloud of Invisibility: India’s 196 Endangered Languages (UNESCO Atlas of the World’s Languages in Danger 2009)*, April 24, 2012, available at <http://www.indiantribalheritage.org/?p=6039> (Last visited on May 19, 2015).

¹⁶⁶ Anvita Abbi, *VOGA: Vanishing Voices of the Great Andamanese*, May 27, 2010, available at <http://www.andamanese.net/about.html> (Last visited on May 19, 2015) (Vanishing Voices of the Great Andamanese, a documentation program for the moribund languages of the Andaman Islands, set up by Anvita Abbi, enterprising linguist and Padmashree awardee).

¹⁶⁷ In August last year, the Ministry of Human Resource Development announced the start of a scheme on Protection and Preservation of Minority Languages in India, to document and preserve all Indian languages with less than 10,000 native speakers.

to number of speakers *vis-à-vis* majority communities. A treacherous slippery slope as this idea of exclusive regard for ‘sons of the soil’ is, it might go on to further marginalise certain particularly unwelcome linguistic minorities.

While it is true that the Minority Languages Charter is thus far the most comprehensive treaty of its nature, it does not confer any enforceable rights – individual or collective – and merely encourages concerned states to take measures for the promotion of minority languages; the aim of the Minority Languages Charter is not to guarantee human rights as such, but to protect minority languages as an integral part of Europe’s cultural heritage. Future international instruments in this area, in line with the Hague and Oslo Recommendations, should provide for enforceable positive rights with regard to educational infrastructure and correspondence with the government.

On a broader international scale, a more inclusive instrument for minority language rights, incorporating critical language diversity hotspots the likes of India, China, and Papua New Guinea, would also have to address in greater detail the issue of demarcation of eligible parties. The Minority Languages Charter’s singular fixation on autochthonous languages and its substantive differentiation between minority languages and non-territorial languages excludes several threatened languages from within its protective ambit. This could perhaps be addressed with a non-hierarchical understanding of minority languages, with the only qualifying criteria being the number of native speakers *vis-à-vis* the dominant linguistic group within a dynamic of domination. Sweden’s official language policy sets a brilliant precedent in this regard, wherein any language spoken in the country for more than three generations (roughly a hundred years) can be granted the status of national minority language.¹⁶⁸ The two-tier system employed by the Minority Languages Charter is counterproductive to broader goals of preserving language diversity and arresting cultural homogenisation and the Charter’s current neglect of non-territorial and ‘migrant’ languages serves no legitimate purpose. Present language rights legislation also remains silent on the issue of protection of critically endangered languages. Such languages are protected through documentation and instruction usually carried out by enterprising private entities.¹⁶⁹ Government support and intervention would go a long way in addressing their moral liability in this regard by providing financial support to such organisations.

Legislation, it cannot be stressed enough, is never a panacea for expansive social issues, even at the level of international charters. In addition to encouraging a positive language right legislation in ratifying states, the United

¹⁶⁸ Riina Heikkilä, *The language situation in Sweden : the relationship between the main language and the national minority languages*, October 4, 2010, available at <http://www.sens-public.org/spip.php?article763&lang=fr> (Last visited on September 1, 2015).

¹⁶⁹ Alliance for Linguistic Diversity, *Endangered Languages*, available at <http://www.endangeredlanguages.com/?hl=en> (Last visited on August 12, 2015).

Nations may set up a panel of experts with practical, on-the-field experience in language preservation and promotion, who may be called upon to assist governments and members of minority language communities in arriving at workable solutions.¹⁷⁰

At the domestic level, the closest to a linguistic utopia would be the inclusiveness of the Constitution of South Africa, recognising the right to a dignified existence as innate to indigenous and immigrant languages alike,¹⁷¹ with the practical compromise of Article 3.2 of its Spanish counterpart, which devolves responsibility for regional languages to the people who speak them, giving minorities the right to declare their own languages as official in their own regions.¹⁷² In case of moribund languages, however, more proactive measures are indispensable, including setting up of cultural repositories, instruction in primary education and documentation. Negative measures of language rights are the bare minimum required to protect languages and the minorities they represent from political repression by the majority group.¹⁷³ Positive, proactive measures are necessary to reverse the damage caused by such repression, as well as to cushion the inevitable impact of globalisation and the resultant socio-economic hegemony of one prestige dialect over others.¹⁷⁴

By and large, however, language rights remain an unfulfilled promise on the international realm, with present legislation being inadequate in addressing the nature and extent of the issue.

VI. CONCLUSION

It is the inherent charm of human language that something as banal as “I have a pen” can mutate into something as exotic (to our Indo-European grammatical intuition) as “As for me, a pen exists”.¹⁷⁵ Languages exist that do not distinguish between green and blue,¹⁷⁶ yet others that name directions strictly as per geographic coordinates rather than on an egocentric plane- effectively mandating that to specify the position of “the pen” *vis-à-vis* “the book”, one would have to say “the pen is south-west of the book” rather than relying on simplistic conventions of left and right that make the speaker

¹⁷⁰ O’Riagáin, *supra* note 127, 19.

¹⁷¹ The Constitution of the Republic of South Africa, 1996, §6.

¹⁷² The Constitution of Spain, 1978, §3.

¹⁷³ See Amir Hassanpour, *Language Rights in the Emerging World Linguistic Order: The State, the Market and Communication Technologies* in LANGUAGE: A RIGHT AND A RESOURCE APPROACHING LINGUISTIC HUMAN RIGHTS, 223-244 (1999) (On positive and negative language rights, what they entail, and which domain of linguistic suppression either of them deal best with).

¹⁷⁴ *Id.*

¹⁷⁵ See CHARLES F. HOCKETT, A COURSE IN MODERN LINGUISTICS 191–208 (1958).

¹⁷⁶ Guy Deutscher, *Does Your Language Shape How You Think?*, THE NEW YORK TIMES, August 26, 2010.

the point of reference – a quirk first discerned in GuuguYimithirr, the moribund language of the namesake aboriginal tribe in Queensland.¹⁷⁷ The Turkish practice of evidentiality – mandatorily specifying in each assertive sentence whether it was directly observed or inferred from a secondary source – would delight any connoisseur of precision.¹⁷⁸ The Mandarin grammatical system bereft of tenses, verb conjugation, or grammatical cases could redefine our idea of essentialism.¹⁷⁹ Japan’s feudal past still shows through in every sentence in everyday communication, lurking beneath its absurdly elaborate system of honorifics. A simple verb like “to read” can acquire many flowery appendages to accord enough respect to the addressee or humility to the speaker. It is socially quite appropriate, for example, to phrase “the teacher reads” as “*sensei gazasshio oyomininasaenatta*”¹⁸⁰ – literally, “the teacher deigned (us) to even read”. Politeness protocols sequester everyday speech into nebulous categories of ‘*sonkeigo*’ – respectful language, ‘*kenjougo*’ – humble/modest language, ‘*teineigo*’ – polite language, and ‘*teichougo*’ – courteous language.¹⁸¹ The recently discovered language of the *Pirahã* tribe of the Amazons lacks words for numbers, reducing counting to a function of ‘one’ and ‘several’.¹⁸² The structure of language is perhaps one of the most glorious testimonies to human intellectual achievement.

Loss of a language is the loss of an identity and another dismal step towards cultural homogeneity, an exercise in imperialism. If one believes in an inherent value in ecological diversity, caring for linguistic diversity would be but a logical corollary as the death of a language divorces a community from centuries of its accumulated history and stymies the kaleidoscope of heritage that is the collective treasure of all humankind. The deconstructionist conception of literature talks of how no two readers imagine the same world in their reading of a text, and their imagination is always removed from what actually transpired in the author’s mind – so that every reading is in essence a writing anew.¹⁸³ Likewise, no two languages express the perceptible universe in the exact same way; every language constructs its own universe. Loss of a language is a loss of a unique viewpoint on all that exists (or does not).

¹⁷⁷ *Id.*

¹⁷⁸ Lars Johansen, *Evidentiality in Turkic* in *STUDIES IN EVIDENTIALITY* (Alexandra Y. Aikhenwald & R.M.W. Dixon eds., 2003).

¹⁷⁹ WILHELM VON HUMBOLDT, *ON LANGUAGE: ON THE DIVERSITY OF HUMAN LANGUAGE CONSTRUCTION AND ITS INFLUENCE ON THE MENTAL DEVELOPMENT OF THE HUMAN SPECIES* 230-261 (1999).

¹⁸⁰ See Mark Volpe, *Honorifics in Japanese: A Distributed Morphology Approach to their morphology*, available at <http://ling.auf.net/lingbuzz/000520> (Last visited on July 29, 2014).

¹⁸¹ Patricia J. Wetzel, *Keigo in Modern Japan: Polite Language from Meiji to the Present*, 77(3) *PACIFIC AFFAIRS* 589 (2004).

¹⁸² Mike Vuolo, Slate, *What Happens when a Language has no Numbers?*, October 16, 2013, available at http://www.slate.com/blogs/lexicon_valley/2013/10/16/piraha_cognitive_anumeracy_in_a_language_without_numbers.html (Last visited on April 14, 2015).

¹⁸³ Department of English Language and Literature, Brock University, *Deconstruction: Some Assumptions*, available at <http://www.brocku.ca/english/courses/4F70/deconstruction.php> (Last visited on September 1, 2015).