

(LINGUISTIC) HUMAN RIGHTS AND/OR SECURITY POLICY

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Abstract: Current international Human Rights obligations and language rights declarations have not proved particularly effective. For a *crime against humanity* a person may be sentenced to life imprisonment (e.g., Ratko Mladić for the Srebrenica massacre), but other perpetrators often go unpunished: for instance, most of those States which assimilate their linguistic minorities through submersion education programs.

In his call for this conference, Professor György Andrassy urged us to find new arguments that might help to raise international language rights standards, and clarify the role of arguments in general. In this context I will address a wider issue: Does security policy pose a threat to minority language rights?

These challenges have been highlighted by conflicts in Ukraine over the past five years. If the Council of Europe, the European Union, and NATO become complicit in Ukraine's erosion of regional and minority languages, a precedent may be set whereby a linguistic minority can be deprived of the rights they previously enjoyed in their State. The example of Ukraine may be followed by other States in building homogeneous nation-states and could well lead to new conflicts in Europe. In this paper I will show that what has created a serious international conflict and paralysis in NATO could be handled quite straightforwardly by linguists.

Keywords: linguistic human rights, crimes against humanity, security policy, additive language teaching, Ukrainian language policy

Linguistic Human Rights are individual and collective linguistic rights that every human being possesses in order to satisfy their basic needs and to be able to live a dignified life. In theory, Linguistic Human

Rights are so inalienable that neither a State nor an individual can violate them, see Skutnabb-Kangas & Phillipson eds., 1994, Kontra et al. eds., 1999, Skutnabb-Kangas 2000, Skutnabb-Kangas & Phillipson eds., 2022.

Crimes Against Humanity

In 2017, Ratko Mladić was sentenced to life in prison for committing war crimes and *crimes against humanity* by the International Criminal Tribunal for the Former Yugoslavia in The Hague. In 2010 sociolinguist Tove Skutnabb-Kangas and Human Rights lawyer Robert Dunbar published a book in which they analyze educational policies and practices, carefully documented on five continents, which can be called *crimes against humanity* in the legal sense of the phrase. According to The Hague Recommendations Regarding the Education Rights of National Minorities issued by OSCE in 1996, “Submersion-type approaches whereby the curriculum is taught exclusively through the medium of the State language and minority children are entirely integrated into classes with children of the majority are not in line with international standards” (p. 14). Such submersion-type educational programs are enforced by most States from the USA through Hungary to China or from Sweden to Australia.

As a linguist, not a lawyer, I would like to take the liberty of stating that one difference between one crime against humanity and another is that for one a person may be sentenced to life imprisonment (e.g., Ratko Mladić for the Srebrenica massacre), but other perpetrators often go unpunished: for instance, most of those States which assimilate their linguistic minorities through submersion-type education programs.

One could ask the question: Why do most States tolerate such education programs? After all, Skutnabb-Kangas & Dunbar (2010) have convincingly demonstrated that submersion-type education “may constitute crimes against humanity” and “at least certain forms of submersion education [may] attract criminal liability in international law” (p. 90). The authors also quote Thomas & Collier¹ (2002: 7) who have shown that “the length of mother tongue medium education is more important than any other

factor (including socioeconomic status) in predicting the educational success of bilingual students, including their competence in the dominant language” (p. 11). As regards considerations of economics, Grin (2003: 26) has argued that “there are strong grounds to suppose that protecting and promoting regional and minority languages is a sound idea from a welfare standpoint, not even taking into consideration any moral argument.” Skutnabb-Kangas & Dunbar (2010: 73) assert that “If states want to act rationally, the question whether states can afford mother-tongue based multilingual education (MLE) should rather be: can ANY state afford *not* to implement MLE?” However, they are not naïve. They cite a number of reasons: the majority of speakers of dominant languages are insensitive to the troubles of minority language speakers since they are ignorant of linguistic oppression; in the debates on indigenous/tribal languages such speakers are very rarely asked and heard; *linguicism*² is a much more sophisticated way of preventing the use of a language than brutal, open and visible prevention through jailing, torture, etc.; governments are aware of the negative effects of forcing dominant language education on minorities, but succeed in claiming that they are not.

Human Rights Obligations and Language Rights Declarations are not Effective

Most if not all European States turn a blind eye to the violations of refugee rights from the Greek–Turkish border through the Serbian–Hungarian border to the Italian–French border and elsewhere (URL1, URL2). Fiala (2018) has recently demonstrated that the Council of Europe’s Advisory Committee on the Framework Convention for the Protection of National Minorities and the Committee of Experts of the European Charter of Regional and Minority Languages evaluated Slovakia’s performance under these two treaties very differently in recent monitoring cycles. For instance, the Committee of Experts monitoring the Charter concluded that provisions of the State Language Act and other laws which allow sanctioning of the use of minority languages are not in compliance with the Charter. It called upon Slovakia to amend its relevant laws according to the principles

of the Charter, which promote and facilitate the use of minority languages. “In contrast, the Advisory Committee monitoring the Framework Convention did not even mention the imposed sanctions” (Fiala 2018: 11). Concerning these two most important standard-setting mechanisms of the Council of Europe, Nagy (2021: 140) has concluded that their expert committees’ “repeated recommendations often fall on deaf ears”. As a final example, I quote Wardyn and Fiala (2009: 173) about the 2009 amendment of the Slovak State Language Law: “it is clear that the new law is a significant step backwards from the agreed-upon and accepted international standards established by the Charter (CRML) and the Framework Convention (FCNM)”.

In his call for this conference, Professor György Andrásy urged us to find new arguments that might help to raise international language rights standards, and clarify the role of arguments in general. In this context I have chosen to address a wider issue: Does security policy pose a threat to minority language rights?

These challenges have been highlighted by conflicts in Ukraine over the past five years. In 2017 a new law on education (LL2017) was adopted, and in 2019 it was followed by the Law “On Supporting the Functioning of the Ukrainian Language as the State Language” (LL2019). This law makes it an obligation to use the state language in all spheres of life. Concerning the 2019 law, Cserniczkó et al (2020: 92) have concluded that “if it is to be applied in practice, Ukraine will not be able (and probably will not want) to meet its international commitments – voluntarily undertaken by ratifying the Charter.” Cserniczkó & Tóth (2019) have demonstrated that for a century and a half, between 1867 and 2017, the right to mother-tongue medium education in what is today Transcarpathia, Ukraine was guaranteed by all the six states to which the region was affiliated. The 2017 law on education allows mother-tongue medium education for minorities only in kindergarten and grades one to four. In her Afterword to the book, Skutnabb-Kangas (2019a: 69) has stated this among other things: “If implemented, the law will certainly cause human trauma, forced language shift and massive linguistic genocide in education³”.

International Reactions⁴

The 2017 law on education and the 2019 law on the Ukrainian state language do not comply with international minority rights norms ratified by Ukraine. The laws have restricted existing rights, which violates Article 22 (3) of the Constitution of Ukraine whereby the narrowing of rights is unconstitutional. When enacting new laws, it is prohibited to curtail existing rights. However, existing rights *are* curtailed – “Ukraine is not a state based on justice and integrity in the Western sense, and, similarly to other laws, laws regulating language use are not applied consistently either” (Csernicskó & Fedinec 2016: 579).

One question worth posing now is: How far can Ukraine go in failing to observe European and UN covenants? We know that “Many states sign up for covenants and make no effort to implement them” (Phillipson & Skutnabb-Kangas 2017: 6). International covenants are often toothless when it comes to implementation, see Skutnabb-Kangas 2003, 2019b, the late UN Rapporteur on the Right to Education Katarina Tomaševski’s (2005) “behind-the-scenes account”, or the section titled “The global system: human rights endtimes?” in Phillipson and Skutnabb-Kangas (2017: 6–8).

Ukraine has signed and ratified the European Charter for Regional and Minority Languages. However, the provisions of LL2019 on the Ukrainian state language “have virtually eliminated the possibility of using regional or minority languages (a term that is not applied in the Law) in social and public life. As a result, this law made it impossible to apply the Charter in Ukraine” (Brenzovics et al. 2020: 88).

In a detailed analysis of conflict prevention or human rights promotion, Fiala-Butora (2020, p. 258) states that “Ukraine has long ignored the recommendations of the Council of Europe under the Framework Convention of National Minorities and the European Charter for Regional or Minority Languages” because international bodies responsible for enforcing international human rights norms have not put more pressure on the country. Despite criticism and recommendations of the Council of Europe’s Venice Commission concerning the LL2017 and the LL2019, the Ukrainian government shows no sign of easing the restrictions.

In February and April 2018 Hungary blocked the meeting of the NATO–Ukraine Commission, arguing that it is impossible to support the country’s bid to join NATO after Ukraine adopted the controversial education law “brutally mutilating minority rights.” At the NATO summit in London in December 2019, the Hungarian foreign minister said “We ask for no extra rights to Hungarians in Transcarpathia, only those rights they had before.”⁵ Hungary received criticism from other NATO members, which considered the issue of minority rights to be outside NATO’s remit. “Secretary General Jens Stoltenberg called upon the two parties to find a solution through negotiation, reconciling the protection of minority rights and Ukraine’s goal of promoting its national language” (Fiala-Butora 2020: 245).

To us linguists, what has been causing serious diplomatic tensions and a headache for NATO could be fairly easily solved. By introducing mother-tongue-based bilingual education of the additive⁶ kind instead of subtractive Ukrainian-only education, Ukraine would avoid massive linguistic genocide in the education of some of its minorities, namely those with kin-states in the EU, and also many of its Russian speakers. From the point of view of foreign policy and security, such an educational policy would largely take the wind out of Russia’s sails because they could no longer claim that Russian speakers’ human rights are violated. As Skutnabb-Kangas (2019b: 1) has shown, the devastating results of submersion programs have been known since the mid-1700s, yet “these submersion programmes using the dominant language as the only or main language [of instruction] continue all over the world.”

Conclusion

We agree with Pavlenko (2013: 267–268) that the European Charter was articulated for protection and promotion of languages used by traditional minorities (such as the Transcarpathian Hungarians in Ukraine). We also agree with her that the non-traditional Russian-speaking minorities (such as the Russian-speakers in Ukraine today) highlighted the need to dissociate concerns about language endangerment (*language rights*) from *speakers’ rights*, for instance

the right of speakers of all languages to use their mother tongues. Mother-tongue-based bi- or multilingual education programs, rather than impatient nation-state projects, offer a good solution.

Should European international organizations remain passively complicit in the erosion of the Ukrainian education network in regional or minority languages, a precedent will be set, as a result of which the rights of minorities previously ensured in the legal system of the State that they are citizens of can be curtailed at any time. States which aim at building homogeneous nation-states may then be encouraged by the Ukrainian example, may take similar steps, thus inevitably leading to new conflicts in Europe. In Ukraine, according to the Transcarpathian Hungarian lawyer Mihály Tóth (Lengyel 2020: 43), the consequences would bring chaos, discrimination, the marginalization of the Hungarian language, and anti-Hungarian harassment and hate crimes.

If the current laws are implemented, Ukraine will be restricting the rights of its minorities that they enjoyed while resident in various states in different political systems. Secondly, Ukraine, as a newly independent State, will be repealing those rights of the minorities that were enjoyed by Ukrainians when they were themselves a minority earlier.

A confrontation and clash between Linguistic Human Rights and security policy can only have devastating results. However, asserting the close linkage between Linguistic Human Rights and security policy seems to be the best way to deal with and avoid conflicts. The vital question is: How to get those in power to listen to linguists who are concerned to bridge the gap between informed education policies and security policies?

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Endnotes

- 1 This is the largest longitudinal study in the world on the education of minority students, involving a total of more than 210,000 students, including in-depth studies of both urban and rural settings in the USA, and with many different types of educational models.
- 2 Racism, ethnicism and linguicism have been defined as ideologies, structures and practices which are used to legitimate, effectuate and reproduce an unequal division of power and (both material and non-material) resources between groups which are defined on the basis of
 - «race» (biologically argued racism),
 - ethnicity and culture (culturally argued racism: ethnicism),
 - LANGUAGE (linguistically argued racism: linguicism) (Skutnabb-Kangas 1988: 13).
- 3 “In subtractive language learning, a dominant or majority language is learned at the cost of the mother tongue. Subtractive teaching subtracts from the children’s linguistic repertoire (instead of adding to it). The children undergoing this type of education, or at least their children, are forcibly transferred to the dominant group linguistically and culturally, and the education can cause them mental and physical harm; both are defined as genocide in the United Nations Genocide Convention. The most decisive educational factor in causing negative statistics of indigenous ‘performance’ is the use of the wrong teaching language.” (Hough & Skutnabb-Kangas [2005]: Abstract). See also Skutnabb-Kangas (2000).
- 4 The second part of this paper beginning here is mainly based on Csernicsekó & Kontra (forthcoming 2022).
- 5 <https://www.reuters.com/article/us-ukraine-nato-hungary/hungary-to-block-ukraines-nato-membership-over-language-law-idUSKBN1Y823N> (accessed 20 August 2021).
- 6 In additive language teaching/learning a second (dominant) language is taught/learned in addition to the learners’ first language (mother tongue), not at the cost of the mother tongue. Cf. note 3 for subtractive teaching/learning.