Reviews


Philip Benson
The English Centre,
The University of Hong Kong

One of the more interesting developments in linguistics and applied linguistics in the 1990s has been the growing tendency among theorists and practitioners to confront the moral and political dilemmas of their field. Evidence of this tendency could be found in two international conferences on the subject of language rights held in June 1996: the World Conference on Linguistic Rights in Barcelona and the International Conference on Language Rights in Hong Kong. A number of recent resolutions and statements on language rights could also be noted, including the TESOL (Teachers of English to Speakers of other Languages) Resolution on Language Rights, the FIPLV (Fédération Internationale des Professeurs de Langues Vivantes) draft *Universal Charter of Basic Human Language Rights*, Chris Brumfit's (1995) plenary on language rights at the 1995 IATEFL (International Association of Teachers of English as a Foreign Language) Annual Conference, which contains a draft 'Language Charter', and the LSA (Linguistic Society of America) *Statement on Language Rights* circulated in 1995.

By its own account, "TESOL's mission is to strengthen the effective teaching and learning of English around the world while respecting individuals' language rights" (the text first appears in the 'President's message', *TESOL Matters*, June/July 1993). It is of particular importance, therefore, for applied linguists (particularly those of us concerned with the teaching of English) to understand more about language rights and how the teaching of foreign languages...
might impinge upon them. What the 'language rights of individuals' consist of is by no means self-evident, and any attempt at clarification them must be welcomed. It is in this light that applied linguists will welcome two recent publications in the field, Fernand de Varennes's *Language, Minorities and Human Rights* and Tove Skutnabb-Kangas and Robert Phillipson's *Linguistic Human Rights: Overcoming Linguistic Discrimination.*

Both volumes aim to establish language rights as fundamental human rights and seek to clarify their scope and application, de Varennes from the perspective of the law and Skutnabb-Kangas and Phillipson primarily from the perspective of applied linguistics. Although the concept of language rights is well-established in multilingual polities such as Australia, Canada and the USA, these are the first works to attempt to explicate language rights from a systematic and global point of view. For this reason alone they deserve serious attention. In this review, I want to look critically at the arguments of each volume with a particular eye to their implications for applied linguistics.

De Varennes's concern is to show empirically how international human rights legislation can be and has been used to protect minority languages and their speakers. His book is intended for lawyers but its painstaking treatment of the issues and careful argumentation make it highly accessible to those of us who are less inclined to legal argumentation. De Varennes deals in considerable detail with international case law on linguistic issues and interpretations of human rights instruments and is meticulous in drawing conclusions. More than half of his 532 pages are devoted to an appendix of extracts from international and national language-related law, which in itself makes the book an essential source of reference on language policy and law.

In the historical chapter that begins the book, De Varennes shows how the rise of the European nation state and its growing interest in the affairs of the individual has made the linguistic rights of minorities an issue of concern. Until the 16th century at least, imperial powers and dominant majorities appear to have found colonized peoples and minorities easier to rule if they were allowed a degree of self-government through their own languages. The rise of the European nation state, however, coincided with attempts to impose single
national languages upon linguistically diverse populations in the interests of 'national unity'. Since the national language was invariably the language of the majority, language rights have tended to be associated with minority rights and are invariably bound up with questions of political nationalism. Human rights instruments which bear upon questions of language can often be seen to balance the freedoms of individuals and minority groups against the interests of the nation state, which are expressed in the dominance of the majority language in state services such as education. This is a useful insight for language rights in Asia, where post-colonial nation-building efforts have similarly involved attempts to impose national languages on multilingual populations in the name of 'language planning' (for example, Burma, Indonesia, Malaysia, Philippines, Singapore), although it must be borne in mind that in Asia, national or official languages are by no means always those of the majority. While the promotion of national languages is not in itself illegitimate in terms of international law, de Varennes argues, it may become so if the interests of the state are not balanced against the fundamental freedoms guaranteed by human rights legislation. In effect a national language policy may be illegitimate in terms of international law if it rides roughshod over the rights of speakers of non-dominant languages.

In tracing the history of legislation relating to language, de Varennes discusses three main human rights concepts: the right to freedom of expression, the right to non-discrimination and the right of individuals belonging to linguistic minorities to use their language with other members of their group. The right to freedom of expression has a linguistic aspect in decisions which have established that the right to express opinion freely implies the right to do so in the language of one's choice. Freedom of expression thus imposes upon states an obligation not to interfere in the use of language in the private (non-governmental) sphere. Thus, official bans or restrictions on publications, public notices and private communications for the sole reason that they use a particular language clearly violate international norms of freedom of expression and have been judged to do so in a number of cases. On the other hand, de Varennes, shows fairly clearly that the right to freedom of expression does not impose linguistic obligations on the state in regard to the provision of services. In a number of cases where freedom of expression has been at issue, it has been determined that speakers of minority languages are not
automatically entitled to use or to be addressed in their own language in
court or in official communications, especially if they are deemed to be
competent in the majority language. This is not to say that an
obligation to provide such services cannot be demonstrated in specific
instances, merely that the right to freedom of expression is not the
instrument with which to demonstrate them.

De Varennes considers the right to non-discrimination to be the
most effective guarantee for the rights of linguistic minorities.
Although language is not always included in anti-discriminatory
legislation as a potential ground for discrimination, it has in practice
frequently been recognized as such. The right to non-discrimination is
founded on a fundamental right to equality of treatment at the hands of
the state. De Varennes's particular target, therefore, is the false
argument that by imposing a single language upon all individuals the
state treats all individuals equally. Since any state language preference
has the effect of creating inequalities between speakers and non
speakers of the preferred language in access to goods and services
provided by the state in that language alone, such preferences are
necessarily discriminatory. Where state language preferences operate,
equality of obligation towards the state (e.g. in terms of payment of
taxes and obedience to the law) is not matched by equality in the
distribution of goods and services, possibly constituting an obligation
upon the state to provide those goods and services in both majority and
minority languages. While the discriminatory character of state
language preferences appears to be absolute, however, the
corresponding obligation upon the state to provide services in minority
languages is not. Legislation tends to insist only that such preferences
be 'reasonable' when the interests and goals of the state are balanced
against the rights and interests of individuals and the effects of state
language preferences upon them.

While there are no fixed criteria in international law to determine
when a distinction on grounds of language is discriminatory or not, de
Varennes suggests that there are a number of relevant factors, among
which the most important are the size of a linguistic minority and its
territorial concentration. Although financial constraints may prevent a
state from furnishing education in the language of choice of linguistic
minorities that are numerically small and relatively dispersed, the same
cannot apply to minorities who constitute a significant portion of
population or who constitute a majority in a particular region. The problem is of course to determine at what point the size or concentration of a minority becomes 'significant' and what levels of obligation are imposed upon the state. In practice this varies a great deal from country to country and factors other than size or concentration may also be relevant, such as the association of language with religion or the fact that a language is considered indigenous. Some states operate a sliding scale of benefits in education ranging from the provision of a few hours of minority language instruction to use of the minority language as medium of instruction throughout the educational system according to the numerical concentration of a minority within different regions and their requirements. Clearly, imbalances in the operation of such a sliding scale or the withdrawal of minority language services from a group which has traditionally enjoyed them could be seen as discriminatory.

While the point at which discrimination on grounds of language becomes legally demonstrable is vague, however, the point holds that the imposition of a national language upon linguistic minorities must not be 'unreasonable'. Withholding minority language services on the grounds that the assimilation of the minority to the culture of the majority is a desirable national good would appear to violate international norms of human rights if it can be demonstrated that these services are withheld for the primary political purpose of cultural elimination of the minority. This would appear to be the case in Burma at present, for example, where it is reported that Karen-medium education is being withheld in government held Karen areas as part of a systematic policy of cultural assimilation. Moreover in areas where a national linguistic minority constitutes a regional majority, the linguistic demands placed upon users of the minority language to assimilate to the majority language may be unreasonable and discriminatory, however reasonable the goals of the state in promoting the majority language may be. This may be the case for Russian speakers in Estonia, de Varennes argues, who are required to demonstrate a degree of competence in Estonian when applying for citizenship. Although the language law in question has been recognised as legitimate by the United Nations because of the importance of the Estonian language to Estonian national identity and the need to rectify past Soviet practices of in-migration, de Varennes questions whether such requirements are not disproportionate and
unrealistic given the isolation of many Russian-speaking inhabitants from opportunities to use Estonian in everyday life.

In his chapter on language and non-discrimination, de Varennes departs from the close interpretation of legal decisions to consider situations where the dominant official language is a minority or foreign language. In so far as it offers protection to individuals as members of groups, international law typically provides instruments for the protection of minorities only. These are defined in strictly numerical terms in order to avoid the possibly of a state simply claiming that minorities do not exist within its borders (as is the case with the Kurdish minority in Turkey). Paradoxically, international human rights instruments also appear to provide protection for dominant majorities, although this is rarely acknowledged in practice. More importantly, these instruments appear to lack mechanisms for the protection of dominated majorities. De Varennes suggests that one such case is the typical post-colonial scenario in which a foreign colonial language (typically English or French) is selected as national language on the grounds of its 'neutrality' in a multilingual multiethnic context. De Varennes's argument echoes those of applied linguists such as Tsuda (1986), Tollefson (1991) and Phillipson (1992) who have argued that the preference for 'world languages' in the post-colonial world has tended to support inequalities based on differential access to education in the medium of the preferred language. The argument that such preferences may discriminate against the majority, however, is stronger sociolinguistically than legally, since there seems to be little basis in international law on which an argument for discrimination against a majority can be founded. Indeed it is arguable that legal instruments can obscure the fundamental inequalities inherent in such situations. Hong Kong's adherence to international human rights standards (specifically the International Covenant on Civil and Political Rights), for example, means that defendants in court are entitled to interpretation facilities when they are unable to understand or make themselves understood in the language of the court, which is generally English. But since the language of the law is a foreign/minority language, the more fundamental inequality that is constituted by a legal system which fails to work fully in the language of the majority (Cantonese) is obscured. The failure of humans rights instruments to provide protection to majorities casts doubt upon the assertion that such instruments are adequate for the protection of
language rights. Moreover, in cases where the dominant language is a foreign language, there is often a decoupling of language and ethnicity which suggests a need for a specifically linguistic right to the use of the mother tongue. It is to the author’s credit, however, that he attempts to make a case for protection of dominated majority languages on the grounds of non-discrimination, even though this case ultimately fails to stand up on the same basis as the argument for protection of minority languages, which is simply that such protection already exists in international law.

Skutnabb-Kangas and Phillipson’s book is an edited collection of 20 papers on issues of language rights, four of which are authored or co-authored by the editors themselves. It also includes an appendix of language rights documents which is somewhat shorter than de Varennes’s but useful nevertheless. The stated aim of the book is to establish the contours and scope of Linguistic Human Rights (LHRs), a concept which, the editors argue, has yet to be coherently defined. While each of the chapters contributes towards conceptual clarity in its own way, the coherence of the book largely comes from the editors’ contributions, and it is on these that I want to focus.

In the introduction to the collection (co-authored by the editors and Mart Rannut) it is argued that “linguistic rights should be considered basic human rights” (p.1). Linguistic majorities, or speakers of dominant languages, already enjoy linguistic human rights, no matter how broadly or narrowly these are defined, while most linguistic minorities do not. Only speakers of the official languages of their states enjoy full linguistic rights and only a few hundred of the world’s 6,700 languages have official status. Like de Varennes, Skutnabb-Kangas and Phillipson argue that in view of the persistence of ethnolinguistic identities as symbols of political mobilization, failure to guarantee linguistic rights can be a factor in conflict and war. This is not to say that ethnically-based conflicts in which language is implicated (such as those in Sri Lanka and the former Yugoslavia) are caused by linguistic differences. However, where the potential for such conflict exists, failure to guarantee linguistic human rights is liable to be a factor in their escalation. In such cases, attacks upon the linguistic rights already held by minorities or majorities are likely to be especially destabilizing. In contrast to de Varennes, Skutnabb-Kangas and Phillipson lack confidence in existing human rights instruments in
ensuring linguistic human rights. These instruments, they argue, tend to be vague. They tend not to deal with language explicitly and often fail to impose clear obligations upon the state for the maintenance of minority languages. The thrust of their argument, therefore, is towards the formulation, codification and implementation of explicitly linguistic human rights, rather than the mobilization of existing human rights legislation to deal with matters of language.

Skutnabb-Kangas and Phillipson define linguistic human rights at both the individual and collective levels. At the individual level, these should include (i) the right to identify positively with the mother-tongue and to have that identification respected by others, (ii) the right to at least basic instruction through the medium of the mother tongue and the right to use it in official contexts, and (iii) the right to learn at least one of the official languages of the state. At the collective level, linguistic human rights should cover (i) the right of minorities to enjoy and develop their languages, (ii) their right to maintain and control minority language schools and (iii) guarantees of representation at the level of the state and autonomy in internal matters of culture, education, religion, information and social affairs. This formulation goes considerably beyond existing human rights instruments and language legislation, especially if the right to identify with the mother-tongue is seen as inalienable. Although in practice, states may be unable to provide services in all minority languages, linguistic human rights legislation could place the onus upon states to demonstrate why they cannot do so, rather that upon the individual to demonstrate firstly membership of a minority and secondly discrimination on the grounds of that membership.

Skutnabb-Kangas and Phillipson also emphasise the contexts of power and ideology within which language legislation works. They point out that linguistic majorities are generally only inclined to grant minority rights when a minority is either small enough not to constitute a threat (e.g., indigenous minorities in North America and Australia) or where a real threat of secession needs to be averted (e.g. French in Canada). The ‘threat’ involved here, of course, is more perceived than real, because, as regions such as Switzerland, Belgium and Scandinavia show, national unity may be promoted when multilingual arrangements are made to the broad satisfaction of both minorities and majorities. There are, however, powerful ideological
myths at work to promote the dominance of majority languages, notably (i) that societal monolingualism is good for economic development, (ii) that granting minority rights encourages disunity and separatism, (iii) that dominant languages are dominant because they are linguistically better able to survive, (iv) that languages are purely instrumental and the fewer of them the better, and (v) that the linguistic assimilation of minorities is ultimately in the interests of the minorities themselves.

There are powerful linguistic and sociolinguistic arguments against each of these myths, although it is arguable that linguists and applied linguists could do more to make them better known. But it is also true that some of these myths gain substance through the denial of language rights in practice. Where linguistic rights are denied to minorities, their objective economic interests may well be best served by linguistic assimilation. However, in such cases minorities (and linguistically dominated majorities) are forced to make a choice between cultural and economic survival, which majorities (and linguistically dominant minorities) do not have to make. If linguistic rights are guaranteed, the substance of the myths of enforced monolingualism evaporates. This implies an obligation upon linguists not only to make the facts about societal and individual bilingualism better known, but also to argue actively for the promotion of language rights. An excellent example of these twin goals in action is Jim Cummins chapter in the book - ‘The discourse of disinformation: the debate on bilingual education and language rights in the United States’ - which seeks to show how public discourse on bilingualism in North America tends to rationalise the deprivation of minority students of their language rights in the education system.

Other papers in Skutnabb-Kangas and Phillipson's book deal with a range of issues autochthonous and immigrant language rights (Grin), ethnolinguistic democracy (Fishman), typology of language legislation (Turi), personal names (Jernudd). There are also a number of case studies covering Russia (Leontiev), the Baltic States (Rannut), the USA (Hernandez-Chavez), New Zealand (Karenu), Norway (Magga), Australia (Smolicz; Gibbons et al.), Latin America (Hamel), India (Khubchandani; Tickoo), Africa (Phillipson and Skutnabb-Kangas) and Turkey (Skutnabb-Kangas and Bucak). While a considerable range of perspectives are represented, however, there are inevitably areas in
where perhaps more could be done to juxtapose the implications of theoretical positions as they apply to different contexts. Here, I want to look in a little more detail at one area which is of special concern to post-colonial East Asia: the matter of official and foreign languages.

Among the dimensions of linguistic human rights, Skutnabb-Kangas and Phillipson (like de Varennes) include the right to learn at least one of the official languages of the state, which presumably also implies the right of a minority to choose that language as a medium of instruction if it wishes. This right is important not only because it ensures that linguistic rights do not result in the ghettosization of linguistic minorities, but also because it makes clear that the maintenance of minority languages should not be at the expense of the full participation of minorities in the life of the nation. However, Skutnabb-Kangas and Phillipson also argue that the right to learn one official language implies not only an obligation upon the state to teach it but also an obligation upon the minority to learn it (p. 14). On the matter of foreign languages, Skutnabb-Kangas and Phillipson question the incorporation of the right to learn languages other than the mother-tongue and official languages of the state in documents such as the FIPLV draft charter (pp. 102-3). While they are clearly not in favour of the denial of this right, they question its motivation and suggest that, in a hierarchy of linguistic rights, the right to identify with the mother-tongue must be higher than the right to learn foreign languages. I want to suggest here that their formulation of these issues is problematic for three reasons.

(1) An inalienable right to the use of the mother tongue in private and public life appears to imply the right to use it exclusively, although in practice this right is seldom claimed by minorities precisely because there is, as de Varennes shows, no corresponding obligation upon the state to provide all minorities with all services in their languages. If the right to the mother tongue is inalienable, however, an obligation upon a minority to learn any other language (still less to achieve a certain standard of proficiency in it) seems contradictory because it renders the right to the mother tongue conditional. Moreover, such an obligation could be considered discriminatory if added an unreasonable language learning burden upon the minority in contrast to the majority. Where the state chooses a particular language as official language,
it clearly has an obligation (under the right to non-discrimination) to provide instruction in that language to those for whom it is not a first language. Where such instruction is compulsory, however, the onus is surely upon the state to ensure that there is no violation of the linguistic rights of minorities thereby. In particular, it would seem important that the state's obligations towards minority languages should not be made conditional upon the minorities' fulfilment of obligations to learn official languages that are imposed upon them by the state.

(2) It is undeniable that the incorporation of the right to learn foreign languages in the language rights statements of professional language teaching organizations serves the professional interests of those organization and is, for that reason alone, questionable. Nevertheless, it is equally important to consider what the absence of the right to learn languages in addition to the mother tongue and the official languages of the state might mean. Under certain circumstances, the state may see fit to ban or severely constrain foreign language learning, which would arguably constitute a violation of the right to freedom of expression. In cases where the state chooses to designate a foreign language as official, or give it a special status, the diversification of foreign languages taught might be desirable from the point of view of linguistic rights. Under such circumstances, the right (or even obligation) to learn the official language without a corresponding right to learn non-official foreign languages (which might also be the languages of minorities or majorities in neighbouring countries) would not transparently serve the promotion of linguistic democracy and equality.

(3) The notions of 'official' and 'foreign' languages are themselves problematic in many cases. States are free to designate any language or combination of languages as official, and this appears to be recognised as prerogative of the state by most human rights instruments. There is, therefore, no necessary correlation between majority language and official language. In Hong Kong, the official languages are designated to be English and Chinese. Singapore has four official languages, English, Mandarin Chinese, Malay and Tamil. In Indonesia, the official language is Bahasa Indonesia, a standardized variety of Malay which is the mother
tongue of no major linguistic group, a situation that is also arguably the case with Bahasa Malaysia in Malaysia. In each of these cases, the languages which are designated as official are closely related to the languages or language varieties of the majority but are not the dominant languages of everyday life. In two cases, a foreign language - English - is designated as official. The meaning of the right and obligation to learn one of the official languages of these states, therefore, varies considerably according to the country in question and language spoken by the minority. Moreover, since states typically consider languages to be 'foreign' if they are non-official, even though they may be minority languages within the country itself (e.g., Spanish in the USA), formulations of language rights that are dependent on terms such as ‘foreign’ or ‘official’ may be open to manipulation through arbitrary designations by states.

On balance, it would appear that the right to learn one of the official languages of the state is important precisely because the languages concerned have been designated as official and a minority would suffer discrimination if denied access to them. However, in cases where several languages are designated as official, it would seem important that minorities have the right to learn whichever official language they deem to be of greatest use to them. The obligation to learn an official language, on the other hand, appears arbitrarily contingent upon the state's designation of languages as official or non-official, which may be unreasonable from the minorities' (or dominated majorities') point of view. While it must be acknowledged that there is a risk of trivializing language rights by placing the right to learn foreign languages on the same plane as the right to the mother tongue, insistence on the right of individuals to learn whatever languages they choose appears justified. Not only does this correspond to the right to freedom of expression, it may also be the only protection which minorities and majorities have against unreasonable designations of 'official' and 'foreign' languages by the state.

The fact that the formulation of universal linguistic rights remains debatable is hardly surprising in view of the recency of concern with language rights in the field of applied linguistics. Clearly, theoretical propositions need to be tested against more empirical contexts of language policy and planning. The problem of human rights
formulations is that they need to be sufficiently general to be universal without losing their specific applicability to individual cases. Skutnabb-Kangas and Phillipson's formulation appears to work well in contexts where the official language is also the majority language and where the right to learn foreign languages is not under any specific threat. A more explicit yet concise formulation which would take other contexts into account would be no easy task, however, and would depend upon clear empirical analyses of a variety of national and international sociolinguistic and legal contexts. This criticism does not detract from the book as a whole, however, since its strength is precisely that it has brought issues of this kind to the fore.

Although there are considerable differences of approach between the books reviewed here, they are essentially complementary rather than contradictory. De Varennes book emphasises the ways in which the rights of linguistic minorities are protected by existing legal instruments, but the wealth of case studies presented possibly gives the impression that the language rights of minorities around the world are better protected than they actually are. Skutnabb-Kangas and Phillipson emphasises the widespread violation of linguistic rights of minorities around the world and the need for the formulation, codification and implementation of specifically linguistic rights. In combination, they make a highly readable introduction to language rights as they are at present and as they might be in the future.

Returning to TESOL's mission "to strengthen the effective teaching and learning of English around the world while respecting individuals' language rights", it might be suggested on the basis of arguments presented in these books that although the concern is laudable, the formulation of it is not entirely felicitous. If language rights are human rights, they cannot be subordinated to the aim of teaching a particular language. As language teachers and applied linguists, it can be argued, we have a primary obligation to the protection of the language rights of those we teach and study, within which our professional activities must be justifiable. At the same time our privileged access to knowledge about language and its use places a particular responsibility upon us to take up intellectual positions in support of language rights when these are violated and to refute distortions of linguistic thinking which support their violation. In the coming years, Hong Kong faces a complex set of problems and
opportunities in relation to language policy principally relating to shifting relationships among the three dominant codes: Cantonese, English and Putonghua (for a discussion of the main issues, see T'sou, 1994). It is to be hoped that issues of language choice will not simply be resolved according to expediency or crude criteria of economic or social efficiency, and that the language rights of individuals will be taken into account. If applied linguists are to play a role in this, Skutnabb-Kangas and Phillipson's and de Varennes's books will be essential reading.

References


_LSA Statement on Language Rights_. (1995) Linguistic Society of America. (Circulated by e-mail, e.g. as LINGUIST list #6.1636).


