

Thinking about Linguistic Discrimination

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Linguistic inequality is accepted as inevitable, yet rejected as illegitimate. This ambivalence is facilitated by ambiguity. At least five kinds of language-associated inequality are commonly recognized but rarely distinguished. The main effect of this ambiguity may be to conceal injustice and thus benefit those profiting from injustice.

The theory of linguistic inequality is primitive, making concepts like unequal linguistic aptitudes, the power of a language, linguistic sexism, and linguistic discrimination unclear. Different measures of inequality give different answers to questions such as whether India or the USSR is linguistically more unequal.

Legal scholarship on language rights, such as by Kloss and Van Dyke, wrongly assumes that unequal treatment of languages is inevitable and hence justified. These doctrines permit much discretion in applying criteria of nondiscrimination, thus sanctifying language policies that minimize government costs at the expense of citizens. A more reasonable doctrine recognizes that equal linguistic treatment can be (1) identical treatment of languages, (2) equal treatment of languages, or (3) equal treatment of speakers. The latter principle permits nonlinguistic compensation for linguistic disadvantages and makes it theoretically possible to combine equality with efficiency. It entails, however, new analytical, jurisprudential, and political problems. Among these are the possible extension of eminent domain law to language and the assimilation-retarding effect of antidiscriminatory compensation.

A common assumption about languages is that making them all equal is inexpedient. It is assumed to be either impossible or unreasonably costly for a multilingual country or organization to promote, use, and recognize all its languages to the same degree. Even if equal official treatment of several languages were feasible, it would presumably fail to erase the differences of utility and prestige among languages. Thus, the selection of one or a few privileged languages is considered necessary, practical, and legitimate, even where the unequal treatment of races, religions, sexes, regions, and other social categories is illegitimate.

Nevertheless, powerful voices argue for linguistic equality as a fact and as a norm. Most linguists in the rationalist tradition assert that every natural language is equal in its ability to communicate ideas. Defenders of certain political systems claim

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they give equal rights to all the languages used by their populations. And widely accepted theories of human rights, enshrined in the charters of human rights organizations and in international agreements, reject discrimination on the basis of language.

How can linguistic inequality be accepted as inevitable, yet also rejected as incompatible with important scientific and political doctrines? One explanation for the apparent conflict or inconsistency is that the very notions of “equality,” “inequality,” and “discrimination” remain ambiguous when applied to language, partly because language politicians benefit from these ambiguities. By analyzing these concepts, we can distinguish logically possible and impossible kinds of linguistic equality. We can reconcile principles of language policy that previously appeared contradictory. And we can define criteria for monitoring or enforcing compliance with rules against linguistic discrimination.

I shall not try to demonstrate the existence, levels, interrelationships, or changeability of particular linguistic inequalities. Whether languages can be superior and inferior has been discussed by others, such as Crystal (1971: 71–72), Haugen (1971), and Hymes (1974). I assume that languages can be so described because they can be ranked on their possession of valued attributes such as speakers, literatures, official statuses, prestige levels, writing systems, lexicons, and degrees of learnability. I further assume that actions by political authorities can change the allocation of such attributes among languages. Finally, I assume that unequal native languages are unequal assets for their speakers, and those with a superior native language are advantaged. I shall explore ways of conceptualizing and measuring the advantages enjoyed by some and the penalties paid by others.

Popular Ideas of Linguistic Inequality

At least five language-associated inequalities appear in political discourse. They are (1) unequal attributes of different languages, (2) unequal privileges granted to the users of different languages, (3) unequal linguistic skills of different persons, (4) unequal statuses conferred on different persons by linguistic rules and customs, and (5) inequalities covarying with language but not caused or motivated by language. When a linguistic inequality is alleged, however, it is often unclear which kind it is and how it is defined.

It is widely believed that French is logical; Arabic untranslatable; Spanish easy to learn; Danish ugly; Italian beautiful; English practical, democratic, and sexist; Hebrew sacred; Bengali cultured; Esperanto neutral. But such beliefs are ambiguous. If French is logical, the reason may lie in its grammar (e.g., its prohibition of adjectival nouns) or in the education or reasoning skill of its speakers. English may have a practical grammar or lexicon, or its practicality may result from privileges granted to its speakers.

Alternative interpretations of a language-associated inequality tend to serve different interests. To blame a minority's disadvantages on the deficiency of its language rather than on discrimination legitimizes the privileges of other groups and the platform of assimilationist leaders in the minority. To attribute illiteracy or linguistic barbarity to deficient skill rather than to unnecessarily complex canons of correctness justifies the status of grammarians, debating coaches, literary critics, and others who make a living by defending and teaching linguistic prowess. To find prejudice reinforced by a sexist, racist, or classist language rather than merely residing within prejudiced persons supports the program of revolutionary and separatist leaders who rely on criticisms of institutional discrimination.

Beliefs about linguistic inequality are reflected in action as well as talk, but again it is not clear which kind of inequality a given action responds to. Shifts in popular choice between competing international languages and between foreign and local languages seem to reflect beliefs that some languages are better than others, but whether those preferring to learn a language attribute superiority to it for its linguistic features or for the privileges of its speakers is unknown. Protests, demonstrations, and riots over language have taken place in Quebec, Belgium, India, Pakistan, Malaysia, South Africa, the Soviet Union, and elsewhere. Are the protesters asking for the fair treatment of their language, or for a compensatory inequality that confers better treatment on their language than it would get in an unregulated environment? Most people exhibit deference to linguistic authority: they seek and obey expert leadership on speech and writing. But do they believe the authorities have superior linguistic skill or that they merely record the consensus of popular usage? The unclear motives lying behind linguistic choices permit numerous competing interpretations of each language situation and each language behavior.

The ambiguity of linguistic inequality affects not only rhetoric but also outcomes. True, *each* side in a conflict has interpretive options that support that side's argument. But the ambiguity that

furnishes options to all sides also benefits some interests at the expense of others. One hypothesis is that the main effect of ambiguity is to conceal injustice. If so, ambiguity benefits those profiting from injustice, typically the linguistically most privileged persons and organizations. Conceptualizing an injustice helps measure it; measuring it helps prove it; and proving it helps redress it. So clarifying “linguistic inequality” may make linguistic equality (or some verifiable form of linguistic equality) easier to achieve.

Conceptualizing Linguistic Inequality

Despite the attention devoted to both inequality and language, there is little systematic theory on linguistic inequality. As Hymes (1974: 45) says, “we have no accepted way of joining our understanding of inequality with our understanding of the nature of language.” Van Dyke (1976: 4), discussing legal theory, complains that “relationships between language policies and the principle of equality and nondiscrimination have been relatively neglected.” Thus, current theory does not resolve the ambiguities of popular discourse on linguistic inequality.¹ Theories have distinguished objective from subjective inequality, natural from social inequality, inequality of opportunity from inequality of results, individual from group inequality, marginal from global inequality, and relevant from irrelevant bases for unequal treatment (Gans 1974: 63–65; Miller 1977; Rae 1981; Tawney 1952: 35–36). Many ways have been proposed to quantify inequality (Cowell 1977; Sen 1973; Ward 1978: 18–50). These distinctions and measures can be applied to linguistic inequality, but an appropriate application is not always obvious.

Consider first how the above categories of inequality apply to language. Is a native language a “natural endowment”? Are monolinguals whose native languages differ in communicative power either intrinsically (e.g., unequally developed technical lexicons) or extrinsically (e.g., different numbers of speakers) unequal in the same way as persons differing in intelligence? Could any policies nullify inequalities among native languages? Would a universal opportunity or obligation to learn a second language reduce or increase the inequality? Can a state establish an official language without discriminating against persons of

¹ In Rae's important work on concepts and theories of equality, the problem of equality of languages is briefly discussed to illustrate some distinctions and questions (Rae 1981: 10–12). In this article I follow up some of Rae's suggestive hints.

different native languages? If not, can a state be linguistically neutral and thereby leave language differences entirely in the private sector? Is forcing everybody to assimilate to a single native language a way to eliminate inequality based on native-language differences? If so, is it the only way? Can native-language-based inequality be measured? What groups are relevant in assessing the inequality of language groups? When, for example, people learn a second language, do they exit from their group by becoming linguistically different from its other members?

New questions are raised by the interaction among kinds of linguistic inequality. Inequalities in language skill may interact with inequalities between languages. Skill in native-language use may be more important among the native speakers of more powerful languages. Skill in second-language learning, conversely, may be more important among the native speakers of less powerful languages. Is eloquence in a powerless language then a *disadvantage*? Is skill in language learning a disadvantage for native speakers of a dominant language? Similar questions apply to the intergroup biases, such as sexism, allegedly embedded in linguistic rules. Are such biases more serious in more powerful languages? How do biases in one language discriminate against speakers of another language? Do increased opportunities to learn a majority language increase inequality if that language is biased? Do biases in a language reduce its power and thus that of its speakers—even those the biases favor?

Measuring Linguistic Inequality

Once variations in linguistic inequality are conceptualized, questions arise as to how to measure them. There have been attempts to measure linguistic skill (Oller 1983) and the power and development of languages (Ferguson 1962; Laponce 1984: ch. 3; Mackey 1975), but not, apparently, inequalities between either languages or speakers.

In complex situations there are many plausible ways to measure linguistic inequality, and one can modify or even reverse conclusions by changing measurement methods. Even when inequality derives from a single linguistic resource, a change in its allocation can be measured as both an increase and a decrease in linguistic inequality.

Consider a model in which each individual has one and only one native language and the “linguistic welfare” of an individual is the number of native speakers of his or her native language. This model formalizes the common assumption that it is advantageous to

speak a widely spoken language. Any country, then, exhibits a distribution of linguistic welfares. The more dissimilar in size a country's speech communities, the more unequal its distribution of linguistic welfares. If we have an unambiguous measure of inequality, we can compare any two distributions and determine which is more unequal. Several such measures are used, however, and they can yield opposite results.

Table 1. Language Distributions in Two Countries

India		USSR	
Language	Native Speakers (thousands)	Language	Native Speakers (thousands)
Assamese	6,803	Armenian	3,261
Bengali	33,889	Azerbaijani	4,347
Bihari	16,807	Belorussian	7,630
English	223	Estonian	975
Gujarati	20,204	Georgian	3,311
Hindi	133,435	Kazakh	5,214
Hindustani	123	Kirgiz	1,445
Kannada	17,416	Latvian	1,390
Kashmiri	1,956	Lithuanian	2,626
Malayalam	17,016	Moldavian	2,607
Marathi	33,287	Russian	141,831
Oriya	15,719	Tajik	2,203
Punjabi	10,951	Tatar	5,493
Rajasthani	14,933	Turkmen	1,515
Sanskrit	3	Ukrainian	35,401
Sindhi	1,372	Uzbek	9,155
Tamil	30,563		
Telugu	37,668		
Urdu	23,324		

Sources: Das Gupta 1970: 46; Katz, Rogers, and Harned 1975: 446; Nayar 1969: 26.

As an example, let us consider how unequal the distribution of linguistic welfare levels (as defined by this model) is in India and in the USSR, two countries often noted for their multiplicity of languages. For convenience, we can ignore all but the "major" languages of each country, and we can assume that the estimated total of domestic native speakers of each language is the linguistic welfare of each of its speakers. These assumptions, though obviously unrealistic, are perhaps more reasonable for India and the USSR than for many other countries, since Indian and Soviet

native languages are mostly spoken only within their respective countries (unlike, for example, Canada).

Table 2. Linguistic Inequality in Two Countries

Measure of Inequality	India	USSR	Ratio
Standardized Range	2.23	1.49	1.5
Relative Mean Deviation	0.79	0.62	1.3
Variance (in millions)	2.62	3.72	0.7
Coefficient of Variation	0.85	0.64	1.3
Logarithmic Variance	1.04	2.43	0.4
Variance of Logarithms	0.87	2.08	0.4
Theil's Entropy	0.35	0.28	1.2
Gini Concentration Ratio (persons)	0.44	0.32	1.4
Gini Concentration Ratio (languages)	0.55	0.75	0.7

Sources: Cowell 1977; table 1, above.

The estimated totals of native speakers for India and the USSR are shown in table 1. In table 2, these data are used to compute a few of the many measures of inequality described by Cowell (1977). The ratio of the inequality in India to the inequality in the USSR is greater than 1 if India is more unequal and less than 1 if the USSR is more unequal. The farther this ratio is from 1, the more of a difference there is between the levels of inequality in the two countries. As we can see from table 2, different measures of inequality give different ratios, and the measures do not even agree as to which of the two countries is more unequal. One way to generate opposite conclusions in this case is to use individuals and languages as alternative units of analysis. All the measures in table 2 except the last are applied here to individuals. The widely used Gini Concentration Ratio (also called the Gini Coefficient) is shown both for individuals and for languages. It shows inequality among individuals greater in India than in the USSR, but inequality among languages greater in the USSR than in India. This reversal results largely from the greater numerical predominance of Russian in the Soviet Union than of Hindi in India. The size gap is greater between Russian and the other Soviet languages than between Hindi and the other languages of India. But precisely because of the larger proportional size of the Russian speech community there is a large probability that any two Soviet citizens chosen randomly will both be Russian speakers and thus will not be linguistically unequal.

What Is Linguistic Discrimination?

I have asserted in the foregoing sections that the concept of linguistic inequality is multidimensional and can be operationalized with a multiplicity of measures. The effort to clarify this concept is justified by more than the satisfaction of making theoretical distinctions. Linguistic inequality, going under various brand names, is one of the major political rallying cries of our age. Activists argue over it, especially with respect to language use in schools, government institutions, international organizations, businesses, and the mass media. Arguments link linguistic inequality with racial, ethnic, class, and regional inequality. Opponents dispute which language dominates which, who is responsible for linguistic inequality, and policies for dealing with it. Perceived linguistic inequalities are often attributed to adversaries and sometimes called “linguistic discrimination.” The argumentation is often shrill, perhaps in part because those on each side are cut off by language from the arguments of the other side, and partly because many of the arguers are professional communicators whose careers depend on the fate of the language, language variety, or language policy they advocate (Pool 1976). Not surprisingly, the concept of linguistic discrimination is not usually given a clear definition or subjected to precise measurement.

If we should expect this concept to be carefully elucidated anywhere, it is in legal scholarship on language rights. But this tradition of analysis relies on informal reasoning and substitutes opinion for proof in crucial places. The most serious recent legal theorization about linguistic discrimination accepts the premise described at the beginning of this article: the inevitability of unequal treatment of languages. Without adequately examining this premise, the analysis proceeds to explain and, in the process, apparently justify at least some unequal treatment. The term “linguistic discrimination” may appear, but if so it is used to distinguish illegitimate from legitimate unequal treatment of languages, thereby again justifying some inequality in the treatment of languages.

Heinz Kloss is the leading historian and theorist of language law. Kloss has elaborated the notion of language rights into a scale, allowing the language policies of various states to be rated on the dimension of supportiveness to linguistic minorities. He first divides pro-minority-language policies into those that confer “tolerance-oriented” and those that confer “promotion-oriented” rights on linguistic minorities (Kloss 1977: 21–22). Tolerance-

oriented rights permit linguistic minorities to cultivate their own languages. Promotion-oriented rights obligate “public institutions” to use and cultivate minority languages. Kloss (1977: 24–25) elaborates this dichotomy into what I interpret as a seven-value scale of language rights:

- (1) Allowing linguistic minorities fundamental political rights (the least pro-minority policy);
- (2) Allowing the use of minority languages;
- (3) Allowing minorities to organize institutions in which they use their language;
- (4) Allowing minorities to organize private schools in which they cultivate their language;
- (5) Allowing foreign states to intervene to help minorities carry out activities (3) and (4);
- (6) Allowing state institutions to use minority languages when communicating with minorities;
- (7) Either (a) allowing minorities to organize public institutions of self-government in which they use their language or (b) using minority languages in all state communications (the most pro-minority policy).

It might be possible to extend Kloss's scale of language rights downward to include even more extreme anti-minority policies, such as denial of political rights to linguistic minorities and even genocide, and upward to include even more extreme pro-minority policies, such as the exclusive state use of minority languages.

Such a scale contributes to the measurement of linguistic inequality, but it does not by itself help to establish criteria for the distinction of legitimate from illegitimate linguistic inequality. What point on the scale divides obligatory rights from discretionary rights, or (in more common terms) rights from privileges? Kloss offers some pronouncements on this question, but they are not well grounded.

First, Kloss (1977: 289) claims that the wishes of a language group should partly determine the treatment of its language. When

ethnic groups ... do not even wish the preservation of their language ... [i]t would be sheer nonsense if the state should attempt to preserve these languages....

On the other hand, wherever a minority may desire to cultivate its language, the state is by no means obligated to promote this language.... Is this only a rather spontaneous but fickle and short-lived sentiment ... or a deep-rooted urge for

self-preservation which is shared by the children and grandchildren...? Only when the immigrant generation has succeeded in giving its native languages firm roots among the grandchildren ... [and] has made the sacrifices for a private cultivation of the language ... can they demand that the state come to their aid and promote their language. Such claim to promotion can be considered a natural right only beginning with about the third generation....

Kloss also asserts (1977: 294) that a state that, overruling local school authorities, prohibited the use of minority languages as media of instruction in the public schools acted "justifiably."

Kloss's criteria legitimating a state's unequal treatment of languages are not explicitly derived from prior principles. On their face, they are problematical. Kloss assumes that "ethnic groups" have desires, engage in purposive behavior, make claims, and have rights. If we were to reject these assumptions by positing that only individuals can exhibit these characteristics and, incidentally, pointing out that the members of any ethnic group usually display conflicting preferences regarding the fate of their language, Kloss's criteria would become uninterpretable. If we were to reject his assumptions instead on the grounds that languages have rights even against the wishes of their speakers, or that persons have rights with respect to the preservation of languages other than those of their own ethnic group, Kloss's criteria would become irrelevant. Even if we were to agree with Kloss that ethnic groups are rights-relevant actors whose desires can be ascertained, we might expect some justification for his decision that the behavior of the third generation is what distinguishes fickle from durable desires. We might also want to know why an ethnic group's deep-rooted desire for the preservation of its language suffices to give it a "natural right" to enjoy the assistance of the state ruling its territory in cultivating that language.

Contrary to Kloss's apparently arbitrary definition of language rights, Van Dyke (1976) carefully and explicitly formulates criteria for distinguishing legitimate from illegitimate inequalities in the official treatment of languages. Even Van Dyke's criteria, however, are neither precise nor deductive. Much room is left for discretion in the application of his criteria to any case, and his criteria are not logically derived from a set of more fundamental principles. So inequalities that Van Dyke claims to justify are vulnerable when their underlying principles are questioned.

Van Dyke notes that several legally binding international documents require that human rights be granted or promoted “without distinction as to language.” This requirement, according to Van Dyke, is variously interpreted, but “substantial agreement exists on the criteria of judgment” (Van Dyke 1976: 4–5). This agreement on criteria takes the form of a “rule of equal and nondiscriminatory treatment,” which “requires that persons be treated alike in the absence of sufficient grounds for treating them differently.” Differential treatment is sufficiently grounded, says Van Dyke, “as long as it is not unreasonable, arbitrary, capricious, unfair, unjust, or invidious.” Differential treatment of persons, whatever the grounds, is called “differentiation,” and differential treatment that violates the rule of equal and nondiscriminatory treatment is called “discrimination.” Van Dyke’s analysis is directed at clarifying these admittedly “vague” criteria for distinguishing linguistic “discrimination” from the more general category of linguistic “differentiation.”

We can imagine two possible extremes in the formulation of these criteria of linguistic discrimination. One extreme would be to deem any and all grounds for linguistic differentiation sufficient. The other extreme would be to deem any and all grounds for linguistic differentiation insufficient. The first extreme would define linguistic discrimination out of existence, and the second would define all linguistic differentiation as discriminatory.

Van Dyke rejects both these extremes. Instead he adopts what he considers a pragmatic position, lying between them. Noting that both national governments and international governmental organizations select one or a few languages for official or “working” status and give “no status to the rest,” Van Dyke (1976: 5–6) explains that:

Insofar as a principle is involved, it is that decisions concerning equal treatment can legitimately be affected by a balancing of costs and gains. Both gains and costs presumably increase with the number of languages used, but the universal judgment is that at some point the increased costs exceed the associated gains.... In any event, the general consensus is that differentiation as to language must occur; the desire to keep costs down makes this reasonable and therefore nondiscriminatory. Argument can and does occur over various questions (How many languages should be designated as “official” or “working”? Which ones? What should be the precise implications of the designation?), but that claims for

equal treatment in terms of language need to be balanced off against costs is a principle that all accept.

Van Dyke interprets costs and gains liberally, to include effects on any values that it is legitimate for governments to promote, including political values. Thus, if a government decides to promote the survival of a distinct linguistic minority by denying its own members the right to send their children to schools conducted in another language, while it allows majority families the freedom to choose schools teaching in any language, this differential restriction of choice can be considered “at least potentially justifiable, in which case it would be nondiscriminatory” (Van Dyke 1976: 7). Van Dyke alternates between calling equal treatment for all languages costly and calling it impossible, but his doctrine renders this difference unimportant. As long as it is legitimate to withhold equal treatment on the basis of its cost, it is merely a matter of degree whether the cost is large or astronomical.

The inferences Van Dyke draws from his position give wide latitude to governmental language policies. One inference is that “the prohibition of distinction as to language should not be interpreted in an absolute and mechanical way” (Van Dyke 1976: 7). For example, “whether language requirements for service in legislatures should be condemned as discriminatory is a difficult question that requires a case-by-case answer” (Van Dyke 1976: 13). Another inference is that language groups may be treated differently on the basis of their sizes; language services “can be selected in the light of their costs and in the light of the number served” (Van Dyke 1976: 11). A third is that the political segregation of language groups can be justified, especially since it often promotes rather than impedes equality (Van Dyke 1976: 21–22; cf. Kloss 1977: 19–20). A fourth is that it is easier, at least in education programs, to justify differentiation as to language than differentiation as to race, religion, or sex (Van Dyke 1976: 22). A fifth is that governments may revoke previously granted linguistic concessions without practicing discrimination and may adopt more generous policies toward linguistic minorities without implying that discrimination was previously being practiced. For example, the government of the United States has “in effect given three different answers to the question of what constitutes equality and what constitutes discrimination with respect to the language of instruction” (Van Dyke 1976: 30). It has held the teaching of all children in English to be equality. It has held such use of English to be equality if English is also taught to non-English-speaking children. It has also held that the language of a minority must

enjoy the same instructional status as the majority language in order to justify a finding of equality (Van Dyke 1976: 30–31). Van Dyke does not regard one of these three views as correct and the others as mistaken; all three are within the legitimate interpretive discretion of the state.

Van Dyke's doctrine of linguistic discrimination boasts two major tenets, and these also constitute its two major weaknesses. First, the Van Dyke doctrine presumes that discretion is the key to justice. Second, it presumes that inefficiency is a legitimate reason to deny all persons equal treatment by a state. With these two tenets, Van Dyke in effect transports linguistic discrimination from a question of human rights law to an issue of expedient administrative policy. Were the two tenets warranted, the conclusion would also seem to follow, but the tenets are open to serious challenge.

First, it is naïve to assume that the case-by-case, discretionary evaluation of costs and benefits will reliably produce decisions that conform to any particular notion of justice. From before the ancient Greek oracles to the present, discretion has been one of the principal tools for exercising and enhancing political power, while explicit rules have been one of the principal tools for the restraint of power. The probability that discretion will be exercised to the detriment of linguistic minorities would seem to be even greater than in the case of other minorities. Those occupying legislative, administrative, and judicial roles, who exercise the discretion Van Dyke calls for, have themselves usually been filtered through a linguistically biased recruitment process and consequently overrepresent—or in many cases exclusively consist of—speakers of the most privileged language. Further, language barriers add to differences in values and experiences to prevent linguistic minorities from describing convincingly to the wielders of discretion the costs of unequal treatment. On the whole, therefore, discretion is the key, not to justice, but to the maintenance of entrenched power.

Although Van Dyke recognizes costs and benefits accruing to all parties, those who exercise governmental discretion rarely try to consider the costs and benefits of all. Representatives of states tend to focus on the state's costs and benefits. When the United Nations examines the costs of alternative numbers of official languages, for example, it studies its own costs, not the costs of the delegations of its member states and certainly not the costs of the member states' home governments or populations (see United Nations 1977).

The key to reliable expectations of justice—no matter what standard of justice—is codification and/or reliance on precedent, rather than discretion. Formulating clear and plausible rules restricting the range of permissible inequalities is of course

difficult—much more difficult than proposing case-by-case discretionary “justice.” But it is unrealistic to think that the latter course makes a substantial contribution to protecting minorities against linguistic discrimination.

The second suspect tenet in Van Dyke's doctrine is that equality can legitimately be abridged on account of costs and benefits. Although Van Dyke (and others) would presumably feel more comfortable demanding an absolute status for the right to equal treatment, this demand seems to fly in the face of economic reality. Van Dyke, however, does not try to find a way out of this apparent dilemma. There is a way out, and, unless it is challenged by those who advocate limits on the right to equal treatment, their position cannot be considered well grounded.

To escape from the cost-benefit dilemma one need not deny or understate the costs of official multilingualism or inflate the benefits of linguistic diversity until they drown out the costs. One can instead clarify equal linguistic treatment.

Equal linguistic treatment is not one thing. It is a family of related things. Three of the things that make up this family deserve special distinction, since they lead to very different conclusions about costs and benefits. Equal linguistic treatment can be understood as

- (1) identical treatment of languages;
- (2) equal treatment of languages; or
- (3) equal treatment of speakers (cf. Rae 1981: 11).

Identical treatment of languages would require that whatever the authorities do to one language they do to the others. If English, Twi, and Ukrainian are treated identically, any traffic sign posted in English must be posted in Twi and Ukrainian. Identical treatment of all languages having any claimants within a polity would, as Van Dyke, Kloss, and others have pointed out, be extremely expensive. When Van Dyke argues that the total cost to all parties is assumed to overtake and pass the total benefit to all parties at some point as the number of equally treated languages rises, it is clearly this kind of equal treatment he has in mind. The proper conclusion to be drawn from this assumption, however, is not that equal linguistic treatment is impractical; it is rather that *this type* of equal linguistic treatment is impractical.

Equal treatment of languages would require that each language be treated as well as each other relevant language. Any inferior treatment of a language must be offset with some other kind of superior treatment of that language, so that, on the whole, the

language is treated no better and no worse than any other language. A state could, for example, post traffic signs in Language A and print money in Language B. The language of instruction in public schools could alternate from day to day or vary from school to school. The most widely used language could be declared official for all public business and unlimited translation could be offered at public expense between the official language and any other language a citizen preferred to use. The country could be divided into autonomous regions, each with a different official language. The standard of *equal* treatment of languages gives authorities more choice than does *identical* treatment of languages. The authorities can use this discretion to select low-cost rather than high-cost regimes of equal treatment. While we would expect the authorities to emphasize the state's costs at the expense of all other parties, the equal-treatment requirement would prevent the authorities from treating the language of one group worse than the language of another group. To some extent, auctioning methods could be used to settle controversies over the application of the concept of equal treatment. Still, this more flexible standard could lead to policies that would fail to maximize the total social welfare, since the most efficient possible policy might be one that did not treat every relevant language equally.

Equal treatment of speakers is a yet more comprehensive standard of linguistic nondiscrimination. It requires that no person be treated better or worse than if he or she spoke a different language. Languages may be treated unequally not only in particular respects but also overall. Such inequalities, however, must not result in the unequal treatment of any person on account of language. The method whereby the unequal treatment of languages can coexist with the equal treatment of persons is nonlinguistic differentiation between language groups. In other words, if the language of one language group is treated worse, then the members of that group are treated better in some nonlinguistic way. For example, the state administration could be run entirely in one language, and the native speakers of that language could be required to pay taxes on a higher rate schedule than the native speakers of all other languages, thus effectuating a transfer payment from the linguistically benefited to the linguistically damaged groups. Speakers of a language whose homeland is abroad could be sent abroad for higher education. In an international organization with representatives from many countries, translation services could be made available in five languages, determined by auction to the highest bidders, with the sums paid by these bidders divided among the other countries.

The standard of equal treatment of speakers avoids the “absolute and mechanical” interpretation of the prohibition of distinction as to language, but in a way not suggested by Van Dyke. It defines entitlements to net benefits absolutely, but defines flexibly the linguistic and nonlinguistic actions that bring equal net benefits about. Although the notion of equal treatment of speakers has been expressed before (e.g., Kelman 1971: 46), its economic implications have not been explored. It implies that any kind of benefit can compensate for any kind of cost. It makes linguistic and nonlinguistic values in principle commensurable. It allows decisionmakers to weigh them against one another when looking for the most (or a more) efficient alternative.

When linguistic nondiscrimination is interpreted as equal treatment of speakers, it becomes theoretically possible to combine egalitarianism with the goal of maximizing the total net benefit to society. The most efficient language policy does not need to make speakers unequal. It will generally treat languages nonidentically and unequally. But the resultant inequalities among speakers can be erased by compensating nonlinguistic inequalities in treatment.

While the idea of redefining linguistic discrimination so as to eliminate the efficiency-versus-equality dilemma is attractive, it carries a new set of analytical and political problems with it. I shall not try to solve these problems here, but they are worth mentioning as an agenda for future research.

One problem is the relationship between compensation for linguistic disadvantages and other legal and political doctrines of compensation. Is competence in a language an “intellectual property”? Is exclusion of a person's native language from official communications a confiscation of part of the value the person derives from that property? Does such exclusion entitle any “owner” of the excluded language to compensation for the value of the taken property under eminent domain law? On the political side, what happens to principles of language policy when linguistic equality is defined as the equality of speakers? A debate might arise as to whether the state should compensate only for those inequalities in language treatment the state itself practices or also for private patterns of language bias, even including the natural bias that results from the size differences between language groups.

Another problem is the behavioral consequences of the equal-treatment-of-speakers standard. Would its enforcement cause authorities to consider the interests of all seriously affected parties? If so, how would their costs and benefits be estimated and combined? Would this standard change the amount of public involvement in

decisionmaking about language policy? By being forced to compensate the victims of linguistic choices, would decisionmakers be induced to make efficient choices (cf. Hamburger 1979: 144; Lowi, Ginsberg, et al. 1976)? Transfer payments can create disincentives to produce wealth by raising the taxed proportion of income. Thus the economic consequences of the suggested standard could depend on the kinds of compensation used. Finally, would the equal treatment of speakers change the rate of linguistic change? If it were more efficient for a society to compensate members of a minority for the exclusion of their language from official use than to officialize the language, would this policy not raise the net benefit of being a speaker of the language and thereby retard the assimilation of its speakers to the dominant language? If so, the most efficient short-run policy could raise the long-run cost to society of paying for linguistic diversity.

A third problem, of course, is whether the standard of equal treatment of speakers can actually be tried. Minority-language activists might be expected to welcome this definition of “linguistic discrimination,” but will they? This standard proposes to monetize something commonly regarded as priceless, a person's native language. As such, it looks like a devaluation of language rights and a capitulation to linguistic assimilation by minorities. The appearance might be deceptive, since the actual effect of this standard might well be either to stabilize minority language communities by making assimilation less attractive (as suggested above) or to increase official multilingualism by making official unilingualism more expensive. But the reception of the proposed standard could depend more on its initial appearance than on its eventual impact. Of all members of linguistic minorities, resistance to this standard might be most expected from minority activists, given the importance to their careers of linguistic preservation. Majority elites would also be expected to resist this definition, since its acceptance would make their group compensate minorities for offenses that were previously practiced without penalty. Thus it might typically be a coalition of majority and minority elites that keeps non-linguistic compensation for linguistic inequalities off the political agenda.

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ZUSAMMENFASSUNG

Was eigentlich ist die Sprachdiskriminierung?

Die sprachliche Ungleichheit wird als unvermeidbar geduldet, aber auch als falsch und widerrechtlich angegriffen. Dieser Widerspruch wird durch Mehrdeutigkeit gefördert. Mindestens fünf sprachliche Ungleichheitsarten werden häufig erwähnt aber selten unterschieden. Diese Mehrdeutigkeit begünstigt diejenigen, die durch die Verschleierung von Ungerechtigkeit profitieren.

Die Theorie der sprachlichen Ungleichheit ist kaum ausgearbeitet und läßt Begriffe wie "ungleiche Spracheignungen," "Sprachmacht," "sprachlicher Sexismus" und "Sprachdiskriminierung" ungenau. Verschiedene Ungleichheitsmaße geben unterschiedliche Antworten auf solche Fragen wie "Ist Indien sprachlich mehr oder weniger ungleichheitlich als die UdSSR?"

Rechtswissenschaftliche Arbeiten von Kloss, Van Dyke und anderen über die sprachlichen Menschenrechte irren bei der Annahme, daß die Behandlung von Sprachen notwendigerweise und deshalb gerechterweise ungleich ist. Solche Ansätze rechtfertigen willkürliche Anwendungen von Diskriminierungsmaßstäben, wobei die Staatskosten minimiert werden und die Kosten des Einzelnen steigen. Es wäre sinnvoller (1) die gleichartige Behandlung von Sprachen, (2) die gleichwertige Behandlung von Sprachen und (3) die gleichartige Behandlung von Sprechern zu unterscheiden. Das dritte dieser Prinzipien der sprachlichen Nichtdiskriminierung erlaubt nichtsprachliche Entschädigung für sprachliche Nachteile und dadurch die theoretische Vereinbarkeit von Gleichheit und Effizienz. Es wirft allerdings neue theoretische, rechtliche und politische Fragen auf, darunter die sprachliche Anwendbarkeit des Enteignungsrechts und die sprachwandel-hemmende Wirkung von Nachteilentschädigungen.

RESUMO

Lingva maljusteco kaj teoria malĝusteco

Oni akceptas la lingvan malegalecon pro ĝia neceseco sed kritikas ĝin pro ĝia maljusteco. Tiu duba sento daŭras helpe de duba senco. Almenaŭ kvin oftaj sencoj de "lingva malegaleco" ekzistas, sed oni malofte distingas ilin. Tiu dubsenceco povas ĉefe kaŝi kaj do pliigi maljustecon.

La teorio de lingva malegaleco praecas, do "malegalaj lingvokapabloj," "lingva potenco," "lingva seksismo," "lingva diskriminado" kaj similaj konceptoj malklaras. Diversaj malegalec-mezuroj male decidus ĉu, ekzemple, Hindujo ĉu Sovetunio lingve pli malegalas.

Jursciencaj argumentoj pri lingvaj rajtoj, ekz. de Kloss kaj Van Dyke, malprave supozas ke endas kaj do justas trakti lingvojn malegale. Tiu skolo permesus preskaŭ laŭbontrovajn decidojn pri la (mal)obeiteco de kontraŭdiskriminaj reguloj. Registaraj rajtus trakti lingvojn tiel ke la propraj kostoj malpleju dum la kostoj de iliaj ŝtatanoj altu. Pli inda analizo agnoskas triopon de "lingvaj egalecoj": (1) same trakti lingvojn, (2) egale trakti lingvojn, (3) egale trakti lingvanojn. La tria principo permesas nelingve kompensi lingvajn malavantaĝojn kaj, teorie, akordigi la egalecon kun la efikeco. Ĝi ankaŭ, tamen, kreas novajn problemojn teoriajn, jurajn kaj politikajn. Inter tiuj estas la eventuala lingva etendiĝo de la bienkonfiska juro kaj la kontraŭlingvolerna efiko de diskrimin-kompensoj.

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