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Language Policy in Federal and Devolved Countries: Recognition, Inclusion and Current Issues

F. Leslie Seidle

The Forum of Federations, the global network on federalism and multilevel governance, supports better governance through learning among practitioners and experts. Active on six continents, it runs programs in over 20 countries including established federations, as well as countries transitioning to devolved and decentralized governance options. The Forum publishes a range of information and educational materials. It is supported by the following partner countries: Australia, Brazil, Canada, Ethiopia, Germany, India, Mexico, Nigeria, Pakistan and Switzerland.

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LANGUAGE POLICY IN FEDERAL AND DEVOLVED COUNTRIES

Project Overview

Language is a highly significant marker of individual and collective identities. It often provides an impulse for national or community affirmation and claims to self-government. Provisions to recognize and accommodate linguistic differences can be particularly salient in federations, many of which have highly diverse populations. Indeed, in quite a few cases linguistic diversity was one of the key reasons why federalism was central to a country's founding framework or the result of its constitutional evolution.

Several federal countries have designated more than one language as official (or national) languages in the federal constitution and/or legislation. In turn, the constituent units (states, provinces, etc.) may accord a similar status to one or more languages. The different designations are not merely symbolic: they usually require or lead to policies, programs and other measures to govern language use. In some nonfederal states where more than one language is spoken, a measure of authority over language policy has sometimes been devolved to regional governments (or the equivalent).

Language rules, including for service provision, are frequently an important dimension of policy sectors that are exclusively or largely the responsibility of constituent unit governments. One such sector is education. In various countries, there are calls for teaching to be given not only in officially recognized languages but also in others that are spoken by minorities that are fearful about the future of their language. Indigenous peoples in particular have concerns about the viability of their languages, many of which have a long history of suppression.

In some countries, language policies are well established and are largely uncontested. In others, the policies and/or their application are controversial – even divisive. This may be true not only in newer federations and devolved systems but also in those with a longer history. Because of their links to identity and culture (among other factors), languages can be – indeed, quite often are – a potent basis for political mobilization.

Even when political dynamics are not highly charged, pressures to change or reform language policies and programs are not uncommon. Some demands are fundamental (e.g. additional or stronger constitutional protection), while others are more administrative or technical. In light of their salience to citizens and their relevance in a range of sectors, it is not surprising that language policies are debated, reviewed and (at least in certain cases) modified.

Although there are a number of individual case studies, particularly covering countries where language has been a flash point for political division, there is a lack of comparative research. Moreover, existing comparative studies often focus on western Europe and North America. As more countries have adopted federal or devolved structures in recent decades, there is a need to expand the scope of research on language policies in plurilingual contexts.

The focus of this project is on language policy (broadly interpreted) in a range of countries that are federations or have a significantly devolved structure of government. It aims to take a holistic perspective on language policy and its place within governance arrangements. In addition to providing an overview of the country's demography, constitutional recognitions and protections, and language laws and policies, in order to encourage comparison authors were asked to address a common set of questions:

- A. What potential changes to the regulation of language – constitutional, legislative, administrative – have been proposed or are currently being debated?
- B. What are the pressures and who are the main actors behind the proposed changes?
- C. Which have received the most attention and/or seem the most feasible?

We hope that the authors' responses to these questions will inform public discussion and understanding in their own countries as well as in others where similar issues are on the agenda.

This project was developed following an initial discussion with Felix Knüpling, Vice-President (Programs) of the Forum of Federations. To provide expert advice, we created an editorial team comprised of the following: Elisabeth Alber (Institute for Comparative Federalism, Eurac Research), Linda Cardinal (Université de l'Ontario français) and Asha Sarangi (Jawaharlal Nehru University). The editorial team commented on the initial outline of the program and provided suggestions for potential authors. We were fortunate to attract leading scholars from a range of disciplines. At least one member of the editorial team reviewed and provided comments on the initial version of each paper.

Felix and I are indebted to Elisabeth, Linda and Asha for their excellent cooperation throughout the process. I would also like to express my appreciation to the authors of the country papers for agreeing to join the project and for their responsiveness to comments on their draft papers. We are grateful to Francesca Worrall for copy editing this paper. Finally, a big "thank you" to the Forum of Federations staff who administered the project and prepared the papers for publication: Olakunle Adeniran, John Light, Deanna Senko, George Stairs and Asma Zribi.

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Language Policy in Federal and Devolved Countries: Recognition, Inclusion and Current Issues

F. Leslie Seidle

Introduction

Language is an integral element of what it means to be human. It allows people to express feelings, opinions and beliefs. Although language can unite people, history shows that it can also cause discord or conflict, particularly when speakers of minority languages are marginalized or face systemic discrimination. Territories where multiple languages are spoken have sometimes been divided with the intent of creating countries where most people could speak and live freely in the same language. In other multilingual territories, federal states have been created, or formerly unitary states have evolved toward federal or quasi-federal (devolved) structures. In such countries, the recognition and protection of language rights are often important ongoing issues – in part because of the links to personal and collective identities. Another element in the constitutional and political dynamic is the widely accepted conception that language rights are human rights.

Although there are many case studies of language issues, particularly covering countries where language has sparked political division, there is a dearth of comparative research on language policy. Moreover, existing comparative studies often focus on western Europe and North America. As more countries have adopted federal or devolved structures in recent decades, there is a need to broaden the research on language policies in plurilingual contexts. To this end, in collaboration with colleagues,¹ I developed for the Forum of Federations a project on language policies (broadly interpreted) in 11 multilingual federations and countries with a significantly devolved structure of government. In addition to providing an overview of the country's linguistic demography, constitutional protections and language policies, authors were asked to address a common set of questions:

- What changes to the regulation of language – constitutional, legislative, administrative – have been proposed or are being debated?
- What are the pressures and who are the main actors behind the proposed changes?
- Which changes have received the most attention and/or seem the most feasible?

The papers on the 11 countries are listed in the first section of the references cited in this paper. All are available (open access) on the Forum of Federations website.

The purpose of this paper is to highlight some of the main findings from the project, supplemented by my own research. I begin by discussing the significance of language to individual and group identities, and the conception of language rights as human rights. The next section explores why linguistic divisions have led or may lead to the adoption of federal/devolved systems of government and the potential to protect minority languages through the policy spaces accorded to subnational governments. I then survey the means used to designate official languages in the 11 countries, both nationally and within constituent units (states, provinces and the equivalent), and discuss policy instruments to implement official language designations. This is followed by a review of four issues that are or are emerging on the public agenda in some of the countries: minority languages in education, the attraction of English, territoriality and Indigenous languages. Finally, I present some observations about processes for the reform and revision of language policies.

¹ The genesis of this project was a discussion with Felix Knüpling, Vice-President (Programs) at the Forum of Federations. To provide expert advice, the project included an editorial team comprised of Elisabeth Alber (Institute for Comparative Federalism, Eurac Research), Linda Cardinal (Université de l'Ontario français) and Asha Sarangi (Jawaharlal Nehru University). My thanks to Felix, Linda and Elisabeth for their comments on an earlier version of this paper.

Language, Identity and Human Rights

In 2022, the database of Ethnologue, a long-established research centre for language intelligence (Eberhard *et al.* 2022), showed that 7,151 languages are spoken around the world. Twenty-three languages together are spoken by more than half the global population. About 42 percent of all languages are considered endangered. Whatever their reach, languages are a significant marker of both individual and collective identities.

Personal and group identities

Among the characteristics of human beings, language has much greater significance than, say, a person's height: "As a foundational aspect of human behaviour, language sits at the intersection of our biological and cultural inheritance; it is the product of brain activity and is acquired naturally, but is much influenced by the past and contemporary cultural context" (Pierre Elliott Trudeau Foundation n.d., 2).

The social importance of language was well expressed in the report of Canada's Royal Commission on Bilingualism and Biculturalism, which led to the 1969 *Official Languages Act*: "Language is fundamental to activities which are distinctly human. . . . It is through language that [a person] not only communicates but achieves communion with others. . . . It is language which makes possible social organization" (Canada 1967, Book 1, xxix).

Language contributes to people's identity and their sense of belonging to a community, region or nation. In this context, identity is often multi-faceted. As the philosopher Eric Hobsbawm put it: "The concept of a single, exclusive, and unchanging ethnic or cultural or other identity is a dangerous piece of brainwashing. . . . We are all multi-dimensional beings." Furthermore, language "is inherently relational, since one's identity is defined by establishing both those whom one is like and also those from whom one wishes to be differentiated" (Hobsbawm 1996, 1067; cited in Carter and Sealey 2007, 23).

Rita Izsák, the United Nations Independent Expert on minority issues 2011-17, linked language and group identity as follows: "For minorities, language is a central element and expression of their identity and of key importance in the preservation of group identity. Language is often particularly important to non-dominant communities seeking to maintain their distinct group and cultural identity, sometimes under conditions of marginalization, exclusion and discrimination" (United Nations 2012, 6)

A 2016 survey (Pew Research Center 2017) confirmed the importance of language to national identity. In each of the 14 countries, a clear majority agreed that "[b]eing able to speak our national language is very important for being truly [survey country nationality]." The strongest agreement (84 percent) was in the Netherlands, followed by Hungary, the United Kingdom, Germany and France (in that order). Only three of the countries that are in the Forum's project were included in the survey. In all of them, respondents were less likely than those in the other 11 countries to agree with the statement above: Spain – 62 percent, Canada – 59 percent,² Italy – 59 percent.

Language rights as human rights

The protection of language rights has evolved from measures that were intended primarily to shelter minority languages from discrimination or interference from public authorities to their conception as a human right.

² For Canadian respondents, the question was slightly different: "Some people say that the following things are important for being truly Canadian. Others say they are not important. How important do you think each of the following is? Being able to speak either English or French."

The Universal Declaration of Human Rights (UDHR) was a milestone document proclaimed by the United Nations in 1948. It states: “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (United Nations 1948, article 2). Attempts to incorporate references to national minorities in the declaration were unsuccessful. As Stephen May (2017, 8-9) explains: “This was . . . the result of an emerging and widespread conviction at that time that minority group rights were somehow incompatible with national and international peace and stability.”

The inclusion of language in article 2 in the UDHR reflects what Heinz Kloss (1971, 259-60) described as “tolerance-oriented language rights.” The focus is on domains where citizens, not public authorities, are active – for example, public spaces, newspapers, associations. As stated in the 2001 Universal Declaration on Cultural Diversity: “All persons should . . . be able to express themselves and to create and disseminate their work in the language of their choice, and *particularly in their mother tongue*” (UNESCO 2001; emphasis added). Provisions inspired by article 2 are found in the constitutions of several multilingual countries, including the newer federations of South Africa and Nepal.³

As language rights have become more widely protected through tolerance-oriented measures, support has grown for promotion-oriented language rights. The latter measures entail “public authorities trying to promote a minority [language] by having it used in public institutions — legislative, administrative and educational, including the public schools” (Kloss, cited in May 2017, 8). In this context, the role of the education system is often highlighted. For example, the Council of Europe’s Framework Convention for the Protection of National Minorities commits the parties to “endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to [national] minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language” (Council of Europe 1995, art. 14(2)).

Underlying the promotion-oriented approach, and reflecting values such as dignity, liberty and equality (United Nations 2017, 6), is the conception of language rights as human rights. As the United Nations Independent Expert on minority issues stated: “Protection of linguistic minority rights is a human rights obligation and an essential component of good governance, efforts to prevent tensions and conflict, and the construction of equal and politically and socially stable societies” (United Nations 2012, 20). Seen in this light, the protection of language rights should be a fundamental element of the democratic framework of multilingual states.

Languages, Federalism and Devolution

Because of the links to identity and human rights, it is understandable that language often encourages affirmation on the part of minority-language communities. Not unlike nationalism, such affirmation can reflect an “us versus them” dynamic. One aspect of this dynamic is resistance to marginalization, even oppression, by “them” – those who speak a dominant language and who, supported by the state, exercise power over different social classes, regions, nationalities and colonies (Rojo 2017). Such marginalization may have deep historical roots – as in the suppression of minority languages to achieve language standardization in countries such as France, Spain and Germany. Colonial powers were responsible for the suppression of languages spoken by significant proportions of the populations they

³ *Constitution of the Republic of South Africa*, article 30; *Constitution of Nepal*, articles 18(2) and 18(3).

ruled. As for the “us” dimension, community affirmation asserts – indeed promotes – the group’s distinctiveness, based not only on the language spoken by its members (many of whom may be fluent in the dominant language), but also on shared history, culture and institutions.

Whatever its basis, linguistic-community affirmation often leads to calls for self-government. In certain cases, political leaders argue that only secession will allow the minority to govern itself without interference, including on linguistic matters. Language was a key issue behind the secession of East Pakistan (where the majority spoke Bengali, which had no official status), later Bangladesh (see Faiz 2022). It has also been a motor of secessionist movements in Quebec and Catalonia, among other places. More moderate reformers see potential for the recognition and protection of minority languages through the adoption of federal or quasi-federal structures.

Federalism

In an important theoretical study, Stephen Tierney (2022, 162) contends that what he refers to as the federal contract is based on two pillars, pluralism and union, “which both reflect the reality, and facilitate the aspirations, of societally complex societies.” Starting with the work of W.S. Livingston (1952),⁴ it has been claimed that the existence of a federal society – one with “multiple schisms” between populations (Kropp and Keil 2022, 10) – precedes a federal union. In this context, some theorists explicitly link federalism to identity issues. For Thomas Hueglin and Alan Fenna (2015, 25), “the most general principle of federalism holds that human beings possess by nature individual as well as group identities.”

In federations with more than one linguistic community, the boundaries and powers of certain constituent units are a response to linguistic diversity. The cantons in Switzerland, as well as Quebec and Catalonia, are examples of this. Minorities that are dispersed may nevertheless make claims for recognition and involvement in decision-making. In both cases, matters that concern linguistic communities are frequently assigned to the constituent units under the constitutional distribution of powers. A common example is education: states or provinces most often have the authority to set their own policies, including on mother tongue instruction; and these may vary across borders.

In response to changing political, demographic and other circumstances, constituent units may seek greater powers to regulate language use – whether explicitly or indirectly through greater control over related policies (for example, culture). A different kind of reform demand has emerged in Pakistan’s Punjab province, where Siraiki speakers, concentrated in the southern part of the province, comprise 21 percent of the population. As Asma Faiz (2022) explains, the longstanding campaign for official recognition of Siraiki has been transformed into a demand for the creation of a new province in southern Punjab. This is probably a long shot (on the resistance to group-specific accommodations in Pakistan, see Swenden 2017).

Federal frameworks can be adapted beyond the territorial model, which reflects a spatial distribution of powers between two orders of government. In Belgium, the linguistic communities’ institutions, which have important competences under the constitution, are superimposed over three broader geographic regions (Van Drooghenbroeck and Popelier 2022). The result is a dispersion of power that differs from the territorial model of federalism and ensures that no major national decision is made

⁴ For an excellent review of Livingston’s work, its subsequent influence and some of its limitations, see Burgess (2012, chap. 3).

without the consent of both the Flemish and francophone linguistic groups (Popelier 2019). Belgium is the only federal country with such a dual distribution of constitutional authority.

Devolution

Devolution is the transfer of certain national government responsibilities to one or more regional governments. This is usually done through a quasi-constitutional statute by the national legislature – as when the United Kingdom devolved significant powers to Scotland and Wales in 1978. Devolved units do not usually have the authority to alter, on their own, the responsibilities and governance arrangements established under the enabling statute; such changes must be authorized by the national government and would normally follow a request from the devolved administration. Devolution provides regional governments with considerable room to respond to the priorities and interests of linguistic and other communities within their borders. According to one analysis, devolution processes effected in the second half of the 20th century “have contributed to strengthening minority nations’ languages” (Cetrà 2017, 6).

The statutes of autonomy (SAs) of Spain’s autonomous communities (ACs) are an interesting example of an instrument to codify devolved responsibilities. Following adoption of the Spanish constitution in 1978, each AC developed an SA, in which (among other things) its government structure and powers are enumerated. Several of the SAs have since been reformed (with the approval of the Spanish parliament). In several ACs, the SA is an important avenue for recognizing and regulating the use of regional languages.

Approaches to Recognizing and Protecting Languages

Members of minority-language communities, even those who speak the country’s principal language(s), have frequently been marginalized and may face discrimination in aspects of their daily lives. Various remedial measures are available. The most fundamental is the explicit recognition of one or more of the minority or regional languages – often in conjunction with the language spoken by the largest share of the overall population – in the country’s constitution. Constituent units may provide official status to some of the same, and one or more other languages.

Official-language designation

The term "official language" has been defined as “the language (or languages) used by the government to conduct official, day-to-day business” (Choudhry and Houlihan 2021, 6). Davies and Dubinsky (2018, 102) specify that an official language “is mandated by law or is written into the constitution of a state.” Such provisions, which are often bolstered by legislation, usually require that many government documents and other communications, as well as key public services be provided in the official language(s).

Official languages with countrywide application

As table 1 demonstrates, in most of the federal countries covered by this project, one or more official languages have been designated in the national constitution for application across the entire country. In some cases, the terminology varies: for example, it is “national language” in Pakistan and “working language” in Ethiopia. The Swiss constitution states that there are four national languages: German, French, Italian and Romansch. In addition, German, French and Italian are designated as official languages of the Confederation (i.e., the Swiss government); Romansch is also an official language of the Confederation for communications with people who speak that language. The term used to designate languages is not of great importance.

Table 1: Official languages with countrywide application

<i>Country</i>	<i>Official languages or equivalent</i>	<i>Authority for designation of official language(s)/ comments</i>
Belgium	None with explicit official status countrywide	Language regulation is the responsibility of the communities except in Brussels-Capital region (see table 2).
Bosnia and Herzegovina	Bosnian, Croatian, Serbian <i>de facto</i>	Constitution does not recognize any official languages, but their equal status was confirmed by the Constitutional Court in 2000.
Canada	English, French	<i>Constitution Act, 1982</i>
Ethiopia	Amharic is working language of federal government	Constitution, art. 5 (2) Federal government provides services only in Amharic; it is the only language of communication between the federal and state governments.
India	Hindi	Constitution, art. 343.1 22 scheduled languages are “widely perceived as official languages of India” (Sarangi and Sharma 2022, 6). English is designated as language of communication between the Union government and states in which Hindi is not spoken.
Italy	None officially recognized, but Italian has <i>de facto</i> official status	Alber (2022) describes Italy, which has 20 regions, as quasi-federal. Various Italian laws (e.g. code of criminal procedure) affirm the official status of Italian.
Nepal	Nepali is the language of official business	Constitution states that “all the languages spoken as mother tongues in Nepal are the national languages of Nepal.”
Pakistan	Urdu is Pakistan’s national language	Constitution, art. 251
South Africa	Afrikaans, English, isiNdebele, isiXhosa, isiZulu, Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga	The 11 official languages are designated in the South African constitution (art. 6(1)). All are used in legislation. <i>Use of Official Languages Act</i> directs the national government to develop language policies requiring the use of at least 3 official languages. English is hegemonic.
Spain	Spanish (Castilian)	Spanish constitution, art. 3 (1)
Switzerland	German, French, Italian, Romansch (partial)	Swiss constitution, art. 70 (1). Romansch is considered an official language only when federal authorities deal with people who speak the language (Belser and Mazidi 2022). Art. 4 of the constitution specifies that all four languages are national languages.

Source: Prepared by the author based on the papers in this project and supplemented by other sources (notably the countries’ constitutions).

In certain cases, a language that is not the most widely spoken across the country is the sole official language (or equivalent). As Faiz (2022) explains, Urdu was designated the national language of Pakistan in response to pressure from the Urdu-speaking leadership (Muhajirs) of the All-India Muslim League, prior to partition in 1947. At the time, Urdu was spoken by about 3 percent of the population of what became Pakistan. Seventy years later, according to the 2017 census, Urdu-speakers comprised only 7.6 percent of Pakistan's population.

In Ethiopia, the constitution stipulates that Amharic is the working language of the federal government, even though the Oromo, who speak a different language, are the country's largest ethnic group. Amharic is the most widely spoken language because about 23 percent of Ethiopians speak it as a second language. Moreover, as Yonatan Fessha (2022, 15) explains, Amharic occupies a "special position . . . as the most effective means of national communication." Although the constitution (article 5(1)) states that "[a]ll Ethiopian languages shall enjoy equal state recognition," this provision has no operational implications – a point used by critics of the federal government's Amharic-only policy.⁵

The Eighth Schedule of the Indian constitution lists 22 languages that, excluding Hindi, could be viewed as "associate or additional official languages" (Sarangi and Sharma 2022, 6). Although no rules for their use are specified, being included in the Eighth Schedule provides a measure of recognition in spheres such as government administration, education and the economy. Italy, which was included in this project because of the quite extensive devolution that has taken place and because of the detailed multilingual language regimes in certain regions (Alber 2022), does not have a national official language. Italian performs that function *de facto*.

Official languages in constituent units

The official languages within constituent units of countries covered in this project are summarized in table 2. In Belgium, the federal constitution specifies the official languages of the communities. In some federal countries, constituent units are authorized (by the constitution) to select their own official language(s). This is the case in Switzerland, where out of the 26 cantons, 22 are officially unilingual.⁶ In those cantons, following the principle of territoriality, most public services (including education) are provided in only the official language. Three cantons are officially bilingual (German and French), and one is trilingual (German, French, Romansch).

In South Africa, a province may choose any two or more of the country's 11 official languages as its official languages. However, only Western Cape has done so: Afrikaans, English and isiXhosa are designated as official languages under its constitution. In Nepal, the provinces are authorized to grant official status to one or more national languages. This process is underway.

Another arrangement applies in Spain: if authorized by the AC and the Spanish parliament, Castilian (the national official language) and one minority or regional language have co-official status in the ACs. At present, co-officiality applies in all or part of seven ACs (see table 2); in Catalonia, Castilian and Catalan are co-official throughout the AC, and Aranese is the third official language in the small area where it is spoken (López and López-Basaguren 2022).

⁵ Email from Yonatan Fessha to the author, August 29, 2022.

⁶ 17 are German-speaking, four are French-speaking, and one has Italian as its sole official language.

Table 2: Official languages in constituent units

<i>Country</i>	<i>Number of constituent units</i>	<i>Constituent units with official languages</i>	<i>Authority for designation of official language(s)/ comments</i>
Belgium	3 communities: Flemish-, French- and German- speaking 3 regions: Flemish, Walloon, Brussels- Capital	Each community has a single official language (Flemish, French, German). In Brussels-Capital, French and Flemish are co-equal official languages.	Belgian constitution does not use term official language. The communities regulate language on a wide range of matters based on their responsibility for “personal matters.” Federal government regulates language use in Brussels-Capital and limited fields (e.g. judicial affairs) (Van Drooghenbroeck and Popelier 2022)
Bosnia and Herzegovina	2 entities 1 district	In the 2 entities, Republika Srpska and Federation of Bosnia and Herzegovina, the official languages are Bosnian, Croatian and Serbian	Constitutions of Republika Srpska and Federation of Bosnia and Herzegovina
Canada	10 provinces 3 territories	Quebec: French New Brunswick: English, French Northwest Territories (NWT): English, French, Chipewyan, Gwich’in, North Slavey, South Slavey, Tłı̨cho, Inuinnaqtun, Inuktitut, Inuvialuktun, Cree Nunavut (territory): English, French, Inuktitut, Inuinnaqtun	Although not specified in the Canadian constitution, provinces have authority to legislate on language use within their jurisdiction. In NWT, the 11 languages were given official status through a territorial law. Nunavut’s 4 official languages were designated in legislation passed by the federal parliament.
Ethiopia	11 states	1 state has 2 working languages 10 states have one working language	Constitution allows each state to adopt its working language(s)
India	28 states 8 union territories	The states have 1 to 4 official languages; most have 1 or more second official language. ¹ The union territories have 1 to 5 official languages; 3 of the territories have 1 to 3 second official languages (Javaid 2021).	Constitution provides that a state legislature may adopt any one or more of the languages in use in the state or Hindi as the language or languages to be used for official purposes of that state.
Italy	20 regions (15 with ordinary statute, 5 with special statute)	South Tyrol (autonomous province, part of the special region Trentino-South Tyrol): Italian, German and Ladin in part of the province. Aosta Valley: Italian and French. Friuli Venezia Giulia: Slovene and Friulan in part of the region.	Co-officiality provided for in the basic law of each region and in special implementing legislation. According to Alber, ² the German-speaking community in South Tyrol is among the best-protected minorities worldwide.

Nepal	7 provinces	Not yet implemented	Language Commission recommended (2021) 11 languages (plus Nepali) for official status at provincial level. Each province would have from 1 to 3 additional official languages (Phyak and Awasthi 2022, 12).
Pakistan	4 provinces 1 federal territory	Sindh province: Urdu and Sindhi are co-official	“A provincial assembly may by law prescribe measures for the teaching, promotion and use of a provincial language in addition to the national language” (Pakistan constitution, art. 251 (3))
South Africa	9 provinces	Western Cape: Afrikaans, English, isiXhosa	Provinces have the constitutional authority (art. 6(1a)) to designate 2 or more of the 11 national official languages as the province’s official languages. Western Cape’s designation is in the province’s constitution.
Spain	17 autonomous communities (ACs) 2 autonomous cities	Catalonia: Catalan, Castilian, Aranese (in small part of AC) Basque country: Basque, Castilian Galicia: Galician, Castilian Valencia: Valencian (Catalan), Castilian Balearic Islands: Catalan, Castilian Aragon: Catalan, Castilian Navarra: Basque (in part of AC), Castilian	Further to art. 3(2) of the Spanish constitution, designations of languages that are co-official with Castilian are made through the respective AC’s statute of autonomy as approved by the Spanish parliament.
Switzerland	26 cantons	German – 17 cantons French – 4 cantons Italian – 1 canton German and French – 3 cantons German, Italian, Romansch – 1 canton	Constitution (art. 70(2)): “The Cantons shall designate their official languages”

Source: Prepared by the author based on the papers in this project and supplemented by other sources (notably the countries’ constitutions).

¹ These languages have official status in parts of the state where there is a certain concentration of people who speak the language (e.g. they represent at least X percent of the district population) and/or for certain specified purposes (e.g. provision of important government documents in the designated languages).

² Email from Elisabeth Alber to the author, December 12, 2022.

In Canada, some provinces and territories have one or more official languages. In Quebec, French is designated as the province's official language, through provincial legislation. New Brunswick is officially bilingual (English and French). In the Northwest Territories, English, French and nine Indigenous languages have official status under a territorial law (see table 2). Employing different terminology, in 2022 Nova Scotia passed legislation enshrining the Indigenous language Mi'kmaw as the province's original language (there is no official recognition of English or French in Nova Scotia).

Minority languages are often concentrated in certain parts of the countries, and in some cases they are the majority language within a constituent unit. It therefore makes sense that constituent units should have exclusive or considerable authority to select the languages for official status within their territory. Indigenous languages are sometimes spoken by one or more communities in only one part of the country. Indigenous communities should have a considerable say in the selection of Indigenous languages for official status.

Whether at the national or subnational level, the recognition of official languages is an important step. It constitutes an explicit acknowledgement that communities with different languages and identities are an integral part of the country's constitutional fabric. Moreover, such recognition "may contribute to building a common sense of community among diverse peoples" (Choudhry and Houlihan 2021, 7).

Policy instruments to implement language policies

The recognition of official languages can be seen as a key that opens the door to the implementation of programs that give practical meaning to official status. As May (2015, 357) has put it, "recognition for a minority language is a necessary first step for promotion-oriented rights for such languages and the related provision of language services."

In most cases, legislation or regulations set rules for the provision of services in official languages – where they are to be provided, who is eligible, and so on. However, it is necessary to look beyond legal measures. As Linda Cardinal (forthcoming) puts it, policy instruments give substance to the principles and general lines of action in language policy. They can also include:

- measures to support language policy and planning such as action plans, as well as censuses, surveys and other research activities;
- funding for mother-tongue education;
- information campaigns directed at specific groups, including minority-language communities, public servants and the broader population;
- financial support for those responsible for delivery of services such as language training, and for stakeholders to subsidize publications in minority languages and language revitaliation measures, are some examples.

Cardinal underlines that policy instruments are not only technical ways of giving substance to official language service provision. The choice of policy instrument/s is also informed by politics, power relations, norms and culture. Path dependency is also a factor: policy instruments are selected within a particular path or a certain understanding of the issues to be addressed. Some options may not fit with the constitutional or public policy traditions of a given country or constituent unit. The range of feasible policy instruments is nevertheless quite wide.

In some cases, official-language designations do not lead to meaningful implementation. One example is South Africa – a deeply diverse country with longstanding linguistic cleavages. According to Michelle Maziwisa (2022), the national and provincial governments use English and Afrikaans, and a few provincial governments use the language spoken by the majority of their population.⁷ There are some exceptions to this practice – for example, in national legislation, schools and the courts (a national responsibility). But there is no national language policy framework. According to two other experts: “It is fair to say that compliance with the language provisions of the 1996 constitution has not been either easy or greatly successful” (Davies and Dubinsky 2018, 131).

It is beyond the scope of this paper to catalogue or compare the wide range of policy instruments in use or being considered in the countries covered by this project. Readers will find some examples in the individual papers (although the focus of the project was on policy, not programs). The websites of government agencies, research institutes and minority-language organizations might also be useful sources of information.

Current Issues and Debates

In some federal countries, language policies are well established and largely uncontested. In others, they are in flux and/or controversial. Whatever the situation, because of their salience to citizens and relevance to various government sectors, it is not surprising that language policies are frequently debated by elected representatives, specialists and the public. In this regard, the authors of the papers for this project were asked to address potential changes to the regulation of language – constitutional, legislative, administrative – that are being discussed in their countries. In this section I review four major issues highlighted in their papers.

Minority languages in education

The importance of the education system in protecting minority languages has been repeatedly underlined in international documents and jurisprudence. For example, the *United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities* advises: “States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue” (United Nations 1992, article 4). According to May, “there are clear principles in international law . . . that provide both precedent and support for the granting of promotion-oriented language and education rights to national minority groups” (May 2017, 14).

The United Nations reports that mother-tongue education has tangible benefits:

When the mother tongue is used as the medium of instruction for at least 6–8 years, the results are impressive: enhanced self-confidence, self-esteem and classroom participation by minority children, lower dropout rates, higher levels of academic achievement, longer periods in school, better performance in tests and greater fluency and literacy abilities for minority (and indigenous) children in both the mother tongue and the official or dominant language. (United Nations 2017, 7)

⁷ Maziwisa (2022) reports that in six of South Africa’s nine provinces at least one language is spoken by the majority of the population. Afrikaans is spoken by the majority in only one of these provinces, and English in none.

Policymakers in the education sector should take note of this impressive list of the benefits of mother-tongue instruction.

Progress in minority-language education has been made in several countries covered by this project. For example:

- In Basque Country in Spain there are three models: 1) instruction exclusively in Basque; 2) instruction exclusively in Castilian; and 3) instruction in both languages. In 2017 two-thirds of pupils were studying in schools where Basque was the sole language of instruction – a large increase from 14 percent in 1984. The number of Basque speakers in the AC (total population about 2.1 million) has grown by almost 350,000 since the 1980s (López and López-Basaguren 2022; Johnson 2022).
- In Ethiopia, more than 45 languages are now used as languages of instruction at one or another level of primary education (Fessha 2022, 12).
- In South Africa, where languages other than English and Afrikaans were suppressed under apartheid, some universities have taken steps to include one or more of those languages in their work. The 2020 Language Policy for Public Higher Education requires all public post-secondary institutions to revise their language policies to ensure multilingualism (Maziwisa 2022).
- As Elisabeth Alber (2022) reports, in South Tyrol (Germany), an autonomous province that is part of the autonomous region Trentino-South Tyrol, the German and Italian language groups (69 and 26 percent of South Tyrol’s population, respectively) manage their own programs up to secondary school. Mother-tongue education is provided, and the teaching of second languages is obligatory. The Ladin (about 5 percent of the South Tyrol population) have their own school system, in which a trilingual approach applies: Italian and German are taught and used as link languages, as is, in part, Ladin (link languages allow communication between people who are not fluent in each other’s main language).

Moves to expand instruction in regional languages are sometimes contested. Catalonia is a notable case. Policies on Catalan-only instruction, strongly supported by Catalonia’s nationalist political parties, have been resisted by political leaders (including in the Spanish parliament) who believe that instruction in Castilian should be an option within the school system. Catalan authorities have resisted implementing a decision of Catalonia’s highest court, confirmed by the Spanish Supreme Court in 2021, requiring that Castilian be the language of instruction for 25 percent of the teaching in a class when requested by a pupil’s family (López and López-Basaguren 2022). This issue has been referred to Spain’s Constitutional Court, but its eventual decision may not settle the matter.

A further challenge is the decline in the size of minority-language communities. In Canada, the children of French-speakers living outside Quebec have the right to be educated in French; a corresponding right to education in English applies in Quebec. However, the provision of minority-language education depends on the number of children with such a right. The decline in the number of francophones outside Quebec (Statistics Canada 2022b) has led to fears that some of the gains in French-language schooling outside Quebec may be lost. Bill C-13, introduced in the federal parliament in 2022, aims to arrest this decline (Polèse 2022).

The attraction of English

The internet was only in its infancy when Hobsbawm (1996, 1073) wrote: “[W]e live in an era when at least for the time being there is a single language for universal global communication, namely, a version of English.” His statement is even truer today. As two of this project’s authors wrote: “In Belgium, as

elsewhere, the *lingua franca* of international trade is often English” (Van Drooghenbroeck and Popelier 2022, 12).

Even when it is not widely spoken as a mother tongue, English can also be an important tool of domestic communication, serving as a link language. Bosnia and Herzegovina (a federation) is an example of a multilingual country that does not need a link language: all three official languages (Bosnian, Croatian and Serbian) are mutually intelligible by the three constituent peoples (Hasić and Savić-Bojanić 2022).

In India, English has a long history as a link language dating from the period of British rule. At the time of independence about 40 percent of the population spoke Hindi, but few speakers of other languages did so (Choudhry and Houlihan 2021, 24). It was decided that English would be constitutionally recognized for certain governmental and public functions. The 1949 constitution required, for example, that English be used for official communication between states, and between states and the Union government. English was also prescribed for the proceedings of the Supreme Court and high courts. These two provisions have been amended to allow greater use of Hindi and other official languages, along with English. Subrata Mitra (2001, 56) claims that both Hindi and English are national link languages. According to Sarangi and Sharma (2022, 9), although administrative policies within the Indian government “generally take a Hindi/English bilingual approach . . . they make room for other languages wherever required.”

Amit Shah, Minister of Home Affairs in the government led by Narendra Modi, has called for the replacement of English by Hindi as the *de facto* national language of communication. In 2019, Shah stated that “[if] there is one language that has the ability to string the nation together in unity, it is [Hindi]” (quoted in Yasir 2022). The objective of such statements, according to one commentator (Rajalakshmi 2022), is to further the Modi government’s “primary objective”: “to please its constituency in the Hindi heartland, which is integral to its political fortunes.” Amendment of some of the constitutional provisions on the use of English for certain official functions would further this objective. However, this is unlikely to occur in the short or even medium term.

In Quebec, where French is the sole or main language of a large majority of the population, the attraction of English has long been a major political issue. In 1977, Law 101, which aimed to strengthen French in a range of sectors, stipulated that (with some exceptions) only children with at least one Canadian parent who received their primary education in English in Canada may go to primary or secondary school in English. In consequence, the children of immigrants must be educated in French – a requirement that has contributed to migrant integration (Mc Andrew 2001). This part of Law 101 is now largely uncontested. However, debate continues about rules governing the use of French in business and other sectors.

The growing power of English is also an issue in other countries. For example:

- In Pakistan, English has what Faiz (2022) describes as a “predatory impact” on the country’s national and regional languages. She adds (2022, 12): “The quest for upward class mobility is clearly at the expense of regional languages and to some extent Urdu.” Recent national government moves to expand the use of languages other than English in schools have met with some resistance (*The Economist* 2021).
- In South Africa, the function of English as the *lingua franca* has contributed to the diminishing role of Afrikaans in education and business (Maziwisa 2022).

- In Nepal, there is growing support for English as a medium of instruction (EMI) in schools. Private schools, which resisted a 2007 multilingual education policy, promote the view that EMI is necessary for quality education. Public schools are increasingly adopting EMI policies (Phayak and Awasthi 2022).

The growing power of English is discussed in other papers in this series. There are limits on the power of national and constituent unit governments to influence trends such as globalization and the attraction of English. This complex issue can nevertheless be addressed through certain public policies – for example, measures to promote multilingualism in the education system.

Territoriality

In some multilingual federations the principle of territoriality applies in all or most constituent units, meaning that only the official languages of the latter are used to provide public services and for other relations with citizens. The purpose is to ensure “secure spaces” for each language group and to limit “linguistic competition” (Polèse 2022, 18). However, due to demographic shifts, increased population mobility and other trends, the concept of territoriality is being called into question.

In their paper on Switzerland, Eva Maria Belser and Simon Mazidi (2022) contend that, despite Switzerland's long history and constitutional grounding, some of the practical implications of territoriality are problematic. A major difficulty is that many members of smaller linguistic groups no longer reside in their core areas. Notably, around 65 percent of Romansch speakers currently live outside their traditional core area and thus have limited access to Romansch in public services and education. The authors support calls for larger linguistic communities to accommodate minority-language speakers who have moved. In particular: “[T]here is a need to more actively promote educational offers outside the traditional core areas of minority languages” (Belser and Mazidi 2022, 21).

Van Drooghenbroeck and Popelier (2022) raise questions about the application of the territoriality principle in Belgium, including for migrant integration services. The Council of State (the country's supreme administrative court) has acknowledged that the authorities in charge of the initial reception of newcomers must address them in a language they understand. Although this is not consistent with the constitutional stipulation that Dutch, French and German are the languages spoken in Belgium, the authors point out that “[p]roviding integration services in other languages has never given rise to any real political opposition” (Van Drooghenbroeck and Popelier 2022, 15, 12).

Indigenous languages

In countries with Indigenous nations and communities, the recognition and promotion of their languages presents unique and significant challenges. As a UNESCO publication (2022) states: “The systemic discrimination suffered by many Indigenous communities across history together with the implementation of assimilationist cultural and educational policies in some countries, has hampered the safeguarding of their cultures and languages.”

Many Indigenous languages face extinction. The implications of this are multiple. In the words of Fred Sangris, a First Nations chief in Canada's Northwest Territories: “Without language, identity is lost. Without language, communication between the old and the younger community could not happen” (quoted in Blake 2022) More broadly, he says: “losing a language means losing a specific cultural legacy. That can imply the loss of precious knowledge for human improvement and sustainable development...” (Pierre Elliott Trudeau Foundation n.d., 3).

The importance of breaking with longstanding linguistic injustice has been recognized internationally. Notably, the 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) addressed the linguistic rights of Indigenous peoples in strong terms:

Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means. (United Nations 2007, article 13).

Further international attention to these issues was encouraged through the 2019 International Year of Indigenous Languages (UNESCO 2021). The United Nations General Assembly has proclaimed the decade 2022-32 as the International Decade of Indigenous Languages.

In Canada, people who identified as Indigenous represented 5.0 percent of the total population in 2021 (Statistics Canada 2022a). More than 70 distinct languages were reported. In 2016, Indigenous people who could speak an Indigenous language accounted for 15.6 percent of the total Indigenous population (Statistics Canada 2017). A major step in the recognition of this linguistic diversity and the implementation of UNDRIP was the 2019 adoption of a new federal law, the *Indigenous Languages Act*. Cardinal and Huron (2022) summarize its key provisions as follows:

- the affirmation of Indigenous languages as a right protected under section 35⁸ of the Canadian constitution;
- a commitment to adequate, sustainable, long-term funding;
- a commitment to support interjurisdictional cooperation; and
- the creation of an Indigenous Languages Commissioner.

According to them (2022, 15), this new wave of policy seeks “to clarify and affirm that languages are a pre-existing Indigenous right under section 35 and to move towards a supportive infrastructure dedicated to reversing the decline of Indigenous language use and supporting new avenues for language use in the current society.” They are nevertheless critical of the legislation, in part because it does not provide for service provision in Indigenous languages and is not bolstered by complementary education legislation.

Indigenous languages have been given official status in two of the three territories (see table 2). In this context, it has been proposed that, to “elevate the status of Indigenous languages and make them more accessible,” each province and territory should recognize all the Indigenous languages spoken there as “regional official languages” (with financial assistance from the federal government) (McDonald 2022, 3). To enhance accessibility, growing attention is being paid to the revitalization of Indigenous languages (Deer 2023).

Indigenous languages are also receiving attention in Nepal. Ten of the 19 languages spoken by at least 100,000 persons are Indigenous. It is not yet clear whether any Indigenous languages will be designated

⁸ Section 35(1) of the *Constitution Act, 1982* provides that “[t]he existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.” Despite efforts to define these rights, governments and Indigenous peoples have not succeeded in doing so. (The term “aboriginal” has been replaced by “Indigenous” in official and general usage in Canada.)

as official languages in any of the provinces. Some provincial and local governments have established an academy with a mandate to preserve and promote Indigenous languages at the local level.⁹

Fundamental issues such as these illustrate how language policy goes to the heart of the values that underlie (to a greater or lesser degree) multilingual societies. Even when the designation of official languages is largely a settled issue, it may not be easy to agree on which languages should be used for the provision of major public services and according to what criteria (of which population is not the only one). Decisions to include given languages within a policy framework can mean the exclusion of others that are nevertheless spoken by a significant number of citizens in certain regions. The potential benefits of mother-tongue education point to the merits of a generous approach in respect, providing sufficient resources are available. The competition for recognition and resources is complicated further in countries where Indigenous languages are, often belatedly, receiving greater attention.

Reform and Revision

Even when political dynamics are not highly charged, pressures to modify language policies and programs often arise. Some demands are for new or stronger constitutional protections, while others call for legislative or administrative action.

As I have demonstrated in this paper, the recognition of official languages is a widespread practice in federal countries. In some cases, as in India, South Africa and Nepal, such recognition was provided in the constitution of a newly formed federation. Languages that were used for official purposes during colonial periods have often been included. In other federations (for example, Canada), official languages were recognized as part of a broad constitutional reform. In Belgium, the federal framework was reconceived based on linguistic communities as well as geographic regions.

The designation of official languages can present challenges: “[S]ymbolic recognition is more emotionally resonant than most of the substantive policy or institutional issues over which central governments and their territorial counterparts struggle” (Basta 2017, 67). The significance of this goes well beyond the emotional: “The way that a constitution addresses language has implications for access to political power, economic opportunity and cultural identity” (Choudhry and Houlihan 2021, 8-9). Moreover, there are close links between language and other constitutional issues – even important elements of the federal or devolution framework. Pursuing constitutional reform to designate official languages and/or to add other fundamental linguistic protections, therefore, requires thorough preparation – including sound policy work and broad public consultation. Although governments cannot always be sure of success in such an exercise (particularly if a referendum is required), they should be mindful of the implications of failure, which a minority community may interpret as a rejection. Moreover, debate on the proposed constitutional reform may further exacerbate divisions based on identities and on power relations within governments, the economy and society.

Nonconstitutional policy instruments are probably the most effective way to make periodic policy changes and administrative adjustments. Language protections should be part of the tissue of plurilingual societies; a central element of a policy sector that is dynamic, not static. According to Abhimanyu Sharma (2022, 178), “language policies can be organic, which means that they are dynamic and emerge from interactions between stakeholders at various levels.” In consequence, the evaluation

⁹ The information in this paragraph was provided by Lava Deo Awasthi and Prem Phyak, email to the author, September 15, 2022.

and potential revision of language policies and programs should be a lens employed regularly by advocates, policy-makers and politicians. Above all, there must be a shared commitment to advancing linguistic rights as human rights. The importance of this was underlined by the authors of the paper on the world's youngest federation, Nepal:

The creation and enactment of equitable multilingualism policies require a strong political commitment and ideological consistencies that go beyond constitutional protections to embrace multilingualism as a norm. . . . This commitment must be present in all governments, in the bureaucracy and throughout communities.” (Phayak and Awasthi 2022, 15, 17)¹⁰

Phayak and Awasthi set the bar high, but they are correct to do so. Securing the legitimacy and efficacy of language policies requires cultural change, not just constitutional or legislative advances. In multilingual federal societies this may be a tall order, but there is little doubt about its importance.

Conclusion

Federal and devolved systems provide spaces for national and subnational governments to recognize and protect minority and marginalized languages and to respond to related political, demographic and other shifts within their territory. Governments have a wide range of policy instruments at their disposal, including the constitutional recognition of official languages, laws that set language policy and implementation rules, and programs and financial supports (some of which are in related policy areas such as culture).

When a multilingual country plans to adopt a federal or significantly devolved constitutional framework, serious consideration should be given to including the designation and the regulation of the use of official languages within their territories as a jurisdiction of the constituent units' governments (in some cases, this responsibility might be shared with the federal/national government). Subsequent constitutional reform or intergovernmental agreements may provide constituent units with greater authority to respond to the interests of minority-language communities. Although some of the policies and programs that constituent units develop may be similar, in other cases they may diverge. This is as it should be.

With political will and constructive ongoing contacts between communities, language recognitions, policies and programs have the potential to attenuate cleavages. In this regard, a generous approach to mother-tongue education deserves particular attention because of its potential to expand the knowledge and use of minority languages and to encourage a greater sense of inclusion for linguistic communities.

This policy sector will continue be dynamic and sensitive – not least because of the links to personal and collective identities and the belief that language rights are human rights. In some cases, measures intended as a step forward may meet with resistance and need to be modified or even abandoned. In others, skilful leadership and partnership with linguistic communities and others will lead to advances, particularly on the use and vitality of minority languages (including Indigenous languages). It is hoped that policy-makers looking for ways to respond to developments in diverse linguistic environments will benefit from the research carried out for this project.

¹⁰ In 2010, the Swiss government introduced a policy stipulating that, within the federal administration, 70 percent of employees should be German-speaking, 22 percent French-speaking, seven percent Italian-speaking and one percent Romansch-speaking.

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