Linguistic Human Rights: Implementation Gaps and Chronic Losses

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Introduction

At the 2015 International Conference on Language Documentation and Conservation in Honolulu, Hawai'i, we were invited to present a poster on the topic of linguistic human rights in which we explored how implementation gaps fail to protect language communities that suffer quiet and chronic losses. Through our poster presentation, and in subsequent discussions with scholars and students who engaged with the issue at the conference and beyond, we have investigated the circumstances through which the loss of one's language should, could, or might be considered a human rights violation (Phillipson & Skutnabb-Kangas 2017, de Varennes 1996).

Since the conference, community members from historically marginalized minority language groups around the world have approached us to share their own stories of language loss—in-person, over email, and via social media. Recurring themes in such stories include the lack of government support, the lack of options for language learning through formal or informal instruction, and the need to learn the dominant language for economic and educational gain. While some spoke of a quiet discouragement and of the shame they felt about learning and using their native language, others spoke of punitive actions that were taken to prevent them from speaking their language. Yet after sharing these stories, many of those who came forward dismissed their own experiences with statements such as: "But I haven't been abused or anything. My story is nothing compared to what others are going through." The recurring character of these comments has led us to question whether adopting a rights-based framework (Beetham 1995, Lixinski 2013) for language encourages sensationalism—perhaps associated primarily with extreme cases of violence and oppression—which appear far-removed or even off-limits for those who suffer everyday forms of linguistic subjugation, hegemony, and marginalization.

In this chapter, we argue that while in many circumstances, the loss of language is indeed a violation of universal human rights, many people feel—perhaps paradoxically—that they do not have a *right* to speak up about their stories because they have "not been wronged enough" or because they have only experienced a chronic and protracted (long-term) 'quiet' loss rather than a violent moment of linguistic rupture. In communities, the gap between rights on paper and rights actually fulfilled remains vast. We explore this gap in relation to a number of factors, including historical hierarchies in the human rights field, barriers that prevent community members from accessing a rights-based framework, and the power of linguistic rights to determine and frame Indigenous sovereignty.

We also argue that entrenched hierarchies within rights-based frameworks have resulted in an unfortunate perception of linguistic rights being 'secondary' or 'subsidiary' to other more pressing and fundamental rights. We see this ranking as problematic, because we understand human rights (and indeed human *needs*) to be cyclical, rather than hierarchical. Namely, the fulfillment of needs that are often perceived to be secondary—such as language—are in fact essential for the fulfillment of basic needs, such as health and life (Hallet et al. 2007). We assert that rights-based frameworks were not explicitly developed for, nor do they always best serve,

the needs of community members. Rather, their primary audience is the policy-broker. In addition, in the realm of language rights, we view the rights-based framework not as a corrective legal mechanism (for claims to be brought forth) as it is typically pitched, but instead a preventative one. To best fulfil its stated role as a preventative mechanism for States and policy-brokers, we propose various improvements to contemporary rights-based tools and structures.

Our exploration is urgent and timely. In 2016, the United Nations General Assembly adopted a resolution proclaiming 2019 as the International Year of Indigenous Languages to help promote and protect Indigenous languages around the world (UNESCO 2016, 2018a, 2018b). While this celebration of Indigenous linguistic vitality and resilience is welcome and necessary, we question whether it was enough, and whether UNESCO—the United Nations (UN) agency charged with overseeing activities for the International Year of Indigenous Languages—has the necessary carrots and sticks to bring forth lasting and transformative change. "We need more than a year," stated Dalee Sambo Borough, Chair of the Arctic Circumpolar Council, when speaking at the University of British Columbia's 2019 John P. Bell Global Indigenous Rights Lecture. "Let's at least go for a decade" (Sambo Borough 2019). Her plea came to fruition in January 2020, when the UN General Assembly proclaimed 2022 to 2032 the International Decade of Indigenous Languages (Language Magazine 2020). While language can be devitalized in an instant, with the stroke of a pen and through punitive policy, it is imperative to recognize that it takes much longer than a year to transmit linguistic knowledge intergenerationally and truly revitalize a language. Equally imperative is the recognition that protracted struggles for language revitalization are indeed essential, despite the many acute interruptions and urgent emergencies that cause roadblocks and distractions en route. Such reminders are particularly salient at the moment as we complete this chapter while in quarantine during the COVID-19 global pandemic.

The authors of this contribution are both based in British Columbia, Canada, a very young settler-colonial nation that has recently taken steps to address Indigenous language rights. In the February 2018 budget announcement, the Government of British Columbia (BC) committed $50 million CAD towards supporting Indigenous language revitalization to be disbursed across the province in partnership with the First Peoples' Cultural Council (FPCC), an Indigenous-led crown corporation (Wilson 2018, Ministry of Indigenous Relations & Reconciliation 2018). The Federal Government of Canada and its research councils are beginning to provide targeted resources to explore the intersection of language, well-being, and health. Prime Minister Justin Trudeau spoke to the Assembly of First Nations in December 2016, pledging to introduce a federal law to protect, preserve, and revitalize First Nations, Inuit, and Métis languages: "We know… how residential schools and other decisions by government were used to eliminate Indigenous languages," he said. "We must undo the lasting damage that resulted… Today I commit to you our government will enact an Indigenous Languages Act" (Trudeau 2016). In February 2019, this Act, Bill C-91, was passed. Other chapters in this volume engage with the lead up to and the enactment of the legislation more fully. Suffice it to say that it changes everything and nothing at once.

As reported by the Canadian Broadcasting Corporation (CBC), the new taskforce heading up the Act focused on "planning 'initiatives and activities' to restore and maintain fluency in Indigenous languages; creating technological tools, educational materials and permanent records of Indigenous languages, including audio and video recordings of fluent speakers; and funding immersion programs… The office also will undertake further research on existing and extinct Indigenous languages" (Tasker 2019). While all of these developments are welcome, some

commentators argue that it's too little, and too late, and assert the need for predictable, sustained, and secure funding to ensure the advancement of language rights for historically marginalized, under-resourced, and Indigenous languages that goes beyond tokenism. Nunavut's Member of Parliament, Hunter Tootoo, referred to Bill C-91 as "colonial." He and others see a need for greater specificity and acknowledgement of particular Indigenous languages, before such measures can claim to be steps beyond blanket advocacy (CBC News 2019a, 2019b).

1. Linguistic Human Rights: An Overview

"People revitalize a language, but language revitalizes a people. When you speak your language, you are more likely to feel self-confident," said Ryan DeCaire, Assistant Professor of Indigenous Languages at the University of Toronto (Cecco 2019). "You're much more likely to have a sense of understanding of who you are… and a sense of understanding and responsibility within a community," he continued.

To speak and understand one's own language is a right. To transmit that language to one's children and grandchildren is also a right. Invoking the term *linguistic human rights* does not increase the value of language, nor does it protect Sechelt, Tibetan, or thousands of other languages from an impending silence. Definitions need to be unpacked, made accessible, and translated—literally and figuratively—so that they can have relevance for speech communities. With basic agreements in place about what terms mean, those rights can then be activated, mobilized, and use by, for, and with those who speak the language(s) in question.

1.1 What are linguistic rights?

Linguistic rights are a subset of international human rights, protected under the framework of economic, social, and cultural (ESC) rights. Linguistic rights aim to protect individuals and communities against the loss of their languages and against any discrimination they may face regarding the usage and accessibility of their language, in all aspects of life (PEN Club International 1996).

Phillipson and Skutnabb-Kangas provide an in-depth introduction to linguistic rights in their article, *Linguistic Rights and Wrongs*, outlining the UN's complex map of language rights (Phillipson and Skutnabb-Kangas 2017). The Universal Declaration on Linguistic Rights, which has not yet been formally adopted by the UN, defines linguistic rights as "the right to express yourself in your own language in both personal and professional settings" (PEN Club International 1996, Follow-up Committee 1998). This ranges from symbolic to practical revitalization, and from individual to collective. A violation of such rights can range from small, quiet, and long-term stressors to dramatic, overt abuses.

Sahǫ́ı̨ʔǫ May Talbot, who was born in February 2014 to her Dene Chipewyan mother, Shene Catholique Valpy, in Canada's Northwest Territories (NWT), went without a birth certificate for over a year because the territorial government was unable to register a name that was not written in the Roman alphabet (Brohman & Hinchey 2015). In October 2015, the NWT's language commissioner, Shannon Gullberg, acknowledged that the territorial government had an obligation to provide services in all of its official languages—including Indigenous languages—for birth certificates and registration (CBC News 2015). By not allowing names that contain Dene fonts and diacritics, Gullberg noted that the Vital Statistics Act had violated the spirit and intent of the *Official Languages Act of the Northwest Territories*, which recognizes 11

languages. Valpy's story prompted amendments to NWT legislation in July 2017, at which point many thought the case had concluded successfully, but these changes have yet to be implemented (Strong 2017). "I haven't quite won the battle yet," said Catholique Valpy in a CBC interview. "A part of me feels like I should just give in and give up" (Hwang 2018). But thankfully for her children and many other families in the NWT, Valpy has not yet given up. Rather, she has become an advocate for the cause. Sahǫ́íʔǫ has now been joined by her younger sister, Náʔël Nóríya May Talbot, whose first name is spelled Ná'ël on her birth certificate, without the intervocalic glottal stop. It is important to understand that the glottal stop is not ornamental or optional: it is crucial for the pronunciation and meaning of both siblings' names in Chipewyan (Hwang 2018).

Valpy's case offers a prime example of an individual right that is being violated, "the right to the use of one's own name" (PEN Club International 1996). The reason is all too often a bottleneck in moving from paper to practice, from theory to implementation. In this case, the cause of the blockage is a lingering worry that introducing non-Roman characters and fonts into highly controlled database environments will cause errors (Hwang 2018). While the amendment that supported NWT citizens to have their names in territorially recognized Indigenous languages represented accurately on official documents was passed in legislation a couple of years ago, a right such as this cannot be merely fulfilled by acknowledging a wrong; technology and logistics need to catch up, and there has to be a will to see the changes through. Thanks to widespread recognition of the violation in question, Valpy's case brought national media attention to the cause, helped change territorial law, and gained the support of high-profile government officials. Even with all of this attention, affecting change is slow and the process continues, and will only see a successful conclusion because of the persistence, resources, and skills of Shene Catholique Valpy, a committed community advocate and mother. "The paperwork's crazy. And you have elders who can't properly write or read [English]," she said (Hwang 2018).

Unlike this highly visible and well-reported case, daily occurrences of unfulfilled individual language rights are mostly ignored and receive no attention at all, either because people do not know what their language rights are, or because they do not have the resources, time, or necessary support mechanisms to "fight for their rights." In such cases, there is just no story to report, simply because nobody has written it yet.

Further south in the Americas, many Quechua women wish to legally register their artisanal cooperatives with the Peruvian federal government, but cannot do so, since few speak, read, or write the State's official language of Spanish. Providing them with a translator throughout this process would fulfill "the right to receive attention in their own language from government bodies and in socioeconomic relations" (PEN Club International 1996) but, in most cases across the Andean region, this is not accommodated. Instead, the burden falls on Quechua women to pay for and locate a translator or interpreter to fulfill this right. While this could be considered a violation of their individual language rights, few Quechua women perceive this as such, because rights-based frameworks and legal defense processes are abstract, far-away concepts that—in their minds—have little bearing on and will not help to advance their livelihoods (Akins 2013). Such language violations are daily occurrences. In 2019, when co-author Akins was speaking Spanish with a Quechua interpreter at an *Asemblea General* (official community board meeting) in a rural village in the Peruvian Andes, she was cut off by the self-elected Minister of Justice, who told her that she could either speak in Spanish or not speak at all. All of the women in the community and about half of the men (those not in authority positions) are monolingual Quechua

speakers. Akins argued that the women could not understand Spanish, but the Minister of Justice responded that "those of importance" could understand her.

While there are likely thousands of silent and untold instances of individual speakers' language rights being infringed upon and violated, more complex still are cases of collective rights—the rights of an entire language community, rather than an individual speaker or language learner. The example of the Diomede Islands, situated between Russia and the US, offers a powerful if heartbreaking case in point. "We know we have relatives over there," said Frances Ozenna, tribal leader of Little Diomede, in an interview with BBC News. "The older generations are dying out… we know nothing about each other. We are losing our language. We speak English now and they speak Russian. It's not our fault. It's not their fault. But it's just terrible" (Hawksley 2015). Separated by only four kilometres, but now also by an international date line, an international border, a colonial language barrier, and a heavily militarized zone, the Chukchi peoples—approximately 150 inhabitants of Little Diomede on the U.S. side of the border—have no access to their Russian relatives or language on the other side (Encyclopedia Britannica 2019). Robert Soolook, another Chukchi inhabitant, explained that it "shouldn't be like this. We've been here for thousands of years, before the English came, the Americans, the Russians, before any governments and regulations separated us from our families. This border is breaking our hearts," he said (Hawksley 2015). This case speaks to "the right to be recognized as a member of a language community," as well as "the right to interrelate and associate with other members of one's language community of origin" (PEN Club International 1996).

A key factor in determining violations of linguistic rights is *agency*—the right to choose. The adage, 'with rights come responsibility,' is a colloquialism now heard in cafes and read on banners across the world. The question remains, however, whether those who have a right to use their own language also necessarily have a responsibility to do so (Akins 2013). Unborn, future generations are not yet in a position to choose to speak their language. If their ancestral language falls out of use, they will not have the opportunity to do so by the time they are born. Is there therefore a responsibility among speakers within this generation to keep their language alive for the rights of the unborn (Lourens 2010)? On a related note, some linguists argue that they have a responsibility to document languages and keep them alive, for the greater good of humanity and for the sake of linguistic diversity, sometimes even against the will of a speaker population (for further discussion, see Crippen & Robinson 2013).

Most rights-based frameworks, however, defend one's right to *choose* to use one's language, if individuals so wish, not necessarily the right to the language itself (Akins 2013). This is a key distinction: if the option of choice is no longer there—namely, if agency has been robbed of a person or speech community, as in the cases of the Quechua women or inhabitants of the Diomede Islands—rights are then unfulfilled, which would indicate a violation of language rights. However, if there is adequate and substantive accessibility, but the rights-holder chooses not to speak their language, this does not constitute a violation of anyone's rights.

Linguistic rights remain interdisciplinary and holistic in nature. They cut across fields and domains of use, and like all human rights, are indivisible (Sambo Borough 2019). On paper, linguistic human rights are amply defended, across several arenas, although it is important to note that these instruments must be read and understood together (Sambo Borough 2019). Often, these separate arenas—such as that of intangible cultural heritage and children's rights—do not communicate with one another nor do their advocates and proponents attend the same summits. This siloing effect, coupled with the holistic nature of linguistic rights that cut across several

jurisdictions and intellectual buckets, culminates in a deafening silence that leads to an absence of monitoring and evaluation, not to mention failed implementation in speech communities. To advance linguistic justice in practice, such rights need to be defended and upheld in a community, adapted to local and current needs, and addressed within a broader and ever-changing socio-economic context.

1.2 How are linguistic rights protected?

In 2017, Disney released a Māori version of the blockbuster movie, Moana (Ainge Roy 2018). As one of the only animated Hollywood movies based in the Pacific Islands, the animation has been heralded as an excellent way to inspire Māori children to learn their language. Haami Piripi, a former New Zealand government official, told Smithsonian Magazine that he hoped the film would make Te Reo Māori "cool, relevant, and useful" to the younger generation (Katz 2017). Similarly, a Navajo translation of Star Wars was released in 2013 (Trudeau 2013). These examples speak to the role of the media in carrying forward some of the rights afforded in the Convention on the Rights of the Child, which mandates the State to encourage mass media to honour the linguistic needs of minority and Indigenous children, as part of their right to enjoy their own culture and language (United Nations Human Rights Office of the High Commissioner 1990). This Convention, adopted in 1990, is a key instrument for language revitalization, as it defends the intergenerational dissemination of language.

Most instruments that safeguard language rights fall under the branches of Indigenous rights, cultural diversity, minority rights, and intangible cultural heritage (see Appendix A for a more detailed breakdown of each instrument and its relevant principles). Some instruments, however, can be found in surprising spaces, like the Convention on the Rights of Persons with Disabilities, which advocates for the promotion and accessibility of sign languages, braille, and alternative forms of communication for persons with disabilities (United Nations 2006); and the International Labour Organization's Convention 169 on Indigenous and Tribal Peoples (ILO 169), which emphasizes the need to foster the opportunity to attain fluency in the country's official language, while simultaneously "preserving and promoting the development and practice of the indigenous languages of the peoples concerned" (International Labour Organization 1989). ILO 169 also stresses the importance of facilitating contact and cooperation between Indigenous and tribal peoples across borders. The case of the Diomede Islands is a blatant violation of ILO 169, as well as the 1992 Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, which argues for the right to freely maintain contact beyond State borders to other members of one's speech community (United Nations Human Rights Office of the High Commissioner 1992). This 1992 Declaration, which offers one of the most powerful defenses of linguistic rights, also advocates for the right to use one's own language, both in private and public, without interference or discrimination.

Though complex, there exists a small but growing number of instruments specifically focused on language rights in the international human rights arena (see Appendix A). A relatively new platform for linguistic rights has now also emerged: in just over a decade, UNESCO has created a framework that focuses on the importance of intangible cultural heritage (ICH), a catch-all phrase for cultural artefacts whose knowledge is passed down orally, and thus *intangibly*— including languages, oral traditions, crafts, performing arts, storytelling, and the like (UNESCO 2003). This recognition is a welcome complement to more tangible forms of cultural heritage that have been internationally recognized for decades, including sites such as Machu Picchu or the Taj Majal. The most powerful instrument that has emerged from this newer framework is the

2003 Convention for the Safeguarding of the Intangible Cultural Heritage (UNESCO 2003), but there are many other Declarations, Recommendations, Funds, Lists, and Conventions that are important and complementary aspects of this ecosystem.

As a case in point, the Garifuna language, which spans Indigenous Caribbean and African communities across Honduras, Guatemala, Nicaragua, and Belize, is now recognized as part of the Representative List of the Intangible Cultural Heritage of Humanity, granting it international recognition, protection, and funding (UNESCO Intangible Cultural Heritage 2008). Critically, however, community members—and any actors lower than the State, for that matter—rarely have the opportunity to weigh in on what constitutes "legitimate" enough to warrant safeguarding, thus politicizing language rights and creating competition for resources within borders and cultural communities (Akins 2013, Duvelle 2016).

In addition, we must point to important caveats in many instruments, like the 1992 Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, which calls upon States to "take appropriate measures" and act "where possible" (United Nations Human Rights Office of the High Commissioner 1992). Such phrasing leaves much of the rights-based terminology up to interpretation and judgement, based on each State's mandate and fiscal and social priorities.

Violations by specific individuals (for example, a school teacher forbidding the use of a student's mother tongue in the classroom) fall under the jurisdiction of federal law, and are the responsibility of the State. These only become international human rights violations when a State has failed to address the issue in a way that recognizes one's linguistic rights. In the case of a violation, the 'perpetrator' is most often the State, while the speech community is understood to be the 'victim'.

The rights-based framework generally defines human rights through either binding or non-binding instruments. Binding agreements (conventions, statutes, and covenants) function as "rules," while non-binding agreements (declarations and recommendations) are more akin to "guidelines". Though binding agreements carry greater legal power, non-binding treaties serve their own advocacy purpose, as they highlight issues that need global attention and can help to catalyze dialogue into action. Additionally, countries that may be hesitant to ratify binding conventions will on occasion sign declarations as a symbolic indication of their support, or due to international shame, as in the famous case of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). When the UNDRIP was adopted in 2007, 144 States were in favour, with only four opposed—revealingly and perhaps quite unsurprisingly, the most notable Anglo-settler colonial nations—the United States, Canada, Australia, and New Zealand. Gradually, after significant protests and media backlash, each of these remaining States has signed onto the declaration: Australia in 2009, New Zealand and the US in 2010, and finally and shamefully, years later in 2016, Canada (Coppes 2016).

The UNDRIP is a prime example of a non-binding agreement that has generated international momentum and paved considerable way for the application of linguistic rights. The power of the UNDRIP lies in its interdisciplinary and indivisible nature, weaving the importance of language into the broader context of health, spirituality, cultural connectedness, environmental stewardship, and community wellbeing. UNDRIP effectively and quite elegantly situates language against the backdrop of Indigenous wellbeing, subtly but profoundly contextualizing these collective rights—which were originally packaged into a colonial framework for individual

cases—within an Indigenous worldview (Beatty 2014, Sambo Dorough 2019). However, "the declaration is not a magic instrument that can somehow correct all the wrongs against indigenous peoples," as Bonita Beatty clearly pointed out in a Special Report for the Centre for International Governance Innovation. "It is a tool, not a panacea," she said (Beatty 2014). Identifying the UNDRIP and a few other common tools as tipping points, community members and advocacy groups have been able to better agitate for their languages, knowing that they have an international audience as well as a shared vernacular to frame their grievances.

"It often feels as though we are being asked to justify the continuing existence of our languages to a Canadian audience who may not value them," wrote Chelsea Vowel in MacLean's Magazine, when she argued that Indigenous languages needed to be taught alongside English and French (Vowel 2017). "I believe we need to remind Canada that Indigenous languages are an Aboriginal right, enshrined in section 35 of the Constitution, as well as an inherent right—to speak and pass on our languages—that is recognized internationally by the United Nations Declaration on Indigenous Peoples (UNDRIP), which Canada has officially adopted" (Vowel 2017).

In noting this, Vowel clearly outlines the sticky map towards rights application. Canada first had to sign onto the UNDRIP to legitimize its stance regarding linguistic and other rights. These rights then need to be interpreted through federal law—in this case, Section 35 of the Canadian Constitution. The alignment of federal, provincial, and territorial laws, alongside intergovernmental agreements, is where the implementation of rights becomes complex and runs aground. Take, for example, the 2018 McEvoy ruling in New Brunswick, which continues as an ongoing debate about linguistic rights in practice (Poitras 2019b). In the Province of New Brunswick, Canada, the Official Languages Act (Office of the Commissioner of Official Languages 1988) demands that patients shall receive paramedic service in both English and French (each being a minority in certain regions of the province). However, the Paramedics' Union Contract prioritizes seniority over language skills. With a shortage of skilled bilingual candidates in all regions of the province, there is a disagreement over which skillset should prevail. In December 2018, Health Minister Ted Flemming decided that getting positions filled by skilled paramedics, even if by unilingual ones, was more important than the bilingual requirement. "I'm more interested in filling that gap than I am in having some academic discussion of the legal nuances," he said (Poitras 2019a). That provoked a linguistic outcry and a legal case, claiming that the Official Languages Act had been violated (Poitras 2019a). A month later, Flemming's decision was overturned, with the bilingual requirement superseding all others, and alternative options were offered to fill potential gaps.

As this case and others demonstrate, the successful implementation of language rights is a process, not a checklist. It involves trial-and-error, and requires continual concerted effort to map two-dimensional laws that appear theoretically clean onto three-dimensional language communities and messy, ever-changing political, jurisdictional, and legal systems. This work requires both courage and humility, and the willingness to fail. Without bravery and commitment, the rights-based framework will serve as nothing more than a scaffolding upon which the apathy and distrust of language communities will fester.

2. Implementation Gaps

The lacuna between rights as outlined on paper and those fulfilled in practice is vast. It is one thing to sign off on a declaration that proclaims rights; it is another altogether to fulfill them, one speaker and one community at a time. Perhaps this gap is due to a lack of will, or more optimistically, a bottleneck between the will and the way, or some combination of the two. Regardless, true fulfillment of linguistic rights takes considerable investment of resources and logistics, as well as an understanding of and willingness to adapt to the needs of each speech community at hand.

A quarter of Sri Lankans speak Tamil as their first language. This minority language is enshrined in the Constitution as the country's second official language. "Through the 13th Amendment to the Constitution in 1987, Tamil has joined Sinhala *de jure* as an official language… Tamil speakers living anywhere in Sri Lanka have the right… of communicating with any government office or officer in their own language and of receiving communications too in that language," writes Balasingham Skanthakumar (2008). He goes on to note, however, that "…Tamil speakers continue to be discriminated against in their access to and treatment within, and experience of public services such as government departments, police stations, courts, public transport and health service—through non-compliance of state agencies with the official languages law—thus denying them *de facto* equality." While Skanthakumar notes that human and financial resources play a part in this divide between equality *de jure* (on paper) and *de facto* (in practice), he primarily attributes the lack of enforcement to an absence of political interest and will (Skanthakumar 2008).

The challenge outlined for Sri Lanka is not uncommon across the world. Despite the rollout of improved frameworks over the past few decades, linguistic rights are rarely implemented. One of the key causes of this gap is the double-bind of non-reporting: if individuals and communities are either not aware of their rights or remain unconvinced that reporting a violation will make any difference, violations occur without proper documentation. The result is that instruments that might be applicable remain underused. Another cause is systemic: a framework that was set up for individual cases is being mobilized to defend the collective rights of speech communities. Lack of direct accessibility for community members and rights-bearers is also a significant cause for the gap between provision and implementation. Linguistic, financial, and political barriers, as well as a lack of access to information, are just some of multiple obstacles that prevent speech communities from accessing the benefits of a rights-based framework.

Entrenched hierarchies within the rights-based framework itself can also serve to undermine linguistic rights. By this, we mean the implicit competition between civil and political rights, and economic, social and cultural rights; the historical residue of a separation between positive versus negative rights; sensational media coverage of flagrant human rights' violations; and the tendency towards supporting acute (emergency or temporary) versus chronic (long-term) issues and violations, in the understanding that linguistic rights are often identified as among the latter (see Table 1).

2.1 Entrenched hierarchies in the rights-based framework

Though there have been promising realignments over recent years, hierarchies within the rights-based framework endure, all of which rank linguistic rights as some of the lowest or least-prioritized rights on the spectrum, as indicated in the table below. Combined, these barriers locate linguistic rights in a distinctly subordinate position when trying to find their place on the already-crowded rights-based platform.

	Receive more attention	**Receive less attention**
Entrenched hierarchies in the rights-based framework	Individual rights	Collective rights
	Civil & political rights	Economic, social & cultural rights
	Acute violations	Chronic violations
	Overt violations	Covert violations
	Sensational stories	Invisible stories
	Negative obligations of the State	Positive obligations of the State
	"First-generation" rights	"Second-generation" rights
	Perceived basic needs	Perceived secondary needs

Table 1. *This table outlines typical hierarchies that can lead to competition between various rights in the international human rights arena. Those in the left column receive more media attention, legal space, and funding than those in the right column. Linguistic rights are primarily understood to fall under the right column, and therefore receive less attention and resources within the rights-based framework.*

Linguistic rights pertain to both individual and collective wellbeing, adding further complexity to their implementation. While some linguistic rights can be protected on an individual level (for example, ensuring that someone has access to a translator during a court hearing), others cannot be fulfilled except at the collective level (the transmission of a language in primary and secondary education, for instance).

"Persons" (rights-bearers), according to most UN standards, are defined as individual natural persons, not collective entities such as speech communities. The rights-based framework—though it is gradually changing as its mandate expands—was not originally designed to defend collective entities. This impedes the implementation of linguistic rights and also clashes with the fundamental nature of Indigenous rights, in which collectivity is a central and omnipresent value. To individualize and even "possess" ownership at an individual level can be quite misaligned with Indigenous legal traditions (Atleo 2012, Venne 1998).

Collective rights, such as language, are often more challenging to fulfill than individual rights, not only because these can come across as futile attempts to fit a square peg into a round hole, but also because they involve considerable coordination and long-term investment on the part of communities. Given that language can only survive when transmitted in a collective manner (from one speaker to another) and intergenerationally (from elders to youth), the rights-bearer (and victim, in the case of a violation) will be—at least in most cases—the collective of an entire speech community or culture. Additionally, the consequences of losing one's language is grave for the community as a whole and repercussions cannot be measured (and may even seem trivial to some analysts) if evaluated solely on an individual level. Yet once these are understood as impacting an entire population—and, in effect, the future existence of the language itself—the gaps in the fulfillment of linguistic rights become much more apparent.

The complex clash between individual and collective rights is but one of many battles that linguistic rights advocates face when implementing *de jure* law. Economic, social, and cultural (ESC) rights—such as linguistic rights—have historically competed against civil and political

(CP) rights for recognition, visibility, and funding. Most human-rights workers spend their lives working in one of these two arenas, with relatively little cross-over. Problematically, however, CP rights have received most of the media attention, as well as the funding and support that are often associated with increased visibility. CP rights are, after all, more sensational, dramatic, and easier to "see." For example, media coverage of refugees running from gunfire (however inappropriate or dehumanizing such portrayals may be) is more visually compelling and engaging for an audience already suffering from compassion fatigue than a case about speakers of an invisible-to-photograph language that has been marginalized over many decades.

Civil and political rights generally present more urgent problems that have quicker solutions, which in turn make them more attractive to funders and supporters, and rewarding for advocates who look towards concrete, reportable solutions and measurable impact and outputs. Economic, social, and cultural rights, on the other hand, often defend chronic issues and injustices that include slow-brewing matters like language loss for which emergency aid mechanisms are rarely triggered. Instead, language loss percolates gradually, until eventually—and often silently—a language, and in some cases the whole speech community, is no longer visible. In the case of language rights, it is usually only when it is too late that the media finds the story urgent or sensational enough to run with. This leads to defeatist reporting along the lines of "Meet the last speaker of a dying language" (the title of a short highly acclaimed National Geographic film about Marie Wilcox, the last fluent speaker of the Wukchumni language [Vaughan-Lee 2014], but also indicative of many such alluring yet apocalyptic titles). Such reporting is instead of more hopeful if differently problematic titles like "How to resurrect dying languages" (the title of an article published by linguistic anthropologist, Anna Luisa Deaigneault, in *Sapiens*, that celebrates community revitalization techniques while engaging the reader to get involved [Daigneault 2019]). Commonly used terms that highlight the "endangered-ness" of a language—words such as "weak," "loss," and even the word "endangered" itself—overrepresent diminishment and underrepresent the resurgent strength of communities of speakers who have never stopped using their ancestral languages. Furthermore, the currency of terms such as "vanishing" and "disappearing", not to mention "dying", not only forecloses the possibility of revival and renewal but communicates an apparently agentless process in which language loss is both inevitable and naturally occurring. Such terminology effaces the intentionality of colonial policies that legislated marginalization while undermining the efforts of those working to reclaim their languages. When speaking and writing of "endangered languages," then, it is crucial to remain attentive to the words that are used and to seek balance in highlighting ongoing community revitalization efforts on the one hand, while historically contextualizing the increasingly vulnerable state of most Indigenous languages on the other.

This pattern is why, in many cases, advocates have begun to include urgent appeals when outlining the case for language rights. For example, Grand Chief Edward John, Hereditary Chief of the Tl'azt'en Nation in Northern British Columbia, often uses an element of urgency or panic when speaking about linguistic rights (Sambo Borough 2019). When the UN announced that "one indigenous language dies every two weeks," problematic as that statement actually is, the message went viral. Positioned in this way, language rights—just like their CP-rights cousins—are now also acute, urgent, and sensational enough to be tweeted. A 2007 *New York Times* headline read: "World's Languages Dying Off Rapidly" (Wilford 2007). Another article in the Istanbul *Daily Sabah*, nine years later, still reported with the same urgency: "One indigenous language dies every two weeks" (Daily Sabah 2016). But does this sensationalism work? What is gained and what is lost by invoking such urgent phrasing?

Anthropologist and former National Geographic Explorer-in-Residence, Wade Davis, uses a similar approach in his lectures, tethering scientific facts to urgent appeals that powerfully engage the listener's emotional response. "No biologist… would dare suggest that 50 percent of all species of plant and animal are moribund or on the brink of extinction. Yet this, the most apocalyptic projection in the realm of biological diversity, scarcely approaches what we know to be the most optimistic scenario in the realm of cultural diversity," said Davis in an interview with National Public Radio (Chadwick 2003). "The key indicator is language loss. There are at present some 6,000 languages. But of these fully half are not being taught to children. Which means that effectively, unless something changes, these languages are already dead."

Correlated with this competition for drama were the reactions we received in response to our poster presentation at the conference in Hawai'i. When conference participants shared their stories and accompanying self-effacing comments with us, we began to recognize a significant divide between overt and covert violations. Our community of scholars and language champions tended to portray soft, gradual, covert violations as somehow trivial or less important, almost as if there was a correlation between speed of abuse and its value. Not only did less visible and slower-moving violations lack the narrative and picturesque qualities of their more overt cousins, but their magnitude also could not be properly comprehended when compartmentalized, act by act, person by person. With language rights, the violation amounts to something greater than the sum of its parts. The violence and pain is in the repetition. It is only through continuous micro- and macro-aggressions of oppression and subjugation that a linguistic wound or minor injury culminates in a life-threatening condition for a language.

Competition among rights is nothing new. Rights were originally categorized as either "first-generation" or negative rights, and "second-generation" or positive rights (Brockett 1978, Hirschl 2000). As Hirschl summarizes in his article, these rights are generally divided between "criminal due process and legal rights (classic 'first generation' or 'negative' rights); [and] subsistence social rights (classic 'second generation' or 'positive' rights)" (Hirschl 2000). Over time, this hierarchy was dismantled, since most rights require both positive and negative obligations from the State in order to be fulfilled. For example, the State has a *negative* obligation to *not* hinder the fulfillment of language rights: the State should not ban people from speaking their language. The State also carries a *positive* obligation to fulfill language rights: for example, supporting instruction in children's mother tongues in primary-level education or providing access to translators for all government services. In the case of positive obligations, it is not the *act* itself that is a violation, but the *absence* of an act. To protect one's right against a violation is not enough; rights must also be actively fulfilled.

The case of the Chinese government's treatment of the Tibetan language would classify as a violation of a State's *negative* obligation of language rights, since the government has hindered Tibetans' abilities to learn, speak, and transmit their language. China's Constitution states that "[a]ll nationalities have the freedom to use and develop their own spoken and written languages…" (Rife 2018). According to China's recent report to the UN Committee on the Elimination of Racial Discrimination, there are an additional 12 laws and 27 regulations that safeguard the language rights of ethnic minorities, such as Tibetan (Rife 2018). However, reality looks very different than this State-sponsored report. "Uniform national identity"—a generally accepted albeit informal policy that has triggered involuntary cultural assimilation, Tibetan language and cultural loss, and outmigration from rural communities—remains the norm across the parts of cultural Tibet under Chinese administrative control. A government notice issued in

2015 classified "illegal associations formed in the name of the Tibetan language" as one of 20 "illegal activities related to the independence of Tibet" (Rife 2018). Amnesty International and other advocacy groups are pushing to investigate this matter; they take issue with the official Chinese position, and aim to introduce appropriate monitoring and evaluation mechanisms.

The case of Tshivenda, in post-apartheid democratic South Africa, on the other hand, is an example of a violation of a State's *positive* obligation to fulfill language rights. The State famously promoted 11 languages to official status in its 1996 Constitution (Cape Town Magazine 2017), and the government pledged that students would have the right to choose the language of their primary education (Mbulaheni Musehane 2009). However, a study conducted by Musehane at the University of Venda showed that, in the Limpopo Province, Tshivenda—an Indigenous language of the province, which presumably 30 percent of the students were learning—was not in fact being properly taught due to confusion stemming from all teaching materials having been produced in English. The study concluded that this was a "gross violation of their constitutional rights… the rights that were guaranteed by society that wanted their children to learn in their own African language, such as Tshivenda, to transfer cultural values from generation to generation" (Mbulaheni Musehane 2009).

In the 1980s, the positive-negative binary outlined above came under greater scrutiny, in part because States seemed more inclined to respond to negative rights; after all, such rights usually required fewer resources to implement. In turn, this created competition and pitted negative rights against positive rights. The label "second-generation rights" as a synonym for positive rights (partly because they came later) further exacerbated the impression that they mattered less, even though this was not the original intention of the label. Positive rights began to be seen as secondary, to be dealt with only if and when there were resources, once all negative rights had been fulfilled, which almost by definition would never happen (Brockett 1978, Hirschl 2000, Klatt 2011).

Though the separation between positive and negative rights is now considered antiquated, the residual hierarchy in which negative rights somehow trump positive or "second-generation" rights remains entrenched within the conception of the rights-based framework, as shown through funding priorities, mandates, and attention given to each. Such residue of value preferences is especially notable in emergencies like earthquakes, landslides, or the global pandemic we are currently facing, where language and cultural heritage are not part of many governments' reactivation plans, which tend to focus more on extractive industries, tourism, and large corporations (Gestión 2020).

We argue that this hierarchy remains deeply intertwined with the binary opposition between CP and ESC rights, as well as that of perceived basic needs versus secondary needs. For example, Maslow's 'Hierarchy of Needs', first outlined and promoted in the 1960s in the field of psychology, mirrors almost perfectly the positive-negative dichotomy of the rights-based framework (Brockett 1978, Werby 2013, 3Di Associates 2015). While various versions of the Hierarchy of Needs are now in circulation, as Abraham Maslow fine-tuned his theory (some with five phases, others with seven), the general pyramid has remained intact: basic needs include physiology (food, shelter, warmth, and rest) and safety (security, employment, resources, health, and property) (McLeod 2018). Beyond these, Maslow categorized secondary needs as notions like belonging, creativity, independence, purpose, and being part of a group. According to such categories, language would fall under secondary needs. Maslow argues that basic needs are "deficiency needs," while secondary needs are "being or growth needs." In other words, we only

notice basic needs when they are *not* fulfilled, while we continuously strive to better fulfill our secondary needs, including language. The entrenched hierarchies of the rights-based framework mirror Maslow's hierarchy, with negative rights representing basic needs and positive rights representing secondary needs. Maslow argued that until basic needs were fulfilled, we cannot—and perhaps even *should* not—focus on any of our secondary needs (McLeod 2018).

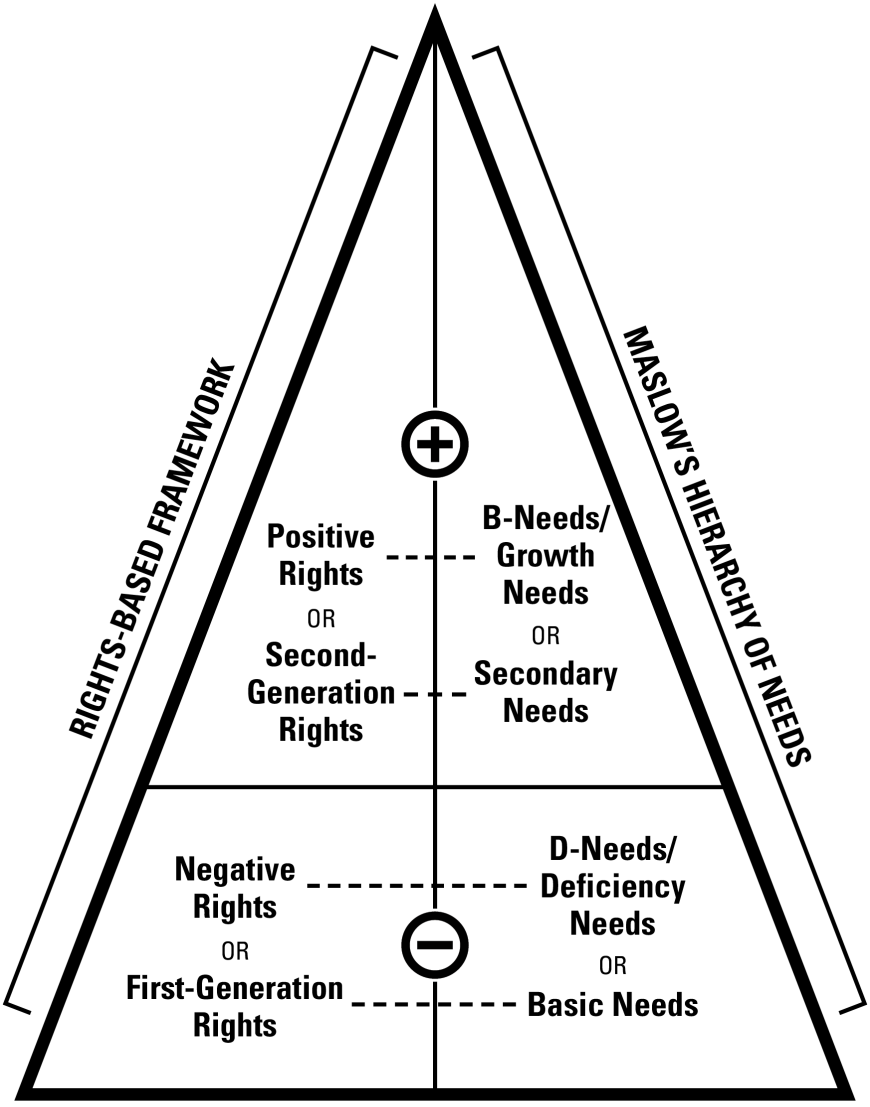

Figure 1. *A pyramid outlining parallels that we identify in the engrained hierarchies of rights-based frameworks and Maslow's hierarchy of needs. The left side of the pyramid depicts hierarchies in the rights-based framework, while the right side depicts Maslow's hierarchy of needs. In this case, first-generation rights = basic needs, negative rights = deficiency needs, and both are located in the lower half of the pyramid. Second-generation rights = secondary needs, positive rights = growth needs, and both are located in the upper half.*

Yet, both in the field of psychology and in the context of the rights-based framework, this hierarchy isn't as clean and linear as many have imagined. Our position is that the system is actually cyclical, by which we mean that the fulfillment of needs perceived to be secondary, such as language, are in fact essential for the fulfillment of needs perceived to be basic, such as health and life.

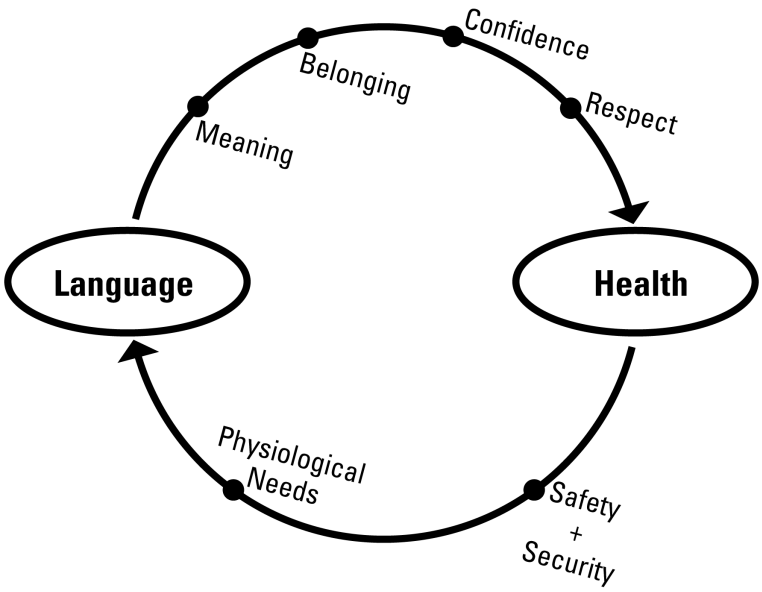

Figure 2. *A cyclical diagram demonstrating how language is essential for basic needs such as health and life, due to its fulfillment of perceived secondary needs such as meaning, belonging, confidence, and respect of and by others. Health and well-being, in turn, provide the tools and framework for other essentials such as security, safety, and physiological needs, which foster the acquisition of one's mother tongue. This cyclical process better depicts the equal value of all human rights, instead of an outdated and antiquated pyramid that classifies needs according to a perceived hierarchy.*

Many of the needs commonly identified as secondary, such as belonging (family, intimacy, being part of a group), esteem (confidence, achievement, respect for and by others), and self-actualization (creativity, acceptance, purpose, meaning, and potential) are in fact acquired by learning and being immersively surrounded by one's native language (Cavazos-Rehg et al. 2011, Noels et al. 1996, Whalen et al. 2016). Conversely, the absence of these needs—such as shame, lack of confidence, diminished self-worth, isolation, and discrimination—are proven side effects of not speaking one's own language (Butzkamm 2007, Fillmore 2010, Swain et al. 2009, Whalen et al. 2016).

Recalling the direct relevance of language to many other aspects of community well-being, the transformative healing nature and holistic benefits of language revitalization have much wider impact and relevance than linguistic vitality alone (Whalen et al. 2016). Underscoring the interrelatedness of language and community well-being, a recent Canadian study showed a

compelling correlation between Indigenous language use and a decrease in Aboriginal youth suicide rates in British Columbia (Hallet et al. 2007). Such statistical research helps to highlight the multidimensional nature of language revitalization and its cross-sector impact on the lives and livelihoods of Indigenous communities.

Not only does language have holistic cross-cutting benefits, but it can only be fulfilled intergenerationally and consistently. Trust in this process, without the added pressure of efficiency, outputs, and neo-liberal project timelines, is needed to foster successful prioritization of language revitalization and rights fulfillment, alongside and *in order to* fulfill basic needs. While language has profound intrinsic value and should be defended as such, it can also be argued that reclaiming and revitalizing language is a means to fulfilling basic needs.

2.2 Entrenched hierarchies within linguistic rights

The promise of linguistic rights is not shared equally by all non-majority language communities. The most notable inequity with which we are familiar is the quite different rights and resources that have historically been bestowed upon immigrant communities but not granted to Indigenous First Peoples in settler-colonial states. Canada serves as but one example. Until very recently, with the passing of Bill C-91 in federal law, there was considerably more attention and resourcing to support 'new Canadians' to maintain a sense of cultural and linguistic attachment to their original homelands and languages than for Indigenous Canadians whose homelands had been occupied by uninvited settlers. While immigrants usually—although not in all cases—can identify and perhaps even visit the country from which they came, and in many cases can point to robust speech communities that continue to maintain and innovate in their heritage language (take Punjabi, Ukrainian, and Dutch, for example), Indigenous communities have no such luxury. Their language is from this very land, and heritage tourism to relearn the language from relatives through study-abroad programs is not an option. The collapsing and conflating of all non-official and non-majority languages into one catch-all category—such as 'less commonly taught' or 'minority'—is problematic, and effaces the very specific and important differences between immigrant and Indigenous languages.

All communities have beliefs and values about their language, what some refer to as *ideologies*. Most of these beliefs are very deeply lodged, and many manifest in forms of explicit hierarchy and judgement, such as "his speech is ungrammatical and uneducated" or "she speaks well and correctly, but her children don't." Very often, citizens internalize the linguistic hierarchies and ideologies of the nations in which they live. While many of us unwittingly reproduce them and others resist them, written and official languages usually receive more attention, resourcing, and support than unwritten and unofficial languages do. In instances when Indigenous languages are recognized as worthy of resourcing and nurturing, an additional complexity can emerge: as communities compete for resources, those who are considered most critically endangered receive the lion's share of the funds, and therefore, it appears that some financial structures incentivize a race to the bottom in which it may be better to be worse off. Communities may have to wait until an almost "too-late status" to gain support and resourcing. On the other hand, communities who have resolutely maintained their speaker base against all affronts receive less attention and fewer resources, almost as if they are being punished for their resilience and success. Needless to say, this is a complex operational space in which to be effective, and leadership as ever comes primarily from Indigenous-led organizations. Resource allocation is a highly complex and political issue, and one in which both explicit and implicit linguistic hierarchies are at play.

Many institutions across the Province of British Columbia are engaging in acts of symbolic restitution and recognition in ways that draw on understandings of linguistic rights. In 2018, as part of Vancouver's efforts toward reconciliation, city leadership consulted with members of the Musqueam, Squamish, and Tsleil-Waututh nations—on whose traditional, ancestral, and unceded territories the urban metropolis is built—in order to introduce a series of Indigenous place names for prominent landmarks (City of Vancouver 2014). Such examples include the plaza adjacent to the Queen Elizabeth Theatre, which is now called šxʷχ̓ʷɛ̓xən Xwtl'a7shn, a name linked to the plaza's past use as a gathering place for the Walk for Reconciliation. The Vancouver Art Gallery's north plaza has been named šxʷχ̓ʷənəq Xwtl'e7énḵ Square, referring to a cultural gathering space for events such as weddings or funerals. Universities and colleges are also engaged in these apparently decolonial acts of toponymy. In 2016, Langara College was given the traditional Musqueam name, snəẇeyəɬ leləm̓, meaning 'house of teachings' (Ip 2019). The term *snəẇeyəɬ* references advice that is given to children to guide them into adulthood and build their character.

Government and educational institutions across BC are increasingly introducing statements that acknowledge Indigenous lands, treaties, and peoples (see Wilkes et al. 2017, for an illuminating discussion on the five general types of acknowledgement), and engaging in highly visible renaming practices that replace colonial-era names of buildings and places (usually named after deceased, white, male officers and administrators) with terms that are more locally resonant and relevant.

Such processes are well documented across settler-colonial states. In Aotearoa New Zealand, bilingual signage in both Te Reo Māori and English is a feature of all government offices and hospitals, as well as most public spaces (Ainge Roy 2018), reflecting the Constitutional recognition of Te Reo Māori as one of the nation's two official languages (along with New Zealand Sign Language). Although primarily symbolic, this form of visual realignment and visibility represents a step towards "the right to an equitable presence of their language and culture in the communications media" (PEN Club International 2006).

While symbolic efforts such as those outlined above can certainly serve as powerful awareness campaigns that help to educate the public about the value, history, and presence of a regionally significant if historically marginalized language, they do not usually involve steps to actively revitalize the language itself (i.e. increase the number of speakers with greater levels of fluency), or address and remediate underlying issues of inequity and discrimination that produced these structures in the first place (see Kipp 2000, for an in-depth examination of this argument). Efforts towards practical revitalization require much greater capacity and financial investment, but are—as has been well documented in the case of Hawaiian and Te Reo Māori—only achievable with long-term government commitment, sustained resourcing, community investment, and innovative scaffolded opportunities for language learning at all levels of the curriculum, from kindergarten to post-secondary.

	Receive more attention	**Receive less attention**
Entrenched hierarchies within linguistic rights	Written languages	Unwritten languages
	Official languages	Unofficial languages
	Immigrant languages	Indigenous languages

	Symbolic revitalization	Practical revitalization

Table 2. *This table outlines typical hierarchies that can create competition within and opposition between linguistic rights. Those in the left column generally receive more media attention, public interest, and funding than those in the right column.*

2.3 Accessibility barriers and rights fatigue

While linguistic rights can be powerful catalysts and motivators for speech communities, they have a long way to go before substantiating their promises towards protecting and fulfilling community needs. The invisible ladder needed to access legal procedures is another major challenge posed by the current rights-based framework. Speech communities may not know that they have linguistic rights, let alone a thorough understanding of what such rights entail, including how to detect violations and when and where to report them. Even if and when such an understanding has been established, the accessibility gap can remain vast. Many speech communities, such as the female artisans who speak Quechua in the Peruvian Andes, do not speak the language in which legal codes are written (Spanish), nor do they have the funds to travel to the nearest city (sometimes days away) to complete the paperwork and/or receive professional help from a legal advisor or organization. Even if they were to speak the language and be able to cover the financial costs, the steps required to file an individual complaint are neither clearly identified in any accessible document nor easy to follow, even for a highly educated professional. This makes the promises of the United Nations almost impossibly empty at the individual level. It is no wonder, therefore, that we cannot find documentation of a speech community who has successfully completed an entire individual complaint process from start to finish. This in turn leads us to ponder a number of questions: How many have tried? How far did they get? And at what point and why did they abandon the process?

The barriers that have prevented and precluded speech communities from successfully completing this process are huge, from first knowing that a process even exists, to understanding how to use it, to then being able to access it (financially, legally, linguistically, politically, etc.). The failure to provide access to members of speech communities who might wish and need to avail themselves of a mechanism to successfully complete an individual complaint process is a failure of the highest order. Still, this process is but one of the many under-utilized and poorly monitored mechanisms of the rights-based framework. Universal periodic reviews, country reports, and other monitoring systems are similarly highly controversial (Beetham 1995, Lixinski 2013).

It is this notion of *rights ritualism*—coined and richly explored by Hilary Charlesworth at the Australian National University (Charlesworth 2015)—that sends both language advocates and members of speech communities into cyclical patterns of never-ending discussions about their language rights, without substantial product or transformation. “The principal function of the rituals of human rights law is to give the impression that human dignity is taken seriously within a bourgeois global order. In that profound sense rituals are constitutive and productive. To be sure, the rituals have their progressive dimensions,” writes Chimni (2014). “But the rituals also go to tame and reduce the subversive potential of human rights. Human rights are to be achieved through the endless production of innocuous texts that end with routine recommendations. In

other words, treaty bodies and the HRC [Human Rights Council] do not speak truth to power but rather allow power to process truth" (Chimni 2014).

It is sometimes the very mechanisms that are put in place to support human rights that themselves trigger infringements and obstruct the path to fulfillment. By talking in circles about rights, and sending potential claimants in different directions towards different mechanisms, people may forget the original intent of their grievance. By the end, the framework can end up producing that which it set out to remediate, creating a form of "rights fatigue." This is a pattern seen over and over again, and one that some activists and scholars believe is anything but accidental (Sambo Borough 2019).

One such case is a rare national-level legal battle that played out in Nepal. While linguistic minorities in Nepal have no shortage of national and international provisions enshrining their rights, such groups have little confidence in their ability to gain access to, and then effectively use, the national legal system to defend these rights.

The case in question relates to a well-documented decision made by various local administrative bodies between August and November 1997—the Kathmandu municipality, Dhanusha District Development Committee, and the Rajbiraj and Janakpur municipalities—to use the traditional languages of these localities (Nepal Bhasa and Maithili, respectively), as official media of communication in addition to Nepali (Turin 2007). This right, it was argued, had been enshrined in the Local Self-Governance Act, which deputed to local bodies the right to use, preserve, and promote local languages. However, the decision by these local bodies to use regional languages was legally challenged and cases were filed in the Supreme Court, after which an interim order was issued on March 17, 1998, prohibiting the use of local and regional languages in administration. This order led to wide discontent and public resentment among minority communities, and a number of action committees were promptly formed to address the ruling.

On June 1, 1999, the Supreme Court of Nepal nevertheless announced its final verdict and issued a certiorari (a writ or order by which a higher court reviews a decision of a lower court) declaring that the decisions of these local bodies to use regional languages were unconstitutional and illegal. The court's verdict raised serious questions about the sincerity of the government's commitment to the use of minority languages in administration and led to further frustration among minority language communities. Public demonstrations and mass meetings were called, and the Nepal Federation of Indigenous Nationalities (NEFIN) organized a national conference on linguistic rights in March 2000, with support from the International Work Group on Indigenous Affairs. The proceedings of this conference were published in April 2000. Four resolutions were adopted during the conference, one of which demanded that:

> …legal provisions be made to allow the use of all mother-tongues and the verdict of the court be declared void since it runs against the values of the present Constitution of Nepal which recognises all mother-tongues as "national languages" and the Local Autonomy Act of 2055 which contains provisions for the use, preservation and promotion of mother-tongues by local bodies (Nepal Federation of Nationalities 2000, page 8).

This legal case represents a protracted battle. At this point, the local administrative bodies would have grounds to argue that they exhausted all federal channels, and proceed to file the case through the UN's individual complaints system. However, the barriers to achieving success through this means are daunting, and at this point, as is so often the case, both financial resources

and human capacity have burnt out—a prime case of rights fatigue and the bureaucracy of attrition.

As Authers et. al. note, "[h]uman rights are articles of faith that offer to the committed a just and harmonious world, yet never quite deliver their promises, making them particularly susceptible to ritual iterations" (2014). The huge potential for linguistic rights currently remains untapped and under-explored. While the legal scaffolding and apparatus is in place, its implementation continues to fail. It is no wonder that we recorded such disengagement and frustration from members of speech communities when discussing linguistic rights.

2.4 Linguistic rights and Indigenous sovereignty

Linguistic endangerment is not a natural or inevitable process, nor the unfortunate by-product of modernization. Rather, the marginalization and erosion of local and Indigenous languages is the direct result of colonization and the racist policies that have accompanied it. Across the world and through a variety of efforts that have included educational initiatives, punitive legislation, and intentional neglect, colonial authorities have instituted language policies that sought to weaken traditional cultural practices, assimilate Indigenous populations, and gain access to their land and resources. As Graham and Wiessner have pointed out, "Indigenous peoples' concept of sovereignty is intimately linked to their culture, their language, and their land. These three essential components of their self-determination have been, and remain, under existential threat" (2011, page 403).

Colonial authorities have used the power of language and the language of power to further their own strategic ends. In some cases, and seemingly paradoxically, this involved supporting Indigenous languages; in most cases, however, they sought to erode them. In the first instance, believing in the inherent superiority of Christian theology, many missionary linguists focused on translating scripture into Indigenous languages. Similarly, in Papua New Guinea and other regions of the Asia Pacific, scholars and administrators actively strengthened Indigenous languages through standardization programs that involved grammatical descriptions and the compilation of dictionaries and other pedagogical tools. The goal—in many cases—was for local languages to be harnessed to transmit and disseminate Christian theology (Wurm, Muehlheausler & Laycock 1977). In other instances, as in Canada, settler-colonial authorities observed the unique relationship that existed between a language and the land on which it was spoken, and focused their attention on breaking this relationship apart by destroying the language and forcibly relocating communities far away from their traditional territories.

To this day, Indigenous communities around the world make use of traditional place names to ascribe current or historical meaning to places and spaces that are locally resonant and historically important. These powerful toponyms encode lived experience and traditional ecological knowledge in an ancestral language in a way that is almost impossible to translate into a more dominant national or international language. By disconnecting the language traditionally used to refer to a specific site, and by introducing new place names in a colonial language (the terms 'New Zealand' and 'British Columbia' serve as enduring examples), the relationship that local peoples had with their lands was rendered opaque and further attenuated. Having weakened this connection to land, the colonial goal of relocating communities in order to extract resources from their territories became more achievable.

Yet, for as long as efforts have existed to impose colonial languages on Indigenous peoples as a means of reshaping or eradicating their identity, these same processes have been vigorously

opposed by speakers of these languages. Pushing back against the decoupling of language from landscape, and asserting the uninterrupted continuity of a living earth whose community is sustained and nurtured by the intergenerational transmission of traditional cultural and ecological knowledge, Indigenous peoples find themselves at the front lines of environmental struggles that intersect with decolonial forms of political activism. Opposition to externally imposed language policy takes many forms, from active resistance to passive non-compliance. Everyday forms of resistance have included the direct avoidance of colonial education programs by concealing children and evading census enumerators, to more contemporary and structured efforts in support of language revitalization, reclamation, and the renaming of traditional territories.

While such examples are exciting and inspiring, in order to make sense of contemporary efforts to revitalize Indigenous languages and cultural learnings, we need to understand the political and historical context that has shaped their marginalization. The use of the prefix 're' in words such as revitalization, rejuvenation, revival, and resurgence points to the undoing of some past action or deed (Glass 2004). If the world's linguistic diversity had not been 'devitalized' to begin with—through colonization, imperial adventure, war, and forced migration—there would be less need for historically marginalized languages with ever-dwindling numbers of speakers to be 'revitalized' today.

The work of language revitalization is inherently multidisciplinary and political, with long-range cultural and social goals that extend beyond the immediate task of generating more speakers. Increasingly, language revitalization programs are as much focused on decolonizing education and plotting a path toward Indigenous self-determination as they are directed at reclaiming grammar and speech forms. Language loss does not occur in isolation; it has wide-ranging social, environmental, and economic repercussions for the language communities in question. Language is so heavily intertwined with cultural knowledge, political identity, and land stewardship that speech forms serve as meaningful indicators of a community's vitality and its social and environmental well-being.

With language revitalization increasingly situated as an expression of self-determination and political empowerment, some language communities are developing a terminology for discussing endangerment and revitalization that is in itself empowering. One example is a movement to refer to languages without any current native or first-language speakers as 'sleeping' rather than 'extinct' (Hinton 2001). While the distinction might appear unnecessary or even naively aspirational to researchers not closely involved in such work, all terminology has both symbolic value and political impact. The biological extinction of a species has a mono-directional finality that linguistic 'extinction' does not. As Indigenous linguist Wesley Leonard poignantly notes, "the paradox of speaking an extinct language is not imaginary" (Leonard 2008, page 28). The designation 'sleeping' rather than 'extinct' points to the potential of a language to be reclaimed and revived after it has lost its last first-language speakers—an opportunity that is not (yet) available to the dodo or a dinosaur.

While bringing a language back from 'sleeping' to having a community of fluent speakers is a phenomenon that has been uncommon in human history, there are recent examples, such as the remarkable and compelling case of the Wampanoag language, which had been sleeping since the late-19th century until revitalization efforts resulted in fluent child speakers of the language in the 21st century (Makepeace 2010).

This shift in how we talk about language endangerment and reclamation invites the media and policy-brokers to reduce their focus on the sensational, and turn instead to explore examples of strength, hope, and action. A consequence of this pivot might be less attention, given that 'sleeping' doesn't convey the same urgency as 'extinct', but it is a necessary realignment that is more respectful of self-determination, Indigenous agency, and humanity.

3. A Way Forward

In our conversations with community members, language champions, and colleagues, we have noted a growing distrust of and apathy towards the rights-based framework. We identify this as likely stemming from historical experiences of unrealized promises and an associated lack of delivery on provisions and legislation, leading to a widespread feeling that the framework is simply "all talk and no do." If a framework does not result in tangible changes that are felt on the ground by communities, what is the point of all of these rights on paper? Why should communities care if they have rights, or if their rights have been violated, if they do not see any improvements coming from these intergovernmental dialogues? Such thinking has caused a fair amount of collective apathy relating to the role of linguistic rights and its accompanying legal mechanisms.

With regard to linguistic rights, from our conversations at least, most interlocutors did not appear to be disenchanted so much as uninterested. When we presented our poster at the International Conference on Linguistic Documentation & Conservation, we encountered many participants—both community members and linguists—who responded, "So what?" In essence, *why should we care that we have these rights? What is the point?*

Anger is the antithesis of apathy, with the latter indicating a lack of possible alternatives or hope for the future. "People need to perceive that there are cognitive alternatives to the status quo before social identification with their group leads them to mobilize them for collective action," write psychologists Van Vomeren et al (2008, page 507). We had, perhaps naively, expected to see community members outraged by their lack of language rights rather than apathetic or indifferent towards the entire framework. In this concluding section, we ask whether apathy can be transformed into something more heightened and active, whether that be positive or negative.

To do so, we began to explore the root causes of this apathy, as we had assumed incorrectly that rights surely would generate a positive dialogue for both speech communities and linguists. We identified apathy as a response to the exhaustion caused by the repeated absence of change as well as a lack of awareness about the rights-based framework itself. Having a right, and knowing that one's right has been violated, do not immediately translate into practical vocabulary that community members can use to seek justice. Not only do patterns of negative expectations arise, but a sense of frustration can surface. Comments such as "but you have the right…" can unwittingly shift the burden of responsibility to rights-bearers, implying that what is happening is their fault—a *why don't you fight for your rights?* type of judgment—the legal equivalent of gaslighting.

All of this has led us to consider whether the intended users of the rights-based framework are in fact not so much members of speech communities, but rather policy-brokers. One of the principal strengths of the framework is that it contextualizes vocabulary in a way that compels policy-brokers, decision-makers, and lawyers to think with their hearts. Many community members—

those using a language their grandmother once taught them—already and intuitively know the importance of their language. Their land, voice, and stories teach them these values, especially if they still have strong ties with their ancestors and traditional territories, despite the ravages of colonial oppression and dislocation. In other words, most speech communities do not need more academic and foreign vernacular to tell them of the importance of things they know full well, such as the value of their own language. "At the end of the day, the people who are going to restore the languages are the ones living in the communities," notes Professor DeCaire (Cecco 2019). "They're the ones who have a long-term investment in this… because it's so intertwined with their identity."

3.1 Harnessing language rights: From apathy to action

The rights-based framework plays an important role for those who do not share this connection with language: it tells the head what many already feel in their heart. The framework acts as science does for creation stories, proving what others know to be true from their embodied experience—that language is important, has value, and deserves to be safeguarded.

Many of those who, through their positions, wield the authority to make sweeping decisions that impact large numbers of speech communities, do not hold deep connections to a particular minority or Indigenous language, nor have they had an opportunity to build a close relationship with someone who has. In these cases, the idea that language might be integral to identity, health, and culture can be as foreign as learning a new writing system.

The dialogue, legislation, policies, and norms of the rights-based framework provide a toolkit that offers judicial context to the intuition of community members and culture-bearers. At best, such frameworks and mechanisms can help translate what one side *feels* into what the other side may begin to *think,* supporting both the "elephant" (instinctual) and "rider" (rational) parts of our brains (Haidt 2001). Through this process of translation, two disparate groups who may never otherwise meet can begin to communicate with one another about a topic that affects humanity as a whole. This reason alone may be enough cause to fight for linguistic rights—not as *the* way, but as *a* way—a contribution to the many dialogues that help to break down barriers between top-down and bottom-up safeguarding mechanisms and collectively help to revitalize languages. In this way at least, such frameworks are valuable.

The world of language rights is complex because it can only function if various stakeholders are onboard, and we know from experience that some intrinsically care while others don't, and that some wield significantly more power than others. For these reasons, the more accessible, adaptive, and diverse the frameworks and tools can be, the better they will be, as we collectively attempt to reorient the momentum of language rights on paper towards tangible outcomes. "When change works, it tends to follow a pattern. The people who change have clear direction, ample motivation, and a supportive environment," write Dan & Chip Heath, explaining the key ingredients of change movements (Heath & Heath 2010, page 255). All three—direction, motivation, and support—are central to explaining the gap in implementation that the language rights movement currently faces.

Neuroscientist Jonathan Haidt coined the analogy of the elephant and the rider to describe the careful balance between rational or willful, and instinctual or emotional knowing. The elephant and the rider represent the two parts of our brain that together operate our decision-making abilities (Haidt 2001). We need to "motivate the elephant," by heeding the instinctual, emotional parts of the brain to make people care about and understand the important value of linguistic

diversity and collective identities. But as Heath and Heath note, we often "speak to the rider when we should be speaking to the elephant" (2010, page 113). When we imagine change movements and campaigns, we usually refer to statistics, assuming people will shift their values once they understand the consequences. However, most cigarette users know that smoking is bad for their health, and if they stop, they do so not because they finally read the label. Something else motivates people to want to change.

Despite what marketing campaigns may want us to believe, our neurological patterns for processing change are not achieved through the steps of *analyzing*, then *thinking*, then *changing*, but rather *seeing*, *feeling*, then *changing* (Heath & Heath 2010). In other words, only once the elephant is onboard and the "why" is engrained will apathy begin breaking down on all sides of the linguistic rights conversation, and can we begin "directing the rider," and thus guide the rational brain by providing a map and a set of tools—in this case, the rights-based framework. Once both the elephant and rider are ready to depart, we must do a better job of "shaping the path." We are currently stuck. The path of linguistic rights is filled with bottlenecks and roadblocks, legislative nightmares and technological impossibilities. It is much easier *not* to fulfill language rights than it is to fulfill them. We may recall Shene Catholique Valpy, who tried to change her Dene Chipewyan daughter's name on her birth certificate, for example. Or the case in Nepal, when local administrative bodies did their best through proper legal channels at all levels of government to fight for the right to use their traditional languages as official media of communication. In both these cases, despite their perseverance and aptitude, they hit roadblock after roadblock. "Tweaking the environment is about making the right behaviors a little bit easier and the wrong behaviors a little bit harder" (Heath & Heath 2010, page 183).

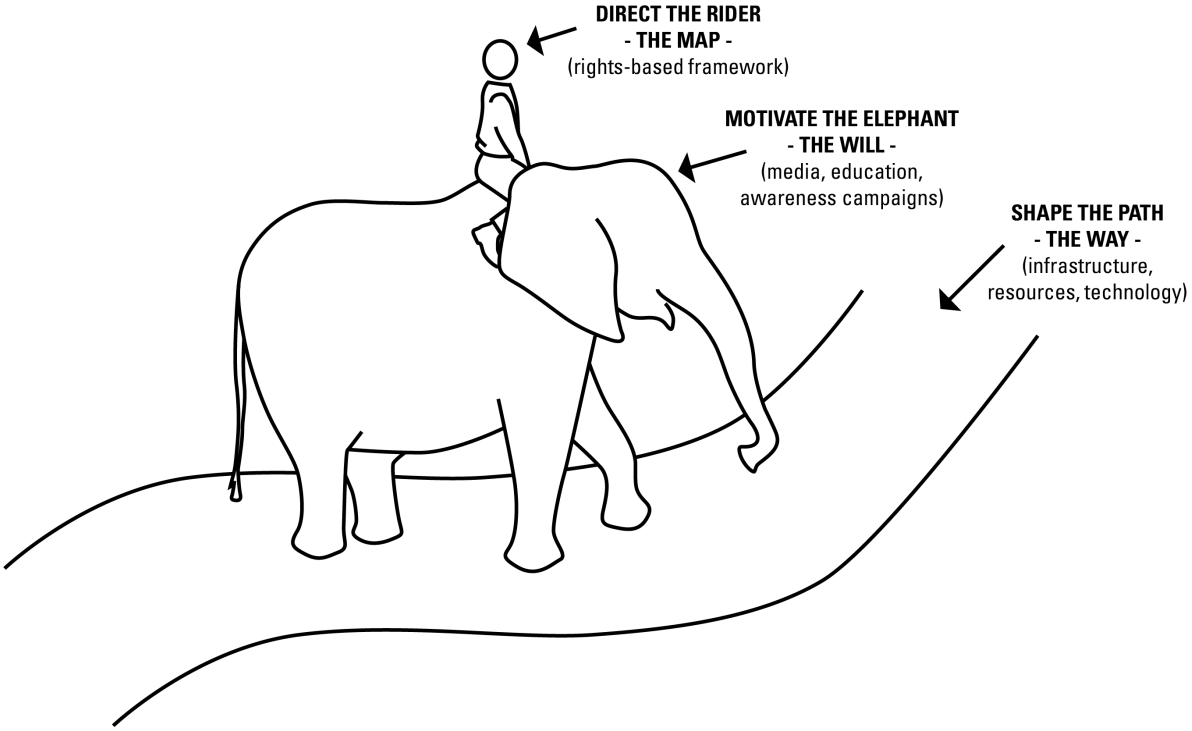

Figure 3. *The three essential steps for successfully implementing language rights. First, motivating the elephant ("the will", through media, education, and awareness campaigns). Second, directing the rider ("the map", or the rights-based framework). Third, shaping the path ("the way", removing obstacles, roadblocks, and bottlenecks for implementing legislation by providing the necessary infrastructure and resources).*

3.2 Guideposts for change

Though the rights-based framework is currently positioned as and understood to be a corrective measure (through which claims can be brought forth), its role is in essence preventative—to stop violations from occurring in the first place, either through shame, fear, and pressure, or education, awareness, and goal-setting. The rights-based framework functions as a safety vest, not a helmet. If functioning effectively, it can prevent an individual from being 'hit' in the first place, but it's not well equipped to support them when they fall. Once the rights-based framework is seen in this light, it becomes possible to redirect resources and focus efforts towards promotion, awareness-raising, legislative action, and investment, rather than the measures needed for rigorous, inaccessible, and resource-heavy legal cases.

More than ever before, there are vigorous and collaborative efforts underway to reverse the trend of language loss, and to reclaim and revitalize endangered languages. Such approaches vary significantly, from making use of digital technologies in order to engage individual and younger learners, to community-oriented language nests and immersion programs. Current efforts are re-evaluating the established triad of documentation-conservation-revitalization in favour of more unified, holistic, and community-led approaches.

For peoples like the Myaamia, who have no first language speakers left, "the ultimate goal of this work is to eventually be able to raise our children with the beliefs and values that draw from our traditional foundation and to utilize our language as a means of preserving and expressing these elements" (Baldwin 2003, page 28). Rather than some ideal, end-state fluency, it is the sustained effort of communities that shape and determine the goal and success of any language revitalization project. As all who are engaged in language revitalization can attest, the work is never complete: success starts when revitalization efforts begin and it doesn't end until the efforts themselves cease.

While there is momentum behind a renewed focus on language rights, as Vowel notes, "(w)hat we need now is an implementation of those rights, supported with adequate funding" (2017). We do not see the current implementation gaps and accessibility barriers as impenetrable hurdles. With the appropriate resolve and support, these challenges can be surmounted, but they do require long-term and considered investment, a collective effort, and the ability and will to adapt to each case at hand, in concert with and led by local community revitalization efforts.

Current Challenges	***Guideposts for Next Steps***
The Will (Motivating the Elephant)	
Sensationalized and defeatist reporting of "dying" and "extinct" languages	More empowered storytelling and use of language (such as "sleeping" languages); greater investment in Indigenous reporting

Lack of robust discussion of applied linguistic rights in practice, in peer-reviewed publications	Interdisciplinary scholars to research and discuss examples of linguistic rights fulfilled and violated; more robust documentation of gaps, access barriers, and success stories
Lack of understanding of rights-based framework, on the part of speech communities and linguists	Investment in community-based empowerment, advocacy, and training, identifying what a rights-based framework is and how it relates to language rights
The Map (Directing the Rider)	
Implementation gap (the failure to deliver on provisions and legislation)	Greater monitoring and oversight of the Declarations & Constitutions, to ensure the regular and full implementation of their articles
Lack of access to rights-based framework for speech communities and their allies	Investment in accessible entry points and translation tools, so that speech communities can easily identify and make use of the legal platforms
Lack of respect for linguistic diversity by both policy-brokers and the general public	Efforts to increase public awareness about the values of linguistic diversity, with specific attention to the equity needed for less commonly taught, Indigenous, and historically marginalized languages
Lack of understanding of the differences between and equal importance of individual and collective rights by policy-brokers	Better articulation of the difference between individual and collective rights, both on paper and in practice, with specific attention to the value of community identities
Universal Declaration of Linguistic Rights not yet formally approved	UNESCO to give formal approval of the Universal Declaration of Linguistic Rights; all UN member states to be signatories to the Declaration
The Way (Shaping the Path)	
Formal education practices rarely respect or fulfill linguistic rights	Medium of instruction in child's mother tongue at primary level, transitioning to bilingual education model at secondary level for all speech communities
Prioritization of acute emergencies instead of protracted efforts	Investment of allocated funding, resources, and infrastructure ring-fenced and reserved for language rights

Minimal infrastructure to support potential implementation initiatives and language revitalization projects	Prior investment in technology, funding, and resources so that infrastructure is in place when projects require it

Table 3. *Some of the current challenges (left column) that linguistic rights face in order to be fully implemented, and guideposts (right column) that may act as examples of tangible steps to take towards bridging the implementation gap.*

Motivating the Elephant (The Will):

The media plays a critical role in educating people about why they should care about certain issues and what can be done in response. Public perception has substantial impact on policy formation, and peer pressure is used effectively in many forms of marketing, governance, and strategy (Von Vomeren et al. 2008, Vowel 2017).

Both mainstream and alternative media, such as the Canadian Broadcasting Corporation (CBC), National Geographic Society, The Guardian, SAPIENS, and many others, have covered language rights issues with thorough investigative reporting for several years. While much of it is still sensationalized, with urgent pleas focused more heavily on "priority languages" (see Table 2 above), such coverage is a step in the right direction. The increase of Indigenous reporters and Indigenous-focused news coverage, such as the National Observer's First Nations Forward (National Observer 2020), is also a critical step to more equitable, knowledgeable, and respectful journalism about language loss, revitalization, and rights. This momentum and the impact it can have when done respectfully, leads us to question whether it may be easier to leverage one's language rights through media coverage and engagement than through legal safeguarding mechanisms.

When searching for examples of language rights around the world, there was no shortage in the press, but there was little to be found in peer-reviewed publications. Is this because we—peers and academics—are the ones creating the policies and we fear criticism? Or is it that we focus too much on the theory that we miss documenting linguistic realities on a case-by-case basis? Or is it because the issue is not as relevant to academics, in a scholarly world siloed by disciplines, when language rights are truly a conversation that requires applied interdisciplinarity, from linguists, anthropologists, and human-rights scholars alike?

More education and awareness about linguistic rights is needed, for a variety of audiences, in multiple media and in various languages, so that the rights-based framework is not confusing and untouchable but instead intriguing and attainable. In order to widen access to community members, there needs to be more investment in community-based empowerment, advocacy, and training, in ways that are accessible and adapt to each community's needs.

Directing the Rider (The Map):

In recent years, linguistic rights have been significantly strengthened, and there are newer and more robust instruments in place within the rights-based framework. That said, a key priority should be closing the gap between written legislation and rights fulfilled at the community level. This will necessarily include more collaboration and communication between various levels of government and agencies, and increase accessibility for speech communities and their allies to better navigate the complex structures and mechanisms within the existing frameworks.

Additionally, some key improvements to the framework itself would foster greater understanding of its potential as a roadmap. For instance, both community members and policy-brokers would do well to have a deeper understanding of the difference between (and equal importance of) individual and collective rights. This may require active amendments to the rights-based framework, so that it is better adapted to collective ways of being and knowing (Mezey 2007, Posey & Dutfield 1996, Santilli 2006). To fulfill individual rights doesn't necessarily mean fulfilling the collective equivalent. Moreover, such approaches may unintentionally deflect decision-makers from identifying *systemic* problems occurring on a larger scale, as individual stories and anecdotes may appear heroic and successful. As Vowel writes, "when Canadians are told that Indigenous languages are on the rise, this obscures just how desperate the situation is" (2017). The central—and often symbiotic—relationship between individual and collective rights is essential for implementing mechanisms that offer tangible benefit to communities.

One way to support collective rights and other gaps in the linguistic rights framework is the Universal Declaration of Linguistic Rights (also known as the Barcelona Declaration), which has not yet been formally approved by the United Nations. Innovative and concrete in its mandate, with the most specific provisions towards language protection that exist to date, the Barcelona Declaration was drafted and adopted in 1996 at the World Conference for Linguistic Rights, led by the International PEN Club and signed by several non-governmental organizations (PEN Club International 1996). This declaration, if formally adopted, could lead the way in a new standard for linguistic rights.

Shaping the Path (The Way):

We need to make it easier—by rapidly removing the obstacles and roadblocks—for speech communities and educators, allies and advocates, and legislators and politicians who believe in the value of language rights, and want to translate talk into action.

Many barriers interrupt the implementation of linguistic rights. There is still a widespread lack of respect for and understanding of linguistic diversity, and of the true value of less commonly taught and historically marginalized languages. The established doctrine of formal education, for example, still has institutional structures in place that bias majority languages. Much formal education still advocates for the medium of instruction to be in the dominant or contact language, while other languages feature as the subject of instruction in one course per semester, if that. Such policies do not work to endorse the learning and usage of all languages, and instead further subjugate and discriminate against languages of lesser opportunity and those with fewer speakers. Respect for linguistic diversity in society and the workplace is still emergent, and linguistic inequality remains rampant in law, the media, entertainment, transportation, and other areas of civic life.

Shaping the path depends on the context. In some cases, it might mean investing in technology and resources to be able to provide simultaneous translation and interpretation services, and to be able to print non-Roman scripts on birth certificates. In other instances, it could mean prioritizing linguistic rights at all levels of education and across all curricula, recognizing that school is a key arena for the teaching, valuing and transmission of language. This would require setting up an infrastructure to help teachers make this happen, rather than putting the onus on under-funded and under-resourced educators to learn how to also be a linguist and human-rights scholar in addition to their main job. While each educational intervention needs to be context-specific, a recommendation that could be universally implemented—and has already been made by many

international bodies—is that students' mother tongues be used as the medium of education at the primary level, before transitioning to a bilingual education from secondary school onwards as needed or desired.

And when the path is not yet shaped, it may just need to be carved out backwards in order to create a precedent for common law—like when Canadian MP Robert-Falcon Ouellette delivered a speech in Cree to the House of Commons in 2017, only the second time in a century and a half that an Indigenous language had been officially spoken in the House of Commons (Cecco 2019). Few understood Ouellette, and no translation was provided, despite his requests for one. However, thanks to Ouellette's bold demonstration of an obvious gap in access by way of honouring his heritage, it has now been agreed that, as of 2019, simultaneous translation will accompany any speeches given in Indigenous languages in the House of Commons. "What it's going to do in the long term is hopefully allow a grandmother in a Cree community … to turn on the television and watch the great debates of parliament in an indigenous language," said Ouellette of the change in legislation (Cecco 2019). Ouellette created awareness about his language, about the lack of access for Indigenous languages in public and political spaces in Canada, and about the importance of linguistic rights—all because he chose to use his platform and privilege to act rather than to wait.

Conclusion

The prevailing feeling that one's own story isn't "bad enough to matter" silences the many—even the majority—who sit somewhere in the middle. Their language rights may indeed have been violated, and their speech community oppressed in various ways over time, but in most cases, the violence has been gradual, complicit, anecdotal, and covert. Such stories usually do not become a feature in the media. And such victimhood is dangerous and contagious: victims themselves generally do not feel that their experience is worth sharing, and without shared stories, it is difficult for others to notice patterns of language discouragement or assimilation. If this pattern is not disrupted, gradual apathy and growing detachment from one's language will lead to language loss over time.

Our argument has taken us well beyond the realm of linguistic rights. We believe that overall shifts in the rights-based framework are needed to incorporate more community voices, better oversight in the journey from paper to practice, improved identification of collective rights, and more room to honour the flexibility, adaptability, and unique needs of specific linguistic and cultural communities and the contexts in which they live. There is still room for the rights-based framework to empower speech communities in ways that other frameworks cannot, or in ways that can interact with and support other mechanisms. Time will be the judge, and we must work together to ensure that positive changes that empower individuals communities occur and that legislation like the Universal Declaration of Linguistic Rights is adopted. Let us recall that the rights-based framework was virtually nonexistent some 50 years ago. Our goal is to picture what it could become if it was less 'paper tiger' (Merriam-Webster 2020), and rather a living tool to guide practice and purpose in this multilingual world.

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Works Cited

Ainge Roy, Eleanor. 28 July 2018. Māori has gone mainstream: The resurgence of New Zealand's te reo language. The Guardian. <https://www.theguardian.com/world/2018/jul/28/google-disney-maori-new-zealand> Last accessed 4 March 2019.

Akins, Ashli. 2013. In Defense of the Artist: Is the loss of culturally significant art a human rights violation? Master's thesis, University of Oxford.

Atleo, Umeek E. Richard. 2012. *Principles of Tsawalk: An Indigenous approach to global crisis.* UBC Press.

Authers et al. 2014. The Rituals of Human Rights. Introduction to "The Rituals of Human Rights" Workshop, Centre for International Governance and Justice, Australian National University.

Baldwin, Daryl. 2003. 'Miami Language Reclamation: From Ground Zero', *Lecture Presented at the 24th Speaker Series at the Center for Writing*. Minneapolis: University of Minnesota. <http://writing.umn.edu/lrs/assets/pdf/speakerpubs/baldwin.pdf>

Beatty, Bonita. 2014. "Indigenous Health Governance and UNDRIP," in *The Internationalization of Indigenous Rights: UNDRIP in the Canadian Context*. Centre for International Governance Innovation.

Beetham, David. 1995. What Future for Economic and Social Rights? *Political Studies* 43: 41–60. doi:10.1111/j.1467-9248.1995.tb01735.x.

Brockett, Charles. 1978. *A Hierarchy of Human Rights.* Annual Meeting of the American Political Science Association.

Brohman, Erin & Garrett Hinchey. 6 March 2015. Chipewyan baby name not allowed on N.W.T. birth certificate. CBC News. <https://www.cbc.ca/news/canada/north/chipewyan-baby-name-not-allowed-on-n-w-t-birth-certificate-1.2984173> Last accessed 4 March 2019.

Butzkamm, Wolfgang. 2003. We only learn language once. The role of the mother tongue in FL classrooms: death of a dogma, The Language Learning Journal, 28:1, 29-39, DOI: 10.1080/09571730385200181

Cape Town Magazine 17 February 2017 *...South African Languages?* <https://www.capetownmagazine.com/sa-languages> Last accessed 7 March 2019.

Cavazos-Rehg, P.A. and DeLucia-Waack, J.L. 2009. Education, Ethnic Identity, and Acculturation as Predictors of Self-Esteem in Latino Adolescents. Journal of Counseling & Development, 87: 47-54. doi:10.1002/j.1556-6678.2009.tb00548.x

CBC News. 13 October 2015. N.W.T. ID should allow Dene symbols, says languages commissioner. <https://www.cbc.ca/news/canada/north/n-w-t-id-should-allow-dene-symbols-says-languages-commissioner-1.3269222> Last accessed 4 March 2019.

CBC News. 5 February 2019 (2019a). Language advocates have funding questions about Ottawa's new Indigenous Languages Act. <https://www.cbc.ca/news/indigenous/indigenous-languages-act-funding-questions-1.5006923> Last accessed 4 March 2019.

CBC News. 21 February 2019 (2019b). Nunavut MP stands alone against federal Indigenous Languages act. <https://www.cbc.ca/news/canada/north/tootoo-indigenous-languages-act-1.5028950> Last accessed 4 March 2019.

Cecco, Leyland. 27 January 2019. Sound of native languages in parliament to mark win for indigenous Canadians. The Guardian. <https://www.theguardian.com/world/2019/jan/27/canada-native-languages-parliament-indigenous> Last accessed 4 March 2019.

Chadwick, Alex. 2003. An interview with anthropologist Wade Davis. NPR. <https://www.npr.org/programs/re/archivesdate/2003/may/mali/davisinterview.html> Last accessed 6 March 2019.

Charlesworth, Hilary. 2015. Strengthening the international human rights system: Rights, regulation and ritualism. Australian National University; Research Project. <http://regnet.anu.edu.au/research/research-projects/details/535/strengthening-international-human-rights-system-rights#acton-tabs-link--qt-research_project_details_qtab-ui-tabs7> Last accessed 7 March 2019.

Chimni, B.S. 2014. The Rituals of Human Rights Bodies: A view from the Global South. Paper delivered at "The Rituals of Human Rights" Workshop, Centre for International Governance and Justice, Australian National University.

City of Vancouver. 2014. First Peoples: A Guide for Newcomers. Province of British Columbia. <https://vancouver.ca/files/cov/First-Peoples-A-Guide-for-Newcomers.pdf>Last accessed 14 May 2020.

Convention on the Safeguarding of the Intangible Cultural Heritage. 2003. Adopted 17 October 2003, entered into force 20 April 2006. MISC/2003/CLT/CH/14

Coppes, Mieke. 9 August 2016. *Canada's Acceptance of the United Nations Declaration on the Rights of Indigenous Peoples: Implications for the Inuit.* The Arctic Institute. <https://www.thearcticinstitute.org/canadas-acceptance-declaration-rights-indigenous-peoples/> Last accessed 4 March 2019.

Crippen, James & Laura Robinson. 2013. *In Defense of the Lone Wolf: Collaboration in language documentation.* International Journal for Language Documentation & Conservation. Vol. 7 (2013), pp. 123-135. <http://hdl.handle.net/10125/4577> Last accessed 14 May 2020.

Daigneault, Anna Luisa. 18 December 2019. "How to resurrect dying languages." SAPIENS. <https://www.sapiens.org/language/language-revitalization/> Last accessed 14 May 2020.

Daily Sabah. 21 January 2016. "One indigenous language dies every 2 weeks, says UN." <https://www.dailysabah.com/life/2016/01/21/one-indigenous-language-dies-every-2-weeks-says-un> Last accessed 6 March 2019.

de Varennes, Fernand. 1996. *Language, Minorities and Human Rights*. The Hague: Martinus Nijhoff & Brill.

Duvelle, Cécile, 2016. A decade of implementation of the Convention for the Safeguarding of the Intangible Cultural Heritage: Challenges and perspectives. Ethnologies. Volume 36, Issue 1–2, 2014, p. 27–46.

Encyclopaedia Britannica. 2019. Diomede Islands. <https://www.britannica.com/place/Diomede-Islands> Last accessed 4 March 2019.

Fillmore, Lily Wong. 2000. Loss of Family Languages: Should Educators Be Concerned? Theory into Practice, 39:4, 203-210, DOI: 10.1207/s15430421tip3904_3

Follow-up Committee. 1998. Universal Declaration of Linguistic Rights, Harcourt Brace & Company, April 1998.

Gestión. 4 May 2020. Reactivación económica: Estos son los pasos que debe seguir su empresa para volver a operar. <https://gestion.pe/economia/coronavirus-peru-reactivacion-economica-estos-son-los-pasos-que-debe-seguir-su-empresa-para-volver-a-operar-covid-19-nndc-noticia/> Last accessed 14 May 2020.

Glass, Aaron. 2004. Return to Sender: On the Politics of Cultural Property and the Proper Address of Art. *Journal of Material Culture*, 9.2, 115-39. https://doi.org/10.1177/1359183504044368

Graham, Lorie M. 2011. Siegfried Wiessner; Indigenous Sovereignty, Culture, and International Human Rights Law. *South Atlantic Quarterly* 1 April 2011; 110 (2): 403–427. doi: https://doi.org/10.1215/00382876-1162516

Haidt, Jonathan. 2001. "The Emotional Dog and Its Rational Tail: A Social Intuitionist Approach to Moral Judgment." *Psychological Review* 108 (1): 83–95. doi:10.1037//0033-295X.

Hallet, D., Chandler, M. J., & Lalonde, C. E. (2007). Aboriginal language knowledge and youth suicide. *Cognitive Development*, (22), 392–399. Norwood: Ablex.

Hawksley, Humphrey. 31 August 2015. The ice curtain that divides US families from Russian cousins. BBC News.

Heath, C., & Heath, D. 2010. *Switch: How to change things when change is hard.* Toronto: Random House Canada.

Hinton, Leanne. 2001. Sleeping Languages: Can They Be Awakened?, in *The Green Book of Language Revitalization in Practice*, ed. by Leanne Hinton and Kenneth Hale, pp. 411-17. Leiden, The Netherlands: Brill. https://doi.org/10.1163/9789004261723_032

Hinton, Leanne. 2015. *What Counts as 'Success' in Language Revitalization?* Future Speaker Series. Vancouver, University of British Columbia.

Hirschl, Ran. 2000. "Negative" Rights vs. "Positive" Entitlements: A Comparative Study of Judicial Interpretations of rights in an emerging neo-liberal economic order. *Human Rights Quarterly* 22.

Hwang, Priscilla. 19 September 2018. Mom says N.W.T. government still forcing Indigenous people to use 'colonized version' of their names. CBC News. <https://www.cbc.ca/news/canada/north/shene-catholique-valpy-indigenous-name-accents-fight-continues-1.4718217> Last accessed 4 March 2019.

Indigenous and Tribal Peoples Convention: No. 169. 1989. Adopted 27 June 1989, entered into force 5 September 1991. ILO C169.

Ip, Stephanie. 15 April 2019. Langara College incorporates Musqueam name into core brand identity. Vancouver Sun. <https://vancouversun.com/news/local-news/langara-college-incorporates-musqueam-name-into-core-brand-identity/> Last accessed 14 May 2020.

Katz, Brigit. 22 September 2017. Māori Translation of 'Moana' is a Hit in New Zealand. Smithsonian Magazine. <https://www.smithsonianmag.com/smart-news/maori-translation-moana-hit-new-zealand-180964958/> Last accessed 4 March 2019.

Kipp, Darrell R. 2000. *Encouragement, Guidance, Insights, and Lessons Learned for Native Language Activists Developing Their Own Tribal Language Programs.*

Klatt, Matthias. 2011. Positive Obligations under the European Convention on Human Rights. ZaöRV 71.

Language Magazine. 6 February 2020. UN Proclaims International Decade of Indigenous Languages. **<**https://www.languagemagazine.com/2020/02/06/un-proclaims-international-decade-of-indigenous-languages/> Last accessed 14 May 2020.

Leonard, Wesley Y. 2008. 'When Is an "Extinct Language" Not Extinct?', in *Sustaining Linguistic Diversity: Endangered and Minority Languages and Language Varieties*, ed. by Kendall A. King et al. pp. 23-33. Washington: Georgetown University Press.

Lixinski, Lucas, 2013. *Intangible Cultural Heritage in International Law*. Oxford University Press.

Lourens, Cornelus. 2010. "Language Rights in the Constitution: The 'unborn' language legislation of subsection 6(4) and the consequences of the delayed birth." In *Law, Language and the Multilingual State.* Proceedings of the 12th International Conference of the International Academy of Linguistic Law. Edited by Claudine Brohy, Theodorus de Plessis, Joseph-G. Turi, and José Woehrling.

Makepeace, Anne. 2010. *We Still Live Here: Âs Nutayuneân*.

Mbulaheni Musehane, Nelson. 2009. Indigenous Language Rights in the Education of First-Graders of the Limpopo Province in South Africa. *Língua e Cidadanía Global.* pp. 571-582.

McLeod, S. A. 21 May 2018. *Maslow's hierarchy of needs*. Retrieved from <https://www.simplypsychology.org/maslow.html> Last accessed 7 March 2019.

Merriam-Webster.com. "Paper tiger." Dictionary, Merriam-Webster. <https://www.merriam-webster.com/dictionary/paper%20tiger> Accessed 14 May. 2020.

Mezey, Naomi. 2007. "The Paradoxes of Cultural Property." *Columbia Law Review* 107 (8): 2004– 46.

Ministry of Indigenous Relations and Reconciliation. 16 March 2018. *B.C. investment in Indigenous language revitalization puts reconciliation into action.* News Release. First Peoples' Cultural Council, Province of British Columbia. <https://archive.news.gov.bc.ca/releases/news_releases_2017-2021/2018IRR0006-000422.htm> Last accessed 4 March 2019.

National Observer. 2020. First Nations Forward, Special Reports. <https://www.nationalobserver.com/special-reports/first-nations-forward> Last accessed 14 May 2020.

Nepal Federation of Nationalities. 2000. Proceedings of the National Conference on Linguistic Rights in Nepal. Kathmandu: Triyuga Offset Press.

Noels, K. A., Pon, G., & Clement, R. 1996. Language, Identity, and Adjustment: The Role of Linguistic Self-Confidence in the Acculturation Process. *Journal of Language and Social Psychology*, *15*(3), 246–264. https://doi.org/10.1177/0261927X960153003

Office of the Commissioner of Official Languages. 1988 (Revised 2005). Official Languages Act. Government of Canada. <https://www.clo-ocol.gc.ca/en/language_rights/act> Last accessed 4 March 2019.

PEN Club International. 1996. Universal Declaration of Linguistic Rights (Barcelona, CIEMEN, and UNESCO).

Phillipson, Robert and Tove Skutnabb-Kangas. 1995. "Linguistic Rights and Wrongs." *Applied Linguistics*, Vol 16, No 4. Oxford University Press.

Poitras, Jacques. 21 January 2019 (2019a). Every ambulance must provide service in both official languages, says health minister. CBC News. <https://www.cbc.ca/news/canada/new-brunswick/ambulance-english-french-minister-1.4986645> Last accessed 14 May 2020.

Poitras, Jacques. 24 January 2019 (2019b). Paramedic ruling's impact on language rights debated in court. CBC News. <https://www.cbc.ca/news/canada/new-brunswick/arbitration-ruling-bilingual-paramedics-mcevoy-ruling-1.4991605> Last accessed 4 March 2019.

Posey, Darrell, and Graham Dutfield. 1996. *Beyond Intellectual Property: Toward Traditional Resource Rights for Indigenous Peoples and Local Communities*. Ottawa, Ontario: International Development Research Centre.

Rife, Roseann. 7 May 2018. A Tibetan language advocate's journey to imprisonment. Amnesty International. <https://www.amnesty.org/en/latest/campaigns/2018/05/tibetan-language-advocate-journey-to-imprisonment/?fbclid=IwAR00h6LMpIKi5hAo4bI_3kj7KX_urNpX-x2fKSU7Xj9Fvf6HFHtWE27nHe4> Last accessed 6 March 2019.

Sambo Borough, Dalee. 23 January 2019. *Indigenous Human Rights: The continuing quest for equality.* The John P. Bell Global Indigenous Rights Lecture. First Nations & Indigenous Studies, University of British Columbia.

Santilli, J. 2006. "Cultural Heritage and Collective Intellectual Property Rights." *IK Notes*, no. No. 95. doi:10.1007/978-3-319-02955-9.

Skanthakumar, Balasingham. 2008. *Language Rights in Sri Lanka: Enforcing Tamil as an official language.* Law & Society Trust.

Strong, Walter. 15 July 2017. Transgender N.W.T., residents can now change birth certificates to reflect gender. CBC News. <https://www.cbc.ca/news/canada/north/nwt-transgender-legislation-changes-1.4206782> Last accessed 4 March 2019.

Swain, Merrill, Sharon Lapkin, Norman Rowen & Doug Hart. 1990. The role of mother tongue literacy in third language learning, Language, Culture and Curriculum, 3:1, 65-81, DOI: 10.1080/07908319009525073

Tasker, John Paul. 5 February 2019. Ottawa tables legislation to protect and promote Indigenous languages, Inuit call it 'colonial'. CBC News. <https://www.cbc.ca/news/politics/ottawa-indigenous-languages-legislation-1.5006504> Last accessed 4 March 2019.

Trudeau, Christine. 20 June 2013. Translated into Navajo, 'Star Wars' will be. NPR. <https://www.npr.org/2013/06/20/193496493/translated-into-navajo-star-wars-will-be> Last accessed 4 March 2019.

Trudeau, Justin. 6 December 2016. Prime Minister Justin Trudeau's Speech to the Assembly of First Nations Special Chiefs Assembly. Gatineau, Quebec. <https://pm.gc.ca/eng/news/2016/12/06/prime-minister-justin-trudeaus-speech-assembly-first-nations-special-chiefs-assembly> Last accessed 4 March 2019.

Turin, Mark. 2007. Linguistic Diversity and the Preservation of Endangered Languages: A Case Study from Nepal. Talking Points, 4/07. Kathmandu, Nepal: ICIMOD.

UNESCO. 2016. United Nations General Assembly proclaims 2019 as the International Year of indigenous languages and invites UNESCO to take the lead. <http://www.unesco.org/new/en/unesco-liaison-office-in-new-york/about-this-office/single-view/news/united_nations_general_assembly_proclaims_2019_as_the_intern/> Last accessed 4 March 2019.

UNESCO. 7 August 2018 (2018a). UNESCO launches the website for the International Year of Indigenous Languages (IYIL2019). <https://en.unesco.org/news/unesco-launches-website-international-year-indigenous-languages-iyil2019> Last accessed 4 March 2019.

UNESCO. 2018b. 2019 International Year of Indigenous Languages. <https://en.iyil2019.org/> Last accessed 4 March 2019.

UNESCO Intangible Cultural Heritage. 2008. *Language, Dance and Music of the Garifuna*. Representative List of the Intangible Cultural Heritage of Humanity. <https://ich.unesco.org/en/RL/language-dance-and-music-of-the-garifuna-00001> Last accessed 4 March 2019.

United Nations. 2006. International Convention on the Rights of Persons with Disabilities. <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html> Last accessed 4 March 2019.

United Nations Declaration on the Rights of Indigenous Peoples. 2007. Adopted 13 September 2007.

United Nations Human Rights Office of the High Commissioner. 1992. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. <https://www.ohchr.org/en/professionalinterest/pages/minorities.aspx> Last accessed 4 March 2019.

Van Zomeren, Martijn & Postmes, Tom & Spears, Russell. 2008. Toward an Integrative Social Identity Model of Collective Action: A Quantitative Research Synthesis of Three Socio-Psychological Perspectives. Psychological bulletin. 134. 504-35. 10.1037/0033-2909.134.4.504.

Vaughan-Lee, Emmanuel. 2014. Meet the Last Speaker of a Dying Language. Short Film Showcase, National Geographic Society. <https://video.nationalgeographic.com/video/short-film-showcase/0000014a-cbc9-d0e4-a9ca-cfdb12050000> Last accessed 14 May 2020.

Venne, Sharon Helen. 1998. *Our Elders Understand Our Rights: Evolving international law regarding indigenous rights*. Theytus Books, Ltd.

Vowel, Chelsea. 16 November 2017. Why Indigenous languages should be taught alongside French and English. MacLean's Magazine. <https://www.macleans.ca/society/why-indigenous-languages-should-be-taught-alongside-french-and-english/> Last accessed 4 March 2019.

Werby, Olga. 15 September 2013. Health, Human Rights, and Maslow's hierarchy of needs. <https://interfaces.com/blog/2013/09/health-human-rights-and-maslows-hierarchy-of-needs/> Last accessed 6 March 2019.

Whalen, D. H., Moss, M., & Baldwin, D. 2016. <Healing through language: Positive physical health effects of indigenous language use.> *F1000Research*, *5*, 852. London: F1000Research Ltd. doi:10.12688/f1000research.8656.1

Wilford, John Noble. 18 September 2007. 'World's Languages Dying Off Rapidly.' The New York Times.

Wilkes et al. 2017. Canadian University Acknowledgment of Indigenous Lands, Treaties, and Peoples. *Canadian Review of Sociology.*

Wilson, Deborah. 21 February 2018. Indigenous languages, friendship centre funding welcomed in B.C. spending plan. CBC News. <https://www.cbc.ca/news/canada/british-columbia/indigenous-languages-friendship-centres-funding-bc-budget-1.4545823> Last accessed 4 March 2019.

Wurm, S., Muehlheausler, P., & Laycock, D. 1977. Language planning and engineering in Papua New Guinea. *New Guinea Area Language and Language Study*, *3*, 1157–1177. Canberra: Australian National University.

3Di Associates. 10 December 2015. Human Rights Day, Maslow, Human Needs and Intelligent Responses. <https://3diassociates.wordpress.com/2015/12/10/human-rights-day-maslow-human-needs-and-intelligent-responses/> Last accessed 6 March 2019.