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Linguistic Minority Rights in Turkey, Iraq, and Lebanon

Comparative Perspectives

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Abstract

Linguistic Minority Rights (LMR) are gaining importance in a context of ever-increasing linguistic homogenization. This loss of language diversity is due to eminently political factors lying at the core of the nation state. With this premise, this paper seeks to analyze and compare the way LMR are embedded and implemented in Turkey, Iraq, and Lebanon, all Near East countries hosting astounding linguistic and cultural diversity. After a short introduction to LMR in general, their embedment in the three states at hand is examined, through both political and cultural contextualization, and a legal analysis. This comparative approach highlights that decentralized governments allow more room to linguistic minorities. Further, a pluralistic approach to languages should be embedded in constitutional law, to then be detailed further in more precise and enforceable LMR.

Keywords

Linguistic Minority Rights, Language Rights, Turkey, Iraq, Lebanon, Kurdish, Armenian, Comparative Constitutional Law, International Law.

A) Introduction

“Any language is a supreme achievement of a uniquely human collective genius, as divine and endless a mystery as a living organism”¹. Languages are then in and of themselves worthy of interest and, more specifically, of legal protection². This conclusion is of exceptional significance given that an estimated 40% of the world’s 6000 languages are endangered³ and up to 90% of the languages presently spoken in the world might disappear by the end of the 21st century⁴. This is especially worrying for populations speaking minority languages within their country, often at risk of witnessing a decrease in the use of their mother tongue and, eventually, its disappearance⁵. Nevertheless, there is room for hope: consistent evidence has shown that language policies can promote the vitality and stability of these languages⁶. In this context, the importance of language rights is widely recognized⁷.

The protection of minority languages is particularly central in the Near East, given its astounding linguistic diversity⁸: there is a vast variety of languages in the region, including Turkish, an array of Arabic dialects, as well as other native languages usually spoken by ethnic or religious minorities such as Armenian, Aramaic or Kurdish⁹. Additionally, European languages remain present as a legacy of colonialism and have become an integral part of some of the local cultures¹⁰. Is this precious heterogeneity protected by regional legal frameworks, and if so, are the measures in place effective in doing so? To answer this question, we will examine the current state of linguistic minority rights (LMR) in Turkey, Iraq, and Lebanon. Indeed, all these countries are hosts to a wide variety of languages, including Kurdish, Arabic and Armenian, which they have in common. Their approach concerning linguistic minorities are therefore worth comparing and analyzing.

This is naturally no easy task. It seems important to note that this paper was written based on sources in English, French and German, thus excluding the crucial material written in Turkish and Arabic. Further, as it must remain short, it will only provide a partial overview of local political and legal contexts and can only analyze the situation of some linguistic minorities in the region. Its scope is therefore limited.

Nonetheless, this paper aims to provide an understanding of which governmental structures and laws could contribute to preserving and promoting linguistic and cultural diversity. With this aim, we will first present and analyze the concept, justifications, and relevance of LMR (*infra* B/1 and B/2). We will additionally present an overview of its implementation in international law (*infra* B/3). In the second part of this paper, the relevant aspects of Turkey’s history and socio-political context will be presented (*infra* C/1), as well as its current legal dispositions regarding LMR (*infra* C/2) and the impact of the latter on Turkey’s linguistic minorities (*infra* C/3 and C/4). We will then proceed with the same structure in the fourth and fifth part of this paper to analyze LMR in

¹ PINKER, p. 260.

² DUNBAR, pp. 90-91; PINKER, p. 260.

³ LALIK, p. 56; LEINONEN, p. 88.

⁴ DUNBAR, p. 90; PINKER, p. 232.

⁵ PINKER, p. 232.

⁶ HORNBERGER, p. 458.

⁷ ÇELEBI et al. et al., p. 1034; SKUTNABB-KANGAS/PHILLIPSON, *Linguistic Human Rights*, p. 71.

⁸ STILLMAN, p. 190.

⁹ *ibidem*.

¹⁰ *ibidem*.

Iraq (*infra* D) and Lebanon (*infra* E). Finally, the last part of this paper will be dedicated to a comparative analysis of these states' approaches to LMR (*infra* F).

B) Linguistic Minority Rights in General

1. Definition, Scope, and Theoretical Framework

Language rights or linguistic rights are “a series of obligations on state authorities to either use certain languages in a number of contexts, or not interfere with the linguistic choices and expression of private parties”¹¹. Linguistic minority rights are language rights that specifically apply to minorities¹². They include both an individual and a collective component¹³. At an individual level, linguistic rights imply that everyone can speak (in private contexts as well as many official contexts), learn and identify with their mother tongue¹⁴. At a collective level, linguistic rights include linguistic minorities' right to use, maintain and develop their languages¹⁵, which implies a certain degree of autonomy, control over their educational system and representation in the state's politics¹⁶. These rights should be “enforceable, which presupposes financial resources, and appropriate democratic, constitutional and legal procedures”¹⁷.

Linguistic rights can further be categorized into “tolerance-oriented” and “promotion-oriented” rights¹⁸. The former are negative rights implying the protection of individuals' freedom to speak the language of their choice in the private spheres¹⁹. Through that lens, language rights are fundamentally a matter of freedom of expression²⁰. On the contrary, the latter imply active measures from the state aiming to facilitate and promote the use of a language²¹.

Finally, a definition for what constitutes a language is absent from all international instruments²². The distinction between a language and a dialect being notoriously thorny²³, we will regroup both notions under the concept of language in this paper, international law tending to give up on this distinction as well²⁴.

¹¹ *UN Handbook*, p.5.

¹² PHILLIPSON/SKUTNABB-KANGAS, *Linguistic rights and wrongs*, p. 487. However, what constitutes exactly a minority is far from clear. At the risk of simplifying, we will consider a group to be a linguistic minority if its members speak a language that isn't an official language, or if it is not the most spoken language within the country, or if a certain language is repressed or marginalized since the power dynamics are clearly in disfavor of its speakers.

¹³ PHILLIPSON/SKUTNABB-KANGAS, *Linguistic rights and wrongs*, p. 487.

¹⁴ *ibidem*.

¹⁵ PHILLIPSON/SKUTNABB-KANGAS, *Linguistic rights and wrongs*, p. 487; MILES, p. 27; STAVENHAGEN, p. 19; THORNBERRY, p. 57.

¹⁶ PHILLIPSON/SKUTNABB-KANGAS, *Linguistic rights and wrongs*, p. 487; LEONTIEV, pp. 63-65.

¹⁷ PHILLIPSON/SKUTNABB-KANGAS, *Linguistic rights and wrongs*, p. 487.

¹⁸ KYMLICKA/PLATTEN, p. 8; KLOSS, pp. 250-257.

¹⁹ *ibidem*.

²⁰ DE VARENNES, p. 312.

²¹ KYMLICKA/PLATTEN, p. 8; KLOSS, pp. 250-257.

²² DUNBAR, p. 96.

²³ CRYSTAL, *The Cambridge Encyclopedia*, p. 25.

²⁴ We are taking this liberty given that the difference between dialects and languages is “often based on political and historical rather than linguistic reasons” (DUNBAR p. 96); see also: Crystal, *The Cambridge Encyclopedia*, p. 25.

2. Basis and Justification

As Dunbar writes: “The growing interest in linguistic rights has been accompanied by a growing debate as to the nature and theoretical underpinnings of such rights as human rights”²⁵. What, then, justifies the existence of LMR specifically?

The first ground to ensure and develop linguistic rights lies in the close link between language and culture²⁶. Languages are undeniably central to people’s identity²⁷ and key for the preservation of their cultural heritage²⁸.

Furthermore, the protection of language preferences can have a wider impact on political stability: they serve to promote the inclusion and participation of minorities, thus avoiding sentiments of alienation which could in time lead to conflict²⁹. The promotion of linguistic diversity therefore serves the realization of a democratic and peaceful society³⁰.

Additionally, many arguments can be made in favor of language rights aiming at the protection of languages themselves, independently of their speakers’ individual rights³¹. Such a conception grounds linguistic rights “in abstraction, namely language itself”³², which has been, at times, criticized for being a rather weak basis for human rights³³. In response, analogies are commonly made with biodiversity to defend the importance of language protection: diversity itself is good and must be preserved; the harm to one element threatens the whole ecosystem³⁴. Following this logic, a threat to one language means a threat to all; every single one must then be protected³⁵. Expressing a similar thought, Hale writes: “The loss of a language is part of the more general loss being suffered by the world, the loss of diversity in all things”³⁶.

However, these arguments only highlight the importance and worth of languages. They do not address the necessity to take active measures in order to preserve language diversity, nor do they explicitly highlight the significance of such rights for linguistic minorities specifically. Languages are admittedly important and interesting, but is the decrease in use of small dialects not a natural, inevitable phenomenon? Why should policies or rights seek to hinder that process? The reason to strive for such protection lies in the deeply political aspects at the root of language disappearance. Languages are social constructs and practices, constantly shaped and modified by their users

²⁵ DUNBAR, p. 93; see also: Leslie GREEN, “*Are Language Rights Fundamental?*” (1987); Denise G. RÉAUME, *The Constitutional Protection of Language: Survival or Security?*; C. Michael MACMILLAN, *Linking Theory To Practice: Comments on “The Constitutional Protection of Language*, both in David Schneiderman, (ed.), *Language and the State: The Law and Politics of Identity* (Montreal: Les Editions Yvon Blais, 1989) at 37 and 59; Niamh Nic SHUIBHNE, *Language Rights as Human Rights?* (Dublin: Bord na Gaeilge, 1999), and Miroslav Kusy, *Innate Dignity, Cultural Identity and Minority Language Rights* Vol. 6 (1999) *International Journal on Minority and Group Rights* 299.

²⁶ DE VARENNES, p. 129; KUMARASWAMY, p. 160; MANCINI/DE WITTE, p. 247; for a critical appraisal of that argument, see also: KUMARASWAMY, p. 208.

²⁷ CRYSTAL, *Language Death*, p. 44; DE VARENNES, p. 129; KUMARASWAMY, p. 160; *UN Handbook*, p. 6.

²⁸ MANCINI/DE WITTE, p. 247; KUMARASWAMY, p. 160.

²⁹ *UN Handbook*, p. 6.

³⁰ GIORDAN, p. 680.

³¹ DUNBAR, p. 93.

³² *idem*, p. 94.

³³ RÉAUME, no.17.

³⁴ DUNBAR, p. 93.

³⁵ *ibidem*.

³⁶ HALE, p. 192.

through interactions³⁷. They permit identity constructions of collective narratives, so-called “linguistic ideologies”³⁸. Such ideologies have often played a central role in the construction of nationalist narratives and in processes of state-building, as it has been the case for example in Turkey (*infra* C/1.2). In order to consolidate its power, the nation-state must build a strong national narrative around its identity – including its languages³⁹. Linguistic policies lie therefore at the heart of a state-building process⁴⁰. This is usually achieved through the institution of official, national languages to be used in public spheres, thus relegating and confining minoritized languages to the private domain⁴¹. The consequences of such a process are clear. By preferring national, official languages, the state grants advantages to their speakers⁴². As Leinonen puts it: “this hierarchization tends to gradually lead to language loss or shift when speakers of minoritized languages learn the national language instead of their own”⁴³. In short, “national language policy can be seen as a deliberate intervention and therefore embodies a concrete expression of power”⁴⁴. Therefore, languages do not simply decrease in use or disappear spontaneously and naturally but do so because of a series of political factors. These include forced assimilation, political marginalization, assimilatory education⁴⁵, forced displacement and the destruction of its speakers’ habitat⁴⁶. Linguistic diversity is framed as linguistic difference, putting speakers of *minoritized* languages in the position of the “Other”, thus becoming socially, politically, and economically marginalized⁴⁷. Language minority rights are therefore not only necessary but also consistent: they are legal and political measures needed to prevent or reverse a legal and political process.

3. Language Rights in International Law

Language rights are protected in several areas of international law, though in different ways and to varying extent. Generally, it is possible to distinguish three broad areas of international law concerned with the protection of languages and/or their speakers: human rights law, minority rights law, and international law for the protection of culture⁴⁸.

Although there is no right to language recognition on an international level, international human rights law protects various individual rights that have an impact on the protection of language-related interests⁴⁹. These include freedom of speech, international guarantees of a fair trial (e.g. art. 14(3) ICCPR), the prohibition against discrimination (e.g. art. 2 and 26 ICCPR), or the right to take part in cultural life (e.g. art. 15 ICESCR)⁵⁰. All of these human rights consider language as a potential barrier to accessing other human rights and are therefore mainly concerned with

³⁷ IRIARTE DIEZ, p. 10; KROSKRITY, p. 193.

³⁸ IRIARTE DIEZ, p. 10.

³⁹ BARNARD, p. 235.

⁴⁰ LEWIS, pp. 83-90.

⁴¹ LEINONEN, p. 88; KAMUSELLA, pp. 163-175; MAY, pp. 54-60.

⁴² DE VARENNES, p. 307.

⁴³ LEINONEN, p. 88.

⁴⁴ RASSOOL, p. 89.

⁴⁵ *idem*, p. 91.

⁴⁶ DUNBAR, p. 90.

⁴⁷ RASSOOL, p. 91.

⁴⁸ DE VARENNES, p. 86.

⁴⁹ DE VARENNES, p. 87; *UN Handbook*, p. 5.

⁵⁰ *ibidem*.

issues of inclusion⁵¹. As a result, they “tend to ignore the intrinsic significance and meaning that a particular language may have for individuals, as a fundamental aspect of their identity”⁵².

Additionally, minority group rights protect languages within the context of the legal protection of minority groups and are therefore usually conceived as individual rights belonging to members of minorities⁵³. However, they have a collective element, which human rights are lacking⁵⁴. Such rights can be found, for example, in art. 27 ICCPR, art. 9, 10 11 and 14 of the FCNM and non-binding instruments, such as the UNDRIP or the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities⁵⁵.

Lastly, international law for the protection of culture protects language rights themselves⁵⁶. The most important instrument in that regard is the ECRML, which lists a series of measures that could be taken by states in order to preserve linguistic diversity⁵⁷. Although its *à la carte* approach might render it a paper tiger, some argue the ECRML has been so far “a powerful instrument in the protection and promotion of regional and minority languages”⁵⁸.

It is then clear that LMR are protected on an international law, through various means and extents. But, as Dunbar argues, “it is also clear that the present provision falls well short of a comprehensive and coherent package”⁵⁹. Linguistic minorities then have to turn to national law to seek necessary protection⁶⁰.

C) Linguistic Minority Rights in Turkey

1. Context

1.1 *Demography and Historical Overview*

Turkey is a multilingual country, with millions of speakers of minority languages⁶¹. These linguistic minorities include around 365’000 Arabic speakers, mostly concentrated near the country’s border with Syria; between 10 and 20 million Kurds speaking predominantly Kurdish dialects such as Zaza and Kurmandschi; a Sephardic Jewish population speaking predominantly Ladino (a Spanish-Hebraic dialect); and Aramaic, Armenian and Greek speakers⁶². Additionally, Turkey is host to 1 million Bosnians, 3 million Circassians, 500’000 members of the Roma population, all of which are susceptible to speaking languages other than Turkish⁶³.

⁵¹ DE VARENNES, p. 93

⁵² *ibidem*.

⁵³ DE VARENNES, p. 98.

⁵⁴ *ibidem*.

⁵⁵ DE VARENNES, p. 99.

⁵⁶ *idem*, p. 105.

⁵⁷ DE VARENNES, p. 106; DUNBAR, p. 97.

⁵⁸ BARTHOLOMÄ, p. 169.

⁵⁹ DUNBAR, p. 119.

⁶⁰ *idem*, p. 119.

⁶¹ SCHROEDER, p. 43.

⁶² JACOB, pp. 114-117.

⁶³ BALDWIN/KAYA, p. 6.

During the Ottoman Empire, such linguistic diversity was able to thrive, as subjects enjoyed a vast linguistic freedom: “while Ottoman Turkish was the official *lingua franca*, the general population was at liberty to speak, teach and publish in any language”⁶⁴. Furthermore, multi-religiosity and multi-ethnicity were two crucial elements at the heart of the Empire⁶⁵. However, this quickly changed at the end of the Ottoman Empire⁶⁶.

The 1924 Treaty of Lausanne, superseding the 1920 Treaty of Sèvres and establishing Turkey’s borders, included several (linguistic) rights for citizens of the newly founded state of Turkey – rights which would later be disregarded by the Turkish republic⁶⁷. The foundation of the Turkish republic was then defined by the principles of Kemalism, named after Turkey’s first president Kemal Atatürk, which included republicanism, populism, secularism and nationalism⁶⁸. This led to fast and drastic changes in the country, which had negative impacts on minorities in Turkey⁶⁹. In fact, the state started adopting an ideology of centralized power⁷⁰ and aggressively constructing mono-ethnic nationalism, with languages other than Turkish being targeted by drastic measures since⁷¹. Following decades of ethnic and political tensions⁷², Turkey’s last military coup in 1982 led to a complete overhaul of the constitution, “making the exclusive position of the Turkish language clear”⁷³.

1.2 Linguistic Nationalism and the Turkish State

The Turkish nation-building process that begun in the 1920s attempted to make a homogenous society from its heterogenous population⁷⁴. Its goal was to create “nationalist citizens out of former subjects of an empire”⁷⁵. In order to achieve this, great emphasis was put on the Turkish language as a key factor for Turkish nationalism⁷⁶: “Ottoman Turkish was a conglomeration of Turkish, Arabic and Persian with some Italian, Greek, Armenian and other European elements, and was written using Arabic characters. (...) Ottoman Turkish was not, therefore, palatable for the westernizing, nationalist elite, who wanted to create a nation-state for the Turks and to burn the bridges connecting the nascent republic to its Islamic, oriental predecessor”⁷⁷. The alphabet was consequently romanized in 1928⁷⁸ and the Turkish Language Institute, whose task was to rid the language of all its non-Turkish components, was established shortly afterwards in 1932⁷⁹. Turkish was to become the common – and only – language of Turkish citizens and considered to be a key factor in national unity⁸⁰. The language reforms imposing the Turkish language that

⁶⁴ SMITH-KOCAMAHMUL, p. 45.

⁶⁵ YEGEN, p. 557.

⁶⁶ *ibidem*.

⁶⁷ SMITH-KOCAMAHMUL, p. 45.

⁶⁸ KILI, p. 1072.

⁶⁹ *ibidem*.

⁷⁰ ÇELEBI et al., p. 1035.

⁷¹ SMITH-KOCAMAHMUL, p. 45.

⁷² KILI, p. 1074.

⁷³ SMITH-KOCAMAHMUL, p. 45; see also: DERINCE, p. 196.

⁷⁴ DERINCE, p. 146; LEINONEN, p. 88.

⁷⁵ AYTÜRK, p. 1; see also: KILI, p. 1072.

⁷⁶ AYTÜRK, p. 12; BAYIR, p. 1; LEINONEN, p. 88.

⁷⁷ AYTÜRK, p. 12.

⁷⁸ AYTÜRK, p. 12; KILI, p. 1072; SMITH-KOCAMAHMUL, p. 45.

⁷⁹ AYTÜRK, p. 12; SMITH-KOCAMAHMUL, p. 45.

⁸⁰ BAYIR, p. 55.

followed were therefore of great symbolic significance for the new Turkish identity⁸¹. But Turkey's linguistic nationalism was only one part of a larger process commonly known as "Turkification": the efforts to establish the hegemony of Turkish culture and language over the entire country⁸². Local languages were thus assimilated through the standardization and generalization of Turkish⁸³. Education, assuming an assimilating logic, played an especially central role in this process⁸⁴. The two pillars of Turkification are forced internal displacement and legislation prohibiting the use of minority languages⁸⁵. Policies were thus created to explicitly combat the use of other languages, especially regarding Kurdish dialects: "The Turkish state's assimilationist practices resulted in a ban of the Kurdish language, replacing Kurdish names of places and children with Turkish ones, in an attempt of 'Turkification' of the national identity on the basis of Turkish language and culture"⁸⁶. Furthermore, the use of expressions such as "Kurdish" or "Kurd" was forbidden⁸⁷. Arabic was also fought against, its use even forbidden for religious purposes for a time⁸⁸.

Considering linguistic homogeneity as an essential part of Turkish unity and territorial indivisibility implies that any talk of LMR represents a threat to national stability and security⁸⁹. This suspicion is especially strong if such rights are supported by "the West", a legacy of past tensions dating back to the Ottoman Empire⁹⁰. This has led to a climate of paranoia, where any attempt to further LMR is seen – and judged – as a threat to the indivisibility and security of Turkey⁹¹. In many cases, advocates promoting LMR have in fact been brought to court "because their perspectives threaten a monolithic and corporatist concept of nation"⁹². Dissenting voices seeking to further minority rights being framed within the discourse of security then becomes a tool in the hands of the State to avoid any progress in the realm of minority rights⁹³.

2. Linguistic Minority Rights in Turkish Law

Art. 3 of the Turkish Constitution (TK Const.): "The state of Turkey, with its territory and nation, is an indivisible entity. *Its language is Turkish*" (emphasis added). The only official language is Turkish; "the Turkish state is single, the country is whole and the nation is one"⁹⁴. The Constitutional Court has since changed the interpretation of "Turkish nation", leading to a jurisprudence treating any attempt to undermine Turkish unity as unconstitutional⁹⁵. This extensive interpretation of "Turkish nation" has been especially used against Kurdish activists aiming at promoting their cultural and political rights⁹⁶. Making the matter worse, the first three articles of the

⁸¹ AYTÜRK, p. 1; BAYIR, p.98; ÇELEBI et al., p. 1035.

⁸² ÇELEBI et al., p. 1035; SAGNIC, p. 127.

⁸³ BAYIR, p. 98; ÇOLAK, p. 84.

⁸⁴ LEINONEN, p. 112.

⁸⁵ SAGNIC, p. 130.

⁸⁶ ÇELEBI et al. p. 1035.

⁸⁷ SAGNIC, p. 128.

⁸⁸ SMITH-KOCAMAHMUL, p. 45.

⁸⁹ KAKIZAKI, p. 162; LIARAS/SOMER, p. 157.

⁹⁰ LIARAS/SOMER, p. 157.

⁹¹ KILINÇ, p. 182.

⁹² KAKIZAKI, p. 127.

⁹³ *ibidem*.

⁹⁴ VEZBERGAITE, p. 8.

⁹⁵ *ibidem*.

⁹⁶ *ibidem*.

Constitution are, according to the 1982 Constitution, “entrenched clauses” which cannot be amended, a change to this legal situation then rendered near impossible⁹⁷.

Furthermore, the Turkish Constitution does not refer to minorities at any point⁹⁸. The closest to minority protection that can be found is Art. 10 TK Const. which foresees equality before the law, irrespective, among other factors, of race or language⁹⁹.

The Turkish State has not only refused to adopt and protect LMR to modern standards, but also actively strived to eradicate minority languages, especially Kurdish. By 1924, one year after the founding of the new Turkish republic, publications in languages other than Turkish were declared illegal in violation of the Treaty of Lausanne, and all Kurdish traditional schools were closed¹⁰⁰. Besides, the Kurdish language was banned altogether, leading the State to replace Kurdish names of places and children with Turkish ones¹⁰¹. The Registration Act forbidding names “contrary to moral rules” and that “offend the public” was only amended in 2004, allowing children to have Kurdish names again¹⁰². However, art. 2 of the Provincial Administrative Law still restricts places’ names to this day, in order to “avoid confusion”¹⁰³.

Furthermore, extensive legislation forbidding the use of minority languages was passed, preventing the use of languages other than Turkish in a wide array of situation, including private conversations on public streets¹⁰⁴. In 1991, most of these laws were repealed¹⁰⁵ but many restrictions remain, including in the sectors of education¹⁰⁶, justice¹⁰⁷ and public services¹⁰⁸.

The area of education is, according to both experts¹⁰⁹ and language activists¹¹⁰, central for the preservation of minority languages. Yet it remains illegal for schools to teach any language other than Turkish as a mother tongue (art. 42(9) TK Const.)¹¹¹, this despite some positive policies allowing private universities to create optional Kurdish classes as a foreign language course starting 2004 and elective Kurdish classes starting to be taught in schools in 2012¹¹². These changes followed the 2003 reform of the Law on Different Languages and Dialects, which allowed the possibility to teach Kurdish in private classes¹¹³.

There is no legal framework enabling minorities to use their mother tongue with judicial authorities, the right to free trial (arts. 36-40 TK Const.) remaining silent on the topic¹¹⁴. There is however a provision in the Treaty of Lausanne granting members of linguistic minorities the right to

⁹⁷ *ibidem*.

⁹⁸ BALDWIN/KAYA, p. 6.

⁹⁹ *ibidem*.

¹⁰⁰ SAGNIC, p. 130.

¹⁰¹ BALDWIN/KAYA, p. 24; ÇELEBI et al., p. 1036; ZEYDANLIOĞLU, pp. 99-108.

¹⁰² BALDWIN/KAYA, p. 24.

¹⁰³ *ibidem*.

¹⁰⁴ SMITH-KOCAMAHMUL, p. 46.

¹⁰⁵ *ibidem*.

¹⁰⁶ *ibidem*.

¹⁰⁷ KURBAN, p. 19.

¹⁰⁸ *ibidem*.

¹⁰⁹ DERINCE, p. 146; ÇELEBI et al., p. 1036.

¹¹⁰ LEINONEN, p. 110.

¹¹¹ SMITH-KOCAMAHMUL, p. 46.

¹¹² DERINCE, p. 147.

¹¹³ ÇELEBI et al., p. 1035.

¹¹⁴ KURBAN, p. 19.

use their own language before the courts and requiring the states to take measures to make use of this right possible¹¹⁵. Though this is at least some protection of LMR before courts, the provision in the Treaty does not distinguish between civil and criminal proceedings, leaving room for restrictions¹¹⁶. In the field of criminal law, the Turkish procedure foresees a partial right to be provided with an interpreter¹¹⁷ (though its implementation remains vastly ineffective, knowing that linguistic minorities tend to be provided with incompetent translators)¹¹⁸. However, the legal framework regarding civil proceedings does not grant a similar right¹¹⁹.

Additionally, public services in Turkey are not provided in any language other than the official language¹²⁰. Although some bold local initiatives have been undertaken by some municipalities to change this situation and allow the use of minority languages¹²¹, the status quo remains even in areas where minority languages are predominantly spoken¹²².

Lastly, relative progress has been achieved in the field of LMR in media¹²³. In 2001, the Constitution was amended, allowing broadcasting and print in minority languages¹²⁴. Political-party propaganda was only allowed in languages other than Turkish starting 2010¹²⁵. Though these are positive changes, there remain many limitations regarding the length and content of TV programs in minority languages¹²⁶ and the practice is at times more repressive than the law seems to allow¹²⁷.

Most of the reforms giving room for the use of minority languages, especially Kurdish, were introduced in the early 2000s. This so-called “Kurdish Opening”, truly initiated in 2009¹²⁸, intervened at a time when Turkey sought to accede to EU membership and thus needed to comply to its standards regarding minority rights¹²⁹. The “Kurdish Opening” has then been seen by Kurdish populations as hollow measures taken reluctantly, far from tackling the underlying problems of Turkish hegemony and systemic marginalization at hand¹³⁰.

3. The “Kurdish Question”

The “Kurdish Question”, i.e. the Turkish-Kurdish tensions and subsequent conflicts between the two populations, define Turkish politics today¹³¹. According to Vezbergaite, the “Kurdish Question” “basically refers to the denial and repression of Kurdish ethnic identity by the Turkish

¹¹⁵ *ibidem*.

¹¹⁶ *ibidem*.

¹¹⁷ Code of Criminal Procedure, No. 1412, 4 April 1929, *Official Gazette* No. 1172, 20 April 1929, Art. 252.

¹¹⁸ KURBAN, p. 19.

¹¹⁹ *ibidem*.

¹²⁰ *ibidem*.

¹²¹ KURBAN, p. 19.

¹²² *ibidem*.

¹²³ KURBAN, p. 17.

¹²⁴ *ibidem*.

¹²⁵ LIARAS/SOMER, p. 153.

¹²⁶ KURBAN, p. 17.

¹²⁷ SMITH/KOCAMAHMUL, p. 46.

¹²⁸ ÇELEBI et al., p. 1035; KIRIŞCI, pp. 338-346.

¹²⁹ DERINCE, pp. 147-148; KAKIZAKI, p. 162.

¹³⁰ DERINCE, p. 145.

¹³¹ VEZBERGAITE, p. 3.

State”¹³². The current tense situation is the result of years of Turkish cultural and political repression against the Kurds and many attempts by the Kurds to resist against Turkey’s violent hegemony, often through separatist movements¹³³.

Turkey’s policy regarding the Kurdish language has been one of clear and complete denial of its very existence¹³⁴. The Turkish State has been attempting to “eliminate sociological truths through court decisions” over decades¹³⁵. The attorney general Cemalettin Celik declared during trial in 1990: “Existence of a nation other than the Turks, a language other than Turkish is unacceptable. ... To say that there is a language other than Turkish and support this language and culture is a crime”¹³⁶. This has since changed, with a cautious and slow recognition of the Kurdish language as a language. In a 2011 court case against Kurdish activists, the language spoken by the defendants was referred to as “an unknown language”, hence recognizing Kurdish as a language before a court for the first time¹³⁷. This shows small progress but remains vastly insufficient¹³⁸. Kurdish is described as an unknown, or foreign, language, whose existence on Turkish territory remains illegitimate.

This systematic denial of the Kurdish language’s existence coupled with Turkey’s assimilationist legislation regarding minority languages (*supra* C/2), has had a lasting impact on the prominence of Kurdish in the country. The transmission of Kurdish in Turkey has drastically decreased over the last decades¹³⁹. In order to avoid linguistic disappearance, Leinonen suggests a series of measures, including non-compulsory Kurdish language education¹⁴⁰, public services and mass media in Kurdish¹⁴¹, as well as compulsory education in Kurdish¹⁴². This last point has been arguably one of the most prevalent demands of Kurdish activists, as it is considered as the key factor allowing the survival of Kurdish dialects¹⁴³.

4. Linguistic Rights of Other Minorities

One must note that, when researching LMR in Turkey, most information that can be found will be centered around Kurdish. The “Kurdish Question” tends to overshadow other minority groups suffering from repressive policies against their culture and language¹⁴⁴. This might be because Kurds represent the biggest minority present in Turkey and Kurdish activism makes the group’s claims highly visible¹⁴⁵.

But other minorities such as Arabic, Armenian or Greek speakers in Turkey also deserve to be considered. In fact, Turkey’s various ethnic, religious, and linguistic minorities have faced a

¹³² *ibidem*.

¹³³ DERINCE, p. 151; LEINONEN, p. 93; SAGNIC, p. 133.

¹³⁴ ÇELEBI et al., p. 1035; DERINCE, p. 146.

¹³⁵ SAGNIC, p. 128; see also: BEŞİKCI, p. 17.

¹³⁶ BEŞİKCI, p. 17.

¹³⁷ DERINCE, p. 145; Kurdish had been until then recorded as “unknown sounds”, denying its existence as a language.

¹³⁸ DERINCE, p. 145.

¹³⁹ DERINCE, p. 148; LEINONEN, p. 90; ÖPENGİN, p. 176.

¹⁴⁰ LEINONEN, p. 97.

¹⁴¹ *idem*, p. 92.

¹⁴² *idem*, p. 99.

¹⁴³ ÇELEBI et al., p. 1036; DERINCE, p. 146; LEINONEN, p. 110.

¹⁴⁴ SMITH-KOCAMAHMUL, p. 46.

¹⁴⁵ *ibidem*.

considerable amount of violence over the years¹⁴⁶. Linguistic minorities are also specifically targeted, as exemplified by the Arabic speaking population in the region of Hatay, who, according to Smith/Kocamahhul, are at risk of being targeted by the same repression that the Kurds have been facing for decades, were they to demand linguistic rights as well¹⁴⁷.

D) Linguistic Minority Rights in Iraq

1. Context

1.1 Demography and Historical Overview

Most reporting on Iraq has the tendency to describe its population as divided into three groups: Shias, Sunnis and Kurds¹⁴⁸. This is a crass oversimplification of the Iraqi reality. Iraq is a melting pot of many religious and ethnic groups, including Turkmen, Assyrians, Baha'is, Christians, Faili Kurds, Mandaeans, Palestinians, Shabak, Roma and Yezidis¹⁴⁹. The population is therefore an exceptionally diverse one, including linguistically. Aside of (Iraqi) Arabic, the most spoken language in the country, a significant portion of the population speaks Kurdish, Turkoman, Assyrian and Armenian¹⁵⁰.

The population of Iraq has in fact always been far from a homogenous, unified group. This is most likely due to the artificiality of the state, its creation – and consequently the definition of its borders – being the work of Great Britain after the fall of the Ottoman Empire¹⁵¹.

The country fell in 1968 under the control of the Baath Party, later led by Saddam Hussein, which defended the Arab Nationalist ideology¹⁵². The party's rise to power therefore led to a worsened situation for non-Arab minorities such as the Kurds, who were then marginalized and oppressed by the central government¹⁵³. In 1991, Kurds in the north and Shia Arabs in the south of the country started an uprising against the central government¹⁵⁴. Following the revolt, military forces from eleven countries were deployed in order to give humanitarian assistance to minorities fearing repression¹⁵⁵ and a no-fly zone was created to protect them in 1991¹⁵⁶, giving room for Kurdish self-rule in the region over a few years¹⁵⁷.

The US then invaded Iraq in 2003 and occupied the country until 2007 initially with the goal of removing Saddam Hussein's regime, under the pretext that Iraq had refused to abandon its weapons of mass destruction program, which, later, proved to be false¹⁵⁸. The 2005 Constitution was

¹⁴⁶ SMITH-KOCAMAHHUL, p. 47.

¹⁴⁷ *ibidem*.

¹⁴⁸ BOWRING, p. 319.

¹⁴⁹ BOWRING, p. 324; HACCUS, p. 4; O'LEARY, p. 17.

¹⁵⁰ BOWRING, p. 324.

¹⁵¹ BOWRING, p. 329; FUCCARO, pp. 560-61.

¹⁵² HACCUS, p. 5; ÖZDEN, p. 46; YESILTAS, p. 42.

¹⁵³ HACCUS, p. 5; YESILTAS, p. 42.

¹⁵⁴ *ibidem*.

¹⁵⁵ MISTAFFA, p. 17.

¹⁵⁶ HACCUS, p. 7; FERNANDES/SKUTNABB-KANGAS, p. 47.

¹⁵⁷ MISTAFFA, p. 141.

¹⁵⁸ HACCUS, p. 7; PFIFFNER, pp. 79-84.

adopted after a turbulent process¹⁵⁹ which ended with a national referendum on the new text¹⁶⁰. Scholars have criticized the constitutional making process as being undemocratic, secretive and heavily influenced by US political interests¹⁶¹. The Transitional Administrative Law of Iraq, which preceded the 2005 Constitution, was notoriously written in English by US nationals and none of the people involved in its making were constitutional law experts¹⁶². As for the drafting of the Constitution itself, the process was “remarkable in a way in which members of the Assembly, though legally charged with responsibility for writing the draft, were not involved”¹⁶³. Additionally, due to some delay, the Iraqi population had little time to be consulted over the draft, many voting on it without having seen the final draft once, the document hence clearly lacking democratic legitimacy¹⁶⁴.

1.2 *Federalism’s Role in the Protection of Minority Rights*

The 2005 Constitution instituted Iraq as a federalist country, making it an exception in the Middle East in that regard¹⁶⁵. The idea of dividing power both horizontally and vertically was initially pushed by the United States as well as opposition groups in post-Saddam Iraq with the goal of avoiding another dictatorship¹⁶⁶. Much has been written since about the potential – or danger – of choosing this system in a country as fragmented as Iraq.

Federalism, a form of state organization where at least two levels of government coexist¹⁶⁷, combining both shared- and self-rule¹⁶⁸, has been feared to promote separatist claims and therefore lead to the breakdown of the country¹⁶⁹. This is especially worrisome in the case of Iraq, which has opted for one of the weakest forms of federalism in the world, with only minimal competence left to the central government and a substantial devolution of power to the Kurdish region¹⁷⁰.

However, federalism could also permit the diffusion of ethnic nationalist aspirations by allowing space in a state’s institutions and government for a degree of group autonomy¹⁷¹. It has also been argued to be the best system to reach unity in Iraq¹⁷². Indeed, this system can promote tolerance as well as compromise-seeking¹⁷³. It can be used as a tool for conflict-resolution¹⁷⁴ and allows for the balancing between regional interests and national stability¹⁷⁵.

¹⁵⁹ HACCUS, p. 13; HERTHER SPIRO, p. 342; KURRILD-KLITGAARD, pp. 14-15; MUTUA, p. 9.

¹⁶⁰ FELDMAN/ROMAN, p. 883, HACCUS, p. 14.

¹⁶¹ JAWAD, p. 10; see also: MORROW Jonathan., *Iraq’s Constitutional Process II: An Opportunity Lost*.

¹⁶² ALLAWI, p. 222; JAWAD, p. 10.

¹⁶³ MORROW, p. 15.

¹⁶⁴ HACCUS, p. 15; GHAI/COTTRELL, p. 1; JAWAD, p. 11.

¹⁶⁵ NASEEF, p. 47.

¹⁶⁶ NATALI, p. 1.

¹⁶⁷ HACCUS, p. 8.

¹⁶⁸ See MUELLER, *Self-Rule and Shared Rule* (online).

¹⁶⁹ GHAI/COTTRELL, p. 5; TIERNEY, p. 283.

¹⁷⁰ NATALI, p. 1; BRANCATI, p. 16.

¹⁷¹ HERTHER-SPIRO, pp. 370-371.

¹⁷² BERMEO, p. 108; GHAI, p. 5; HACCUS, p. 7; MCGARRY / O’LEARY, p. 33.

¹⁷³ GHAI, p. 5.

¹⁷⁴ HACCUS, p. 7; MISTAFFA, p. 151.

¹⁷⁵ GHAI, p. 5.

One could then support the argument that federalism in Iraq has helped the promotion and protection of minority rights, including linguistic rights, in the country¹⁷⁶. As Natali writes: “the particular nature of Iraqi federalism, as espoused in the 2005 constitution, devolved large powers to the Kurdistan region and the provinces, expanded political participation and representation through a quota system, and checked the authority of the central government”¹⁷⁷. All these elements are arguably positive developments for minorities seeking to protect their culture and language and tend towards a collective understanding of LMR. However, the developments in Iraq in recent years were less encouraging, national unity still far from being reached in the country¹⁷⁸.

2. Linguistic Minority Rights in Iraqi Law

According to art. 4(1) of the Iraqi Constitution (IQ Const.), both Arabic and Kurdish are official national languages. Additionally, Syrian and Turkmen will be official languages as in administrative units where there is a high density of their speakers (art. 4(4) IQ Const.). The Constitution also foresees the possibility of adopting further official languages on a local level if the population of that region expresses its wish through a referendum (art. 4(5) IQ Const.). Lastly, Iraqis have a right to mother tongue education in their mother tongue in public educational institutions or in any language of their choice in private educational institutions (art. 4(1) IQ Const.). This approach is a clearly pluralistic one¹⁷⁹, although the country is still defined as an Arab nation (art. 3 IQ Const.), an addition made upon insistence of many members of the Sunni Arab population¹⁸⁰. But the Iraqi Constitution cements its pluralistic approach in the same article, defining Iraq as a country of ‘many nationalities, religions and sects’. Interestingly, the country has then taken a drastically different stance than its northern neighbor, its multicultural position standing in clear contrast with Turkey’s homogenizing approach (*supra* C/1.2). It has also clearly departed from the nationalistic approach of the Saddam Hussein regime¹⁸¹.

Although the Iraqi Constitution seems favorable to LMR, there remain areas of concern. As mentioned earlier, the right to mother tongue education is an especially crucial linguistic minority right, allowing minority languages to survive (*supra* C/3). Though this right is guaranteed in art. 4 IQ Const., its scope remains unclear¹⁸². The right to mother tongue education could be limited in practice¹⁸³, as it is to be exercised in compliance with ‘educational guidelines’ (art. 4 IQ Const.). These guidelines are not defined anywhere in Iraqi legislation¹⁸⁴. From this observation, scholar Bowring concludes that the right to mother tongue education enshrined in the Constitution is nothing but an ‘empty promise’¹⁸⁵. More generally, the Iraqi constitution requires legislation that

¹⁷⁶ KEIL/ANDERSON, p. 1; O’LEARY, p. 23.

¹⁷⁷ NATALI, p. 1.

¹⁷⁸ GHAI/COTTRELL, p. 3.

¹⁷⁹ GHAI/COTTRELL, p. 6; MUTUA, p. 14.

¹⁸⁰ MUTUA, pp. 17-18.

¹⁸¹ FERNANDES/SKUTNABB-KANGAS, p. 47.

¹⁸² GHAI/COTTRELL, p. 8.

¹⁸³ *ibidem*.

¹⁸⁴ BOWRING, p. 345.

¹⁸⁵ *ibidem*.

specifies the rights it grants and provides mechanisms for their implementation¹⁸⁶ – a necessary step which has not been taken yet by the legislative¹⁸⁷.

This lack of precision and enforcement mechanism is also present in relation to art. 125 IQ Const., which provides “This Constitution shall guarantee the administrative, political, cultural, and educational rights of the various nationalities, such as Turkmen, Chaldeans, Assyrians, and all other constituents, and this shall be regulated by law”. Such law has not been enacted to this day, leaving this provision, crucial for linguistic minorities, vastly ineffective¹⁸⁸.

Contrastively, some scholars argue that linguistic human rights, especially those in the field of education, are now protected and respected in Iraq thanks to its new Constitution¹⁸⁹. As Fernandes/Skutnabb-Kangas write regarding Kurdish regions in Iraq: “... Kurdish children in Kurdistan have Kurdish as their medium of education in all subjects. (...) Assyrian, Turkmen, and Arabic language children (...) are taught through Assyrian/Syriac, Turkmen and Arabic. (...) The minorities have their own Departments in the Ministry of Education, each with their own Director General”¹⁹⁰. One could therefore conclude that, despite its obvious and grave flaws, the Iraqi Constitution provides to an extent for LMR. However, legislation detailing and enforcing the rights mentioned above remains necessary, as a few constitutional dispositions are not sufficient to ensure LMR on their own¹⁹¹.

3. Linguistic Rights of Kurds

Though Kurdish is now considered an official language in Iraq, it remains relevant to analyze its position as a minority language. Indeed, Arabic is still the most spoken language in the country, making Kurdish a minority language in the numerical sense of the term. Furthermore, Kurds have historically faced repression and forced assimilation¹⁹². As O’Leary notes, “the history of Iraqi Kurdistan before 1991 is the history of destruction and displacement”¹⁹³. Unsurprisingly, this situation was catastrophic for LMR. For example, the right to mother tongue education was not guaranteed, all education in South Kurdistan being in Arabic during Saddam Hussain’s regime¹⁹⁴. It is then of importance to assess whether the linguistic rights of the Kurdish population are effectively respected in Iraq now that they are granted by the Constitution.

The situation of LMR of the Kurdish population seems to have largely improved over the last decades: Kurds now have access to mother tongue education and are no longer forced to speak or learn Arabic¹⁹⁵. Kurdish dialects are generally accepted and respected¹⁹⁶. This situation marks a stark contrast with the language shift currently happening in the Kurdish population in Turkey, forced into assimilation (*supra* C/3).

¹⁸⁶ *ibidem*.

¹⁸⁷ BOWRING, p. 345.

¹⁸⁸ *ibidem*.

¹⁸⁹ FERNANDES/SKUTNABB-KANGAS, p. 48.

¹⁹⁰ *ibidem*.

¹⁹¹ BOWRING, p. 345; MUTUA, p. 19.

¹⁹² MISTAFFA, p. 151.

¹⁹³ O’LEARY, p. 20.

¹⁹⁴ FERNANDES/SKUTNABB-KANGAS, p. 47.

¹⁹⁵ *ibidem*.

¹⁹⁶ *ibidem*.

Nonetheless, tension subsists between the Kurds and Baghdad. Kurdish demands have had a tendency to turn into secessionist claims, with a recent peak in September 2017 when a referendum was organized in the Kurdish region on the question of independence from Iraq¹⁹⁷. An astounding 90% of voters were in favor of independence for the Kurdish region¹⁹⁸. This seems to confirm the fear that federalism in Iraq only encourages fragmentation and ethnic nationalism (*supra* D/1.2). Regarding LMR specifically, this situation does not necessarily contradict the observation that LMR have generally improved in the country; it simply underlines that much remains to be done to implement and protect them on the long term¹⁹⁹.

4. Linguistic Rights of Other Minorities

As is the case in Turkey (*supra* C/4), Kurdish demands in Iraq tend to overshadow other minorities', who are now growing increasingly weary of the rising tension between the Kurds and Baghdad²⁰⁰. Yazidis, Sabeans and Shabek minorities, as well as Iraqi Christians, fear assimilation and a worsening social situation as backlash from Baghdad against Kurdish activism in the country²⁰¹. Christians have for example protested the decline of their possibilities for political participation in the country's government, subsequently facing violence and multiple assassinations by unknown sources²⁰².

Assyrians in particular are deserving of attention, as "the end of totalitarian regime and Iraqi democratization process is connected with the re-emergence of a more than a century-old Assyrian question"²⁰³. The community is a Christian minority, representing about 3% of the Iraqi population, and speaks languages such as Assyrian, Syriac and Chaldean²⁰⁴. They have faced considerable violence over the last decades. Iraqi authorities have destroyed 200 Assyrian villages in the country from the 1960s to the mid 2000s. The advance of ISIS in 2014 has had a disastrous impact on the community, facing forced conversion to Islam and displacement²⁰⁵. The Iraqi government has failed to protect them, and many have therefore emigrated to the West²⁰⁶. However, the situation of Assyrians in Iraqi Kurdistan is rather stable and far from unbearable²⁰⁷. Their cultural rights, including linguistic rights, are protected within that territory²⁰⁸. It is for example worth noting that 30 Assyrian language schools have been supported by local government funding²⁰⁹. This situation is however exceptional, and Assyrians continue facing discrimination in the rest of Iraq²¹⁰. Additionally, Assyrians have also been historically mistreated by Kurds, hence

¹⁹⁷ HACCUS, p. 32.

¹⁹⁸ *ibidem*.

¹⁹⁹ BOWRING, p. 345; MUTUA, p. 19.

²⁰⁰ KATZMAN, p. 9.

²⁰¹ *ibidem*.

²⁰² *ibidem*.

²⁰³ BOHÁČ, p. 151.

²⁰⁴ *ibidem*.

²⁰⁵ *Minority Rights*.

²⁰⁶ *ibidem*.

²⁰⁷ PETROSIAN, p. 140.

²⁰⁸ *ibidem*.

²⁰⁹ *ibidem*.

²¹⁰ *ibidem*.

fearing an eventual turnaround of their current situation even in South Kurdistan²¹¹. (Linguistic) rights of Assyrians are therefore rather precarious and worth further monitoring in the future.

E) Linguistic Minority Rights in Lebanon

1. Context

1.1 Demography and Historical Overview

Contrary to Turkey and Iraq, Lebanon is an ethnically homogenous country²¹² almost entirely composed of a semitic population²¹³. According to the European Commission, 95% of its 4.7 million inhabitants are ethnically Arab, with a remaining 5% of Armenians and Kurds²¹⁴. The country is then mostly known as a mosaic for its astounding religious diversity²¹⁵, with 18 different sects juxtaposed on its small territory²¹⁶. It is however difficult to obtain accurate and recent demographic information, as the last official census in Lebanon was conducted in 1932²¹⁷.

From a linguistic point of view, Lebanon is surprisingly homogenous, Lebanese Arabic being the main language of communication throughout the country²¹⁸ and the mother tongue of a vast majority of the population²¹⁹. Languages such as English and French are also commonly used as a result of Lebanon's colonial history and close relationship to the West²²⁰. Other linguistic communities are rather small: Armenian and Kurdish can be found in Lebanon, as well as other languages such as Arabic dialects other than Lebanese, Chaldean, Turkish or Greek²²¹.

As the country is ethnically and linguistically rather homogenous but religiously diverse, it is therefore no wonder that literature focusing on Lebanon's legal system focuses mostly on religious power-sharing, as each sect develops parallel but separate legal orders and social institutions²²². Power-sharing also raises the question of the coexistence of religious communities, as the country has established a consociational democracy as early as 1943 with the so-called National Pact²²³. It has been argued that the Lebanese government's function is currently primarily a judicial one: it adjudicates claims between the different religious communities according to unwritten rules²²⁴. In this sense, Lebanon is, similarly to Iraq (*supra* E/1), a deeply divided society with a rather weak state²²⁵.

²¹¹ *ibidem*.

²¹² AZZI, p. 27; NAMMOUR, p. 425.

²¹³ NAMMOUR, p. 425.

²¹⁴ AZZI, p. 7.

²¹⁵ ABOUCHEDID/BOU ZEID, p. 59; AZZI, p. 7.

²¹⁶ ABOUCHEDID/BOU ZEID, p. 59.

²¹⁷ SAOULI, p. 74.

²¹⁸ NAMMOUR, p. 425.

²¹⁹ IRIARTE DIEZ, p. 5.

²²⁰ IRIARTE DIEZ, p. 5; NAMMOUR, p. 425.

²²¹ IRIARTE DIEZ, p. 5.

²²² CHAMIE, p. 181; SAOULI, p. 74.

²²³ SAOULI, p. 74.

²²⁴ DONOHUE, p. 2529; SMOCK/SMOCK, p. 166.

²²⁵ SAOULI, p. 67.

1.2 *Lebanese Identity and Languages*

It seems scholarly research tends to focus more on the role of languages in the shaping of Lebanese identity than on Lebanon's linguistic minorities. The use of Arabic, English or French is endowed with important social and religious connotations²²⁶. Christian communities tend to speak French, whereas a focus on Arabic is preferred by most members of Muslim communities²²⁷. English is preferred for a big part of higher education as well as business²²⁸.

There is a core ideological question resting at the center of these linguistic matters: is Lebanon an Arab country?²²⁹ Two major understandings of nationalism have been competing since the country's very creation²³⁰: it has been debated "whether, metaphorically, Lebanon belongs to the desert or to the Mediterranean Sea"²³¹. Language plays a central role in this national debate²³². Maronite Christians have always been close to the French, as they have historically been trusted as the community's protectors and allies²³³. The French language has been popular among Christians ever since and instrumental in spreading Phoenicianist ideologies²³⁴. In parallel, many Arab nationalist movements in Lebanon, used Arabic as a symbol of their struggle against colonial powers, with the language being Lebanon's link to the rest of the Arab world to whom it belongs²³⁵. It is then no surprise that attacks on bi- or trilingualism tend to come in times of tensions between Lebanon's various religious communities, linguistic claims having clear confessional-political implications²³⁶. It is this national identity question, and not linguistic minorities, that occupy the country's discourse on languages.

2. **Linguistic Minority Rights in Lebanese Law**

There are few legal dispositions concerning languages in Lebanese law. The Lebanese Constitution states that Standard Arabic is the country's official language (art. 11 LB Const.)²³⁷ since its independence in 1943²³⁸. Standard Arabic is then the official language which is meant to be taught in public primary and secondary schools²³⁹, Lebanese Arabic the language of common use²⁴⁰. However, despite much effort to promote Arabic in education²⁴¹, most subjects are taught in a foreign language²⁴², with French remaining the language of an educated Christian elite through the legacy of Jesuit schools²⁴³.

²²⁶ IRIARTE DIEZ, p. 5.

²²⁷ NAMMOUR, p. 425.

²²⁸ *ibidem*.

²²⁹ IRIARTE DIEZ, p. 6.

²³⁰ IRIARTE DIEZ, p. 6; SAYIGH, p. 120.

²³¹ GORDON, p. 114.

²³² AL-BATAL, p. 95.

²³³ IRIARTE DIEZ, p. 6; REINKOWSKI, p. 67; SAOULI, p. 74.

²³⁴ BIZRI, p. 445; DIEZ, p. 6; SAYIGH, p. 125.

²³⁵ IRIARTE DIEZ, p. 6; SAYIGH, p. 123.

²³⁶ SAYIGH, p. 120.

²³⁷ IRIARTE DIEZ, p. 5, NAMMOUR, p. 425.

²³⁸ NAMMOUR, p. 426.

²³⁹ IRIARTE DIEZ, p. 5.

²⁴⁰ NAMMOUR, p. 425.

²⁴¹ IRIARTE DIEZ, p. 7.

²⁴² AZZI, p. 33.

²⁴³ IRIARTE DIEZ, p. 5; SHAABAN/GAITH, pp. 4-12.

Art. 11 LB Const. adds that a law will determine the cases in which French will be used²⁴⁴. Such a law has never been drafted (and might never be), the country having most likely many more pressing issues to focus on²⁴⁵. The status of languages in Lebanon then remains unclear, since the country lacks legislation defining what language is to be used in given situations²⁴⁶.

Besides, there is no trace of LMR in Lebanon. The only rights granted to communities are religious rights (art. 9 and 10 LB Const.), with the Constitution recognizing 17 different sects since 1926²⁴⁷.

This lack of comprehensive legislation is most likely the result of having a weak state only producing minimal legislation²⁴⁸. The delicate sectarian balance in Lebanon has frozen the government in a lethargic position, rendering it incapable – or unwilling – to implement effective political programs²⁴⁹. Contrary to other Arab states that tend to have a strong executive, Lebanon suffers from weaknesses in all branches and on all levels of government²⁵⁰.

3. Linguistic Minorities' Situation in Lebanon

As stated above, Lebanese law does not foresee any specific LMR (*supra* E/2). The only articles that could be of relevance concerning such rights are art. 7 and 8 LB Const. which guarantee respectively equal treatment of all Lebanese and individual liberty. The crucial question to answer is then: how does such a legal context affect the situation of linguistic minorities in Lebanon, i.e. Armenian or Kurdish speakers?

Many Armenians have emigrated to Lebanon fleeing the Armenian Genocide in 1915²⁵¹. The Armenian diaspora in Lebanon then grew drastically after World War I²⁵². Since then, it has been systematically described as a perfectly integrated minority group, while avoiding assimilation to Lebanese society²⁵³. Members of this community still speak Armenian and practice their own form of Christianity in the Armenian Catholic Church²⁵⁴. Despite their attachment to their own identity as Lebanese Armenians, many members of that group speak of Lebanon as their homeland²⁵⁵. Therefore, the absence of LMR in Lebanon does not seem to have hindered the process of maintaining their own cultural identity while successfully becoming part of Lebanese society²⁵⁶. This is most likely due in part to Armenians' belonging to Christianity, which has pushed Lebanese Maronites to welcome Armenian immigration and even take active steps to facilitate their integration in the country²⁵⁷.

²⁴⁴ NAMMOUR, p. 426.

²⁴⁵ MUNOZ, n. 17.

²⁴⁶ *ibidem*.

²⁴⁷ DONOHUE, p. 2510.

²⁴⁸ MAKDISI/MARKTANNER, p. 3; SLEIMAN, p. 28.

²⁴⁹ MAKDISI/MARKTANNER, p. 3.

²⁵⁰ SLEIMAN, p. 28.

²⁵¹ ABRAMSON, p. 191.

²⁵² *ibidem*.

²⁵³ ABRAMSON, p. 192; NALBANTIAN, 303.

²⁵⁴ ABRAMSON, p. 191.

²⁵⁵ SCHAHGALDIAN, 227.

²⁵⁶ ABRAMSON, p. 191.

²⁵⁷ ABRAMSON, p. 191; TACHJIAN, p. 75.

The situation is not as ideal for Kurdish communities in Lebanon. Kurds started to immigrate to Lebanon after the first World War, fleeing Turkish repression²⁵⁸. Many more fled violence in Syria and found refuge in Lebanon in the 1960s²⁵⁹. But the population was not so welcoming to them: the Lebanese government has simply ignored the Kurds altogether, even refusing to give them Lebanese citizenship²⁶⁰. This has meant less violence and repression than in Turkey and Syria but was far from an ideal situation²⁶¹. Indeed, Kurdish communities remain marginalized in Lebanon to this day²⁶². However, the lack of legislation and action aiming to suppress Kurdish culture seems to have allowed Kurds, despite the absence of LMR, to maintain their culture and language, albeit in the margins of Lebanese society²⁶³.

F) Comparative Perspectives

It is clear that Turkey has a much more extensive body of legislation (*supra* C/2) than Iraq (*supra* D/2) or Lebanon (*supra* E/2). This seems logical, given the vastly different situations of Turkey on the one hand, and Iraq and Lebanon on the other hand. Turkey is a strong nation-state that creates substantive legislations – legislation that might reinforce in turn its position as a powerful State, the two aspects allowing and supporting each other (*supra* C/1.2). In contrast, Iraq and Lebanon both found themselves at a turning point in their history, struggling with ethnic or religious cleavages (*supra* D/1.1 and E/1.1), as well as profound economic difficulties. Both states are fragile: Iraq is left with a weak central government after delegating much of its power to regional authorities in their turn towards federalism (*supra* D/1.2), and Lebanon struggles to function with a State paralyzed on all levels by clientelism²⁶⁴ and religious-based fragmentation (*supra* E/1). Such extreme situations do not leave much capacity for the drafting of extensive legislation on LMR. However, it is clear that linguistic minorities' situation is currently much better in Iraq (*supra* D/3 and D/4) and Lebanon (*supra* E/3) than in Turkey (*supra* C/3 and C/4). It seems that the lack of legislative efforts regarding linguistic minorities allows a form of freedom that the strong, homogenizing language policies of the Turkish government do not.

It would nonetheless be wrong to fully equate Iraq and Lebanon regarding LMR. Iraq's Constitution directly addresses the question of minority languages and has made institutional and legislative efforts – albeit imperfect ones – to solve questions of minority rights through federalism (*supra* D/2). Lebanon, on the other hand, has simply ignored the issue altogether, its main focus remaining religious tensions within the country (*supra* E/1.1). The main discourse regarding languages centers on questions of national identity and the use of foreign Western languages in daily life rather than the protection of LMR (*supra* E/1.2).

Further, we have seen how certain linguistic ideologies can be pushed by a State in order to justify certain policies concerning minority rights. In that aspect, it seems relevant to highlight how

²⁵⁸ ABRAMSON, p. 210.

²⁵⁹ ABRAMSON, p. 210; MCDOWALL, p. 485.

²⁶⁰ ABRAMSON, p. 210.

²⁶¹ *ibidem*.

²⁶² *ibidem*.

²⁶³ *ibidem*.

²⁶⁴ cf. NIZAR Hamzeh A., *Clientalism, Lebanon: Roots and Trends*, Middle Eastern Studies, Vol. 37, No. 3 (2001), pp. 167-178; HARIK I., *The Iqta System in Lebanon: A Comparative Political View*, Middle East Journal (1965), pp.405-12.

Turkey's national narratives center around an idea of Turkish supremacy and a denial of any cultural and linguistic diversity within its territory (*supra* C/1.2). The idea of Turkish as a superior language – and in fact, the only existing language in the country – is used to justify legislations that have devastating effects on linguistic minorities, especially on Kurdish communities, their main targets. Whereas Turkey uses linguistic ideologies to promote Turkish hegemony and cultural homogeneity, much of the national Lebanese narrative insists on plurality, in terms of cultural and religious diversity. Similarly, Iraq recognizes its cultural and religious plurality, even explicitly mentioning its “multiple nationalities, religions, and sects” in the Constitution (art. 3 IQ Const.). Although it is inevitable that a state favors some languages by choosing official ones, the example of Lebanon and Iraq evidently show that national narratives can avoid the promotion of homogeneity and linguistic diversity and even contribute to the safeguard of local linguistic diversity.

In any case, it is clear – and somewhat self-evident – that greater representation and autonomy given to linguistic minorities, as well as the explicit recognition of minority languages, are the best way to protect linguistic diversity within a territory. This is well exemplified by Iraq, where the Kurdish community as well as other linguistic minorities now have the freedom to write, teach, broadcast and communicate altogether in the language of their choice (*supra* D/3 and D/4). Though the situation in Iraq is far from ideal because of matters left unsolved by their Constitution and a defaulting government, the country's change towards federalism seems to have allowed the building of regions where linguistic minorities thrive (*supra* D/3 and D/4). This is consistent with much of the literature on federalism²⁶⁵ and echoes the idea that, on a collective level, LMR imply control over minority groups' educational system as well as representation in the State's politics (*supra* B/1).

G) Conclusion

Language rights are obligations on states to not interfere with linguistic choices of private parties and/or to promote the use of certain languages. They have many iterations, sometimes as individual rights, sometimes as collective ones. Further, the object of protection of language rights varies from the freedom to use one's language of choice to languages themselves. LMR are then, as their denomination suggest, language rights that apply to linguistic minorities specifically, addressing their particular needs and the distinct challenges that they might face (*supra* B/1). Such efforts are of pressing importance given the rate at which much of the world's linguistic diversity vanishes (*supra* A). Regrettably, international law still does not provide for sufficient protection of LMR, though some dispositions do permit some (*supra* B/3). The importance of national law is then enhanced and must be analyzed. This is especially relevant in the Near East, a region of exceptional ethnic, linguistic and religious diversity. We have therefore analyzed LMR in the Turkish, Iraqi and Lebanese contexts.

²⁶⁵ See for example SOFI Waseem Ahmad Sofi/FLEINER T. F., *Constitutional Democracy in a Multicultural and Globalised World*, Berlin/London 2009, p. 538-539; Cyr H., *Autonomy, Subsidiarity, Solidarity: Foundations of Cooperative Federalism*, Constitutional Forum, Vol. 23, No. 4 (2014), pp. 20-40; Ghai, Y., *Autonomy and Ethnicity: Negotiating Competing Claims in Multi-ethnic States*, New York 2000, pp. 23-24; FLEINER T. F., *Constitutional Democracy In a Multicultural and Globalised World*, London/Berlin 2009, p. 521; ELAZAR D.J., *Religious diversity and federalism*, *International social science journal*, March 2001, pp. 61-65, p. 65; GAGNON A.-G./TREM-BLAY A. (Eds.), *Federalism and National Diversity in the 21st Century*, New York 2020.

Turkey, a highly centralized state, does not recognize LMR. On the contrary, the Turkish government has consistently repressed the use of any language other than Turkish, going as far as to deny the existence of any minority languages in the country (*supra* C/1.2). The State has created extensive legislation regarding languages and its policies have aimed for the marginalization and eventual disappearance of minority languages within the country. Turkish law has outlawed the use of minority languages in a number of contexts (*supra* C/2). Though Kurdish was especially targeted by such measures (*supra* C/3), other minority languages such as Arabic are endangered as well (*supra* C/4).

By contrast, Iraq adopts more of a pluralistic approach concerning linguistic minorities, even describing itself as a country of many nationalities and religions in its constitution. Its (relatively new) federal structure affords a vast autonomy to linguistic minorities, especially to Kurds (*supra* D/2). Linguistic minorities are hence able to decide on their own education and use the language of their choice in any given context (*supra* D/3 and 4). Though the political situation in Iraq is far from ideal and many constitutional questions remain uncleared, the country seems to guarantee LMR to a large extent. The situation of linguistic minorities living in Iraq is therefore vastly different – and unequivocally better – than that of minorities living in Turkey.

Lastly, Lebanon does not consider any LMR. The country only foresees one constitutional article in regard to language, and essentially limits itself to choosing Arabic as the official language (*supra* E/2). Mostly preoccupied by its religious divides, Lebanon seems to ignore linguistic minorities altogether (*supra* E/3). This lack of language policies grants them substantive freedom. Nonetheless, the preservation and promotion of linguistic diversity does necessitate active measures from the State (*supra* B/1). The situation of linguistic minorities, especially that of Kurds, could hence be improved in Lebanon. This is however highly unlikely, as the country seems to have much more pressing considerations to focus on.

It is therefore clear that the three countries have adopted vastly different positions regarding LMR: Turkey actively fights against them, Iraq protects them to some extent and Lebanon ignores them altogether. The different approaches can be analyzed through the prism of the countries' political contexts, state structure and linguistic ideologies. It seems however evident that a strong and centralized state leaning towards undemocratic tendencies such as Turkey will be likely to use linguistic ideologies to establish its power. This leads assuredly to linguicidal policies²⁶⁶ aiming to impose ethnic and cultural homogeneity and suppress political opposition to the central government²⁶⁷. Pushing this reasoning further, decentralization seems to help promoting linguistic diversity and foster LMR, as exemplified by Iraq's minorities' situation. In general, a weak state with a *laissez-faire* approach such as Lebanon is still evidently more positive for LMR than strong policies forcing assimilation.

It is however important to keep in mind that a host of innumerable factors can further – or hinder – LMR. Our analysis is therefore inevitably a flattening of the examined countries' realities and an oversimplification of the issue of LMR. This only highlights the need for linguistic minorities' implication in the drafting of international and national laws concerning the fate of their communities, culture and language.

²⁶⁶ PHILLIPSON/SKUTNABB-KANGAS, p. 483; see also: Brenzinger Matthias (Ed.), *Language death: factual and theoretical explorations with special reference to East Africa*, Berlin 1992.

²⁶⁷ MOMBRA, p. 308.

As stressed at the beginning of this paper, legal institutions cannot remain passive when faced with the extinction of much of the world's linguistic diversity. As Phillipson/Skutnabb-Kangas write: "A more appropriate metaphor than language death, which seems to imply natural causes for the demise of a language, might be language murder, since it has frequently been a conscious policy of the dominant group to eliminate minority languages"²⁶⁸. If the nation-state has played a central role in the homogenization of culture around the globe²⁶⁹, it is its responsibility to protect linguistic minorities from disappearance.

²⁶⁸ PHILLIPSON/SKUTNABB-KANGAS, p. 483.

²⁶⁹ RASSOOL, p. 89.

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