

Language-Based Inequalities in Access to Public Services: The Social Consequences of the Gap between Policy and Reality

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As of the 2000 United States Census, 8.1% of people 5 years old and older did not speak English very well; these people are commonly referred to as limited English proficient (LEP) individuals. The percentage of the U.S. population identifying as LEP grew by 27.1% between 1980 and 1990 and by an additional 32.8% between 1990 and 2000, representing a 68.8% total increase between these two decades (Crawford, 2002). This population faces unequal treatment in any number of settings in the United States due to the dominance of English in American society. One consequence is unequal access to government-provided services, such as healthcare, social aid, and education¹. The U.S. government has recognized the problem of language-based disparities and discrimination, and it had established language access mandates, which required that governmental services be provided in any needed language. However, national, state, and local officials have largely ignored this mandate since its inception, and one reason for this is the limited availability of resources to support language access.

This essay explores the resource-based foundation for language-based inequality, reviews language access mandates that have attempted to alleviate such disparities, and examines the relevance of economic factors to the establishment and implementation of such policies. This particular study represents a somewhat unusual examination of language and minority rights, for it does not deal directly with the right to use or be educated in one's own mother tongue – topics common to study on language and minority rights. Rather, it considers how use of a minority language may be necessary to fulfilling other rights; in this case, the right to access and use public services. Moreover, with more common topics in research on linguistic minority rights, such as language of education, the topic is often one of contentious public debate; this is often because such language rights issues are seen as related to issues of national identity. Language access, however, is not popularly perceived of as dealing directly with identity issues. As a result, barriers to language access are more often economic than ideological, and insufficient language access is not often met with a large public outcry. It is precisely because of this lack of public attention that researchers must pay careful attention to this issue, for it holds great implication for linguistic minorities' practical wellbeing and overall sense of belonging.

Language Disparities and Inequality

¹ While schooling is available for LEP children, their LEP parents are not always able to communicate with the school and understand school expectation, and this places their children at a disadvantage.

Based on studies of minority language groups focused on political rights, identity claims, and socioeconomic outcomes, language can clearly serve as a source of societal stratification. Such views are supported by theoretical understandings of stratification, and sociological explanations of the causes of inequality – even if not developed in relation to language groups - can be directly applied to the case of linguistic minorities and LEP individuals in the United States. For instance, Massey’s (2007) explanation of the dual basis of stratification includes “allocat[ion of] resources unequally across these categories” (2007:5-6). Of great concern to this essay’s subject is the unequal allocation of resources to different social categories, such as language groups.

Societal preference for a certain language is partly related to logistical difficulties of multilingual services. In the United States, where the majority of residents speak English, it becomes costly for government agencies to cater to LEP individuals. To provide full multilingual services, agencies must identify and translate all material potentially needed by the public, and they must be sure interpreters are available for oral communication. These measures can become extremely expensive, and agencies that have not previously seen these measures as an integral component of their services and have not budgeted for their inclusion are unlikely to feel they are able to bear this expense. In general, overcoming language barriers necessitates transaction costs, and when interaction between these language groups is required, the minority group will bear the transaction costs (Lang, 1986). This seems to be the case for LEP individuals, as they often suffer as a result of faulty or lacking language access services.

The harmful consequences of a lack of multilingual communication in government-provided services has been documented by numerous researchers, with findings showing reduced access to services and resulting negative outcomes for LEP individuals (e.g. Grubbs et al., 2006, Morales et al., 2006). The troubling implications of this language-based disparity extend beyond LEP adults, as this lack of services also proves harmful to children of LEP adults. For instance, parents who expect to encounter language barriers in medical settings are less likely to bring their children to the doctor (Flores et al., 2003), and limited provision of language services in public schools decreases LEP parent involvement in education (Ramirez 2003, García Coll et al., 2002). Moreover, when no official language access is provided, adults may use their children as interpreters – a practice that can have additional negative implications for immigrant families. Adults may be provided with incomplete or faulty information by their children, children are put in pressure-filled situations, and the standard parent-child power dynamic is inverted when children act as interpreters (Umaña-Taylor, 2003). Given these disparities, limited language access cannot be understood solely as a logical result of resource scarcity; rather, it must also be examined as a social problem in need of a solution.

Addressing Language-Based Disparities: Language Access Mandates

This inequality had been recognized not only by academic researchers but also by political leaders, and in addition to any sense of moral duty to LEP individuals, language access has become recognized as a legal right. Title VI of the Civil Rights Act of 1964,

which prohibits discrimination based on national origin for those receiving federal funds, has also been interpreted as requiring that any organization or entity receiving federal funds must provide services to LEP clients. Title VI not only applies to programs receiving direct federal funding, but also to those indirectly receiving federal support, and is therefore pertinent to a wide array of public programs (National Immigration Law Center, 2003). Although this element of the 1964 Civil Rights Act seems promising for LEP services, it has been largely unenforced throughout its existence (United States Office of Civil Rights Policy, 2000).

Due to the widespread lack of enforcement, the federal government has recently acted to ensure the implementation of language access programs. In August 2000, the Clinton administration issued Executive Order 13166, titled "Improving Access to Services for Persons with Limited English Proficiency," to help prevent discrimination against LEP individuals. This Executive Order notes that such discrimination violates Title VI of the Civil Rights Act, and it contains further components. First, this Executive Order aims to improve compliance with existing mandates, as set for the 1964 Civil Rights Act. It requires that recipients of federal financial assistance, including indirect recipients of such funding, ensure that their programs be accessible to LEP individuals.

In a related effort, the Department of Justice's Civil Rights Division called for the creating of a Federal Interagency Working Group on Limited English Proficiency, which has since been established with the contribution of more than 35 federal agencies. Besides holding inter-agency conferences, this working group also maintains a website for federal agencies and programs receiving federal funds. The website provides general descriptive information, such as an explanation of Executive Order 13166 and its component regulations; it lists examples of federal agencies' language access plans; and it provides resources regarding interpreter and translation services and language use data.

Several municipalities have followed the lead of the federal government and implemented their own language access mandates. For instance, since 2000, Hawaii, Washington D.C., New York City, Philadelphia, Oakland, Minneapolis, San Francisco, and Monterey Park have developed their own language access mandates. The specific content of these language access mandates varies between location, with some simply restating federal orders and others including more specific regulations and guidelines, such as requiring the establishment an umbrella language access coordinator for the municipality, requiring individual language access coordinators at the agency level, or requiring specific language access plans for each individual service-oriented municipal agency. However, most municipal plans do not specify the precise means by which language access should provided. Those creating and implementing the most micro-level language access plans are thus charged with determining how exactly they will serve LEP individuals in all needed languages, and how they will do so in a cost-effective manner.

Economics Considerations in Language Access

In devising measures of providing language access, governmental social service agencies must inevitably take into account the fact that their limited budgets create constraints on the language services they are able to provide. Thus, the study of the economics of language planning, which does not generally receive great attention in academic literature on language planning, is actually of profound significance. The core economic concept of resource scarcity plays the central role in the economics of language planning, for providing services and support to multiple linguistic communities requires financial resources, and financial resources are often limited. Thus, decisions about language policy reflect view of economic priority.

In describing the economics of language planning, Grin (2003) identifies two distinct components. First, he explains that “some claim that the necessary measures are too expensive...while others will argue that they are well worth it (thereby resorting, deliberately or not, to a quintessentially economic reasoning that hinges on the weighing of advantages and drawbacks...)” (p. 4). This indicates that the cost of enacting a plan must be greater than the cost of failing to enact a plan. In the language access case, monetary-focused arguments were not the central consideration in enacting such mandates; these policies were created on a civil rights platform rather than a financial benefit platform. However, Grin explains that the use of a cost-benefit perspective need not include solely financial costs and benefits. Thus, the idea that the advantages of language access in terms of human rights and non-discriminatory services is worth more than the monetary costs of implementing such plans can fall under the umbrella of economics of language planning. The U.S. government explicitly recognizes these non-economic benefits, for a governmental report on costs and benefits of implementing Executive Order 13166 states that “the benefits of language-assistance services for particular LEP individuals, while not readily quantifiable in dollar units, can be significant. Improved access to a wide variety of services – ranging from the delivery of healthcare and access to food stamps to motor vehicle licensing and law enforcement – can substantially improve the health and quality of life of many LEP individuals and their families” (United States Office of Management and Budget 2002:3-4).

Second, Grin (2003:4) explains that “practically, authorities developing language policy plans are also confronted with the need to assess their costs and bring the latter in line with budget constraints.” Federal mandates requiring language access are not specific in the means by which this access should be provided, and while some state, county, and city measures are more precise in establishing processes and providing guidelines, the specific methods of providing language access are generally determined by individual agencies for themselves. As government agencies often work with limited budgets – and as mandates for language access are often not accompanied by sufficiently increased funding to implement high-quality language services - cost-effectiveness is of great concern. Given resource scarcity, policymakers may decide that language access is not a priority, for implementing language access would remove resources from other efforts. If they do implement language access, they may do so in a manner that uses the least amount of resources possible; this could either lead to creative means of providing low-cost yet productive language access, it could lead to the provision of haphazard and low-quality language access. As no large-scale thorough evaluation of language access implementation measures has yet been conducted by the government or other watchdog

bodies, there is no clear way to know what agencies provide language access, and which ones provide high-quality language access.

Conclusion

This case shows that, when studying marginalization and exclusion of minority language speakers, one must look beyond stated policy. On the surface, the United States appears to have a supportive policy that recognizes the fact that LEP individuals have equal right to accessing services and therefore should not be prevented access due to language barriers. However, the mere existence of Executive Order 13166 and the assortment of local language access mandates indicates that the legal requirement of language access, which was established almost a half-century ago, has often gone ignored. This history of ignoring language access policies, in addition to the severe consequences of lack of language access, shows just how important it is that researchers, politicians, and activists develop work on this topic and bring this form of language-based injustice to public attention.

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