Legal Restrictions on Naming: Administrative Convenience and Linguistic Politics

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Contents

1 Introduction

This paper examines naming practices in several countries from a sociolinguistic perspective. Although naming is held to be the prerogative of a child's parents [1], most states abridge the right to some extent. In the case of "bizarre" names like "Adolf Hitler" and "Ghoul Nipple" [11], overruling parental choice is a clear-cut measure to protect child welfare. However, many policies are instituted for more subtle aims, including bureaucratic efficiency and linguistic policy. We will compare naming laws in four jurisdictions, namely California, Lithuania, Iceland, and the People's Republic of China. We observe that the rationale and methods for restricting names are influenced by the country's language policies and social status of the languages involved.

Historical and ethnographic evidence suggests naming was traditionally a flexible process, in which people used multiple names depending on context or stage of life [1] [17]. Bureaucrats' need for "synoptic legibility" drove the levelling of onomastic form under centralised governments [17]. Today computer technology allows institutions to efficiently process data, while limiting the possible forms and thus personal expression available through names. The capabilities of computer systems are crucial to the naming laws discussed in China and California. On the other hand, names can be used as a tool to promote a specific language within a country, as part of a comprehensive language policy. A relatively well-known example is Iceland's list of approved names, which must accord with the Icelandic language. Many countries (Lithuania) have similar regulations to Iceland's which seek to impose a particular linguistic form to names within the country. We will find a distinction between the policies of large languages (English and Chinese), which are able to set the administrative agenda without considering the effect on minority languages, and small national languages (Icelandic and Lithuanian), which adopt language and naming policies in reaction to the looming threat of global English.

Within the legal and linguistic details, however, we should keep our interest focused on the individual human rights issues involved. How do citizens feel about changing their names for the convenience of administration? How flexible or willing are governments or companies to rectify the situation? These are issues at the crux of the modern discourse on how to balance administrative

efficiency with respect for human dignity; in short, how to stave off alienation amidst the bureaucracy.

First we frame the discussion by considering the multifaceted forms and social roles played by personal names worldwide, as well as efforts by centralised states to streamline names since the Early Modern period. Then we examine the specific name policy of each case study, drawing appropriate comparisons where necessary. Finally, we call for governments to adopt updated Unicode standards to accept as wide a range of name formats as feasible. The importance of recognising and valuing diverse name practices will only grow in the global society.

1.1 Research Questions

- How do governments or institutions limit the choice of personal names?
- How can governments accommodate a wider range of languages and formats for names?

2 Functions of Names

The canonical job of a name is reference: a linguistic token selecting an individual for discussion or address. This role is complemented by a second: conveyance of cultural information about the bearer. In some cases, the two functions are opposed to one another, and a balance must be struck between legibility and free expression.

Name-giving is a cultural universal; ethnographers have found no society past or present that does not give names to individuals [1]. Naming is deeply rooted as a rite of human identity. We know from historians and ethnographers that preïndustrial naming differs greatly from industrialised practices. The Nuers of Sudan take two given names (maternal and paternal), a ceremonial clan name, and an ox name of a favourite domestic animal [20]. Likewise, nicknames are liberally bestowed based on traits and accomplishments (Giriama). The idea of *fixing* the name is not a given; names can vary by context and across time and space.

Enter bureaucratisation and industrialisation, and we see concomitantly the canonicalisation of name. A mobile population or impersonal state presence requires accurate and speedy identification of individuals. Hence Scott, Tehranian, and Mathias [17] observe that patrilineal surnames tend to arise wherever centralisation is occurring: Qin China, Norman England, Atatürkian Turkey. As they suggest, patrilineal surnames are perfectly suited to state functions requiring clear identification of individuals: taxation, conscription, and justice [17,

p. 18]. In fact, the administrative dream is not a name at all, but a unique serial number assigned to every person.

Canonicalisation's raison d'être is producing a particular brand of knowledge, which is legible, objective, and public. So the name becomes a tracker to follow the person's movements, marriages, kinship, and careers, the emphasis being placed on the individual's relation to society rather than the individual themselves.

2.0.1 Symbolic Functions

> You see, to some people in the world, your name is everything. If I say my name to an elder Hawaiian (kupuna), they know everything about my husband's family going back many generations…just from the name.
>
> (Janice "Lokelani" Keihanaikukauakahihuliheekahaunaele [21])

The symbolic function of a name is that in which the name's content itself conveys a complex of information, be it genealogical, cultural, linguistic, religious, etc. This is the function that digital records threaten to eliminate, as it is fluid and ephemeral, whereas computers require complete unambiguity.

We can subdivide a name's symbolic functions into two aspects that must be balanced; they sit on a spectrum between what Finch [9] calls individualizing functions and connecting functions.

Individualizing functions are those aspects of a name which make a statement on the individual themselves. The clearest manifestation of this is the choice of a child's forename; indeed this makes more of a statement on the parent than the child itself. "In selecting a name (especially for a first-born child) parents are not only determining the personhood of their child but are also taking a key step in defining their own new identity as parents." [9, p. 718] Hence a parent can name their child something "beautiful" like "Isabella" or something "strong" like "Samson".

> "Call him Voldemort, Harry. Always use the proper name for things. Fear of a name increases fear of the thing itself." [**rowling97**]
>
> (Albus Dumbledore)

Connecting functions are facets that locate the individual within larger milieu. this takes the form of surnames, which in Anglophone societies identify the paternal family unit to which the individual belongs. "The construction of a name, and its uses through a lifetime, also can embody a sense of connectedness with family - with the parents who gave the name, and with others in a domestic arrangement or a kin network with whom all or part of the name is shared." [9, p. 711] We can find more subtle connecting functions, however. Choosing a first name after an older ancestor connects you to a more specific family relationship. And even the linguistic or religious connotations carried within the

first or last name can connect a person to or set them apart from the dominant society in which they live.

3 California

3.1 Introduction

California occupies a grey zone between American bilingualism and American nativism. As of 2010, roughly 29% of California's population spoke Spanish, and 30% of these speakers report speaking English "not well" or "not at all" [7]. The Hispanic legacy is inscribed statewide in Spanish placenames like Los Angeles, San Francisco, and Sierra Nevada. Besides Spanish, California is also home to many speakers of East Asian languages like Tagalog, Chinese, Korean, and Vietnamese [7]. Yet Spanish has no official recognition in state law, while English is enshrined as official language of California in the state constitution [5].

With no diacritics accepted on birth certificates, the names of Californian citizens containing characters like "á", "é", and "ñ" are misspelled by force of law. The diacritic ban and large Hispanophone population makes California the site of America's most extensive name regulation. As we will see, the justification offered by state agencies for the diacritic ban relates to statewide Official-English policies on the one hand (political) and the high cost of updating government databases on the other (administrative).

3.2 Annexation

Due to its proximity to México and historical origin as Mexican territory, the state has long housed many Hispanophones. At California's 1848 annexation to the United States, the Treaty of Guadalupe Hidalgo promised equal rights for Californios, the Mexican residents of the newly US territory:

> Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the constitution; and in the mean time shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction. [18] (Treaty of Guadalupe Hidalgo, Article IX)

Yet enjoying "all the rights of citizens of the United States" did not protect their native tongue. Although the original state constitution (promulgated with full Spanish translation) provided for publishing legislation in both English and Spanish, Prieto [16] notes that the early state had no Spanish courts, limiting legal access for non-Anglos. A contemporary observer wrote: "Si un Mexicano tiene por desgracia un pleito en las cortes de este Estado está seguro de perderlo" [16, p. 28]. Legislative bilingualism continued only until the 1879 constitutional revision, when the remaining protection of Spanish was removed, as Anglo supporters of the change reckoned that "California's Mexicans had had some thirty years to learn English" [3]. The new constitution marked a turning point in California's linguistic history, as Spanish lost any claim to official status within the territory [3].

3.3 Proposition 63

The early constitutional revision foreshadowed further "Official English" measures in the twentieth century. Official English refers to the a political movement beginning in 1980 promoting the imposition of English as official langauge at either the state or national level [12]. Supporters' motives range from the practical (economic necessity for immigrants to be conversant in English) to nationalistic (the spirit of American democracy ought be cherished in the original language of the Founders) to the racist [3, p. 7].

In 1986 referendum, Proposition 63, voters declared English California's official language, creating Article III, Section 6 of the California Constitution and cementing the legal status of English and granting enforcement powers to the state government:

> The Legislature shall enforce this section by appropriate legislation. The Legislature and officials of the State of California shall take all steps necessary to insure that the role of English as the common language of the State of California is preserved and enhanced. The Legislature shall make no law which diminishes or ignores the role of English as the common language of the State of California. [5]
>
> (California Constitution, Article III, Sec. 6(c))

3.4 Proposition 227

In 1998, California voters approved Proposition 227, effectively ending bilingual education programs in the state. Classes taught in a bilingual setting would be replaced with nearly monolingual English classes designed for English learners.

3.5 Birth Certificates

A modern battlefield for official Spanish recognition in California is on the birth certificate. Californian birth certificates allow only the 26 characters of English. While American law (and common law tradition generally) holds the naming of children to be the right and responsibility of parents, disregardin edge cases, like "Ghoul Nipple", "Legend Belch", "Brfxxccxxmnpccclllmmnprxvclmnckssqlbb11116", and "" [11]. However, diacritical marks for Spanish names like José are hardly an edge case. Larson [11, p. 5] investigates this in his study of American naming law, finding California, Massachusetts, New Hampshire, and Kansas to be among the states with such rules. We will focus here on California, because of the sparsity of documentation in the other states and because California's large Hispanophone population makes the situation there particularly glaring.

Guidelines from the California Office of Vital Records (OVR) instruct county agents that names may contain only "the 26 alphabetical characters of the English language with appropriate punctuation if necessary" and that "no pictographs, ideograms, diacritical marks (including 'é,' 'ñ,' and 'ç') are allowed" [11].

The OVR handbook cites Proposition 63 as justification for banning diacritics. California's Department of Public Health interprets the consitution's language as prohibiting "non-English" characters in Californian names. Other government agencies interpret the law differently. Two California state parks, Año Nuevo State Park and Montaña de Oro State Park, contain the Spanish ñ in their official names, which is reflected on the parks' official webpages [2] [15]. Likewise, the City of San José, California includes the accented é in its official name, and its Style Guide includes instructions on how to produce it digitally: "To create an accented é, hold down the alt key and type '0233', on the numeric key pad." *City of San José style guide* [6]

3.6 Legislative Initiatives

A 2014 bill in the California State Assembly sponsored by AM Nancy Skinner (AB-2528) sought to rectify the state's processing of birth certificates and driver's licenses by allowing diacritical marks in names. The bill "required the State Registrar to ensure that diacritical marks on English letters are properly recorded on birth certificates, death certificates, certificates of fetal death, and marriage licenses, including, but not limited to, accents, tildes, graves, umlauts, and cedillas". [ab-2528]

AB-2528 stalled in the Appropriations Committee once state agencies assigned multi-million dollar price tags relating to IT upgrades, noting that the DMV's software could not "even accept lower-case letters". For this same reason the bill was opposed by the County Recorder's Association of California.

In 2017, California AM Jose Medina revived the issue with AB-82, which ultimately passed both houses of the legislature before being vetoed by Governor Jerry Brown. Unlike the 2014 bill, this edition did not affect the issuance of driver's licenses, only birth certificates. Passing through many more stages of the legislative process, the committee hearings gathered more detailed estimates for the cost of IT upgrades than they had in 2014:

- $230,000 for IT upgrades at Department of Public Health
- $2 million per year for Department of Public Health to correct existing records
- Loss of revenue of $450,000 per year to Department of Public Health since they would not be able to electronically transmit names to SSA (at $3 per name) containing diacritics
- Up to $12 million for local governments to upgrade their systems
- $1–3 million in upgrades to Department of Health Care Services
- Unknown administrative costs to Department of Social Services

The sticking point for Governor Brown was compatibility with federal databases, which do not accept diacritics. In his veto message, he argued that the risks to vital records outweighed the benefits of cultural openness:

"Mandating the use of diacritical marks on certain state and local vital records without a corresponding requirement for all state and federal government records is a difficult and expensive proposition. This bill would create inconsistencies in vital records and require significant state funds to replace or modify existing registration systems."

The committee findings make clear that the state would incur nontrivial costs to update the name registration systems.

3.7 Analysis

The use of the initiative process accords with the findings of Liu et al. [12] that direct democracy increases the chance of official-English policies in states with high immigrant populations.

4 China

4.1 Introduction

Given the People's Republic of China's (PRC) diverse population and linguistic landscape, language provides the government an important vehicle for pursu-

ing cultural policies. The PRC has distinguished mainland Chinese from the language of Taiwan via the simplification of Chinese script in the 1950s, reducing both the number and complexity of characters. Moreover, mainland Chinese is distinctive for the standardised use of Pīnyīn romanisation since 1958, vis-à-vis Taiwan, where competing systems like Wade-Giles continue to to coëxist with Pīnyīn.

The Communist government has sponsored a nationwide Mandarin standard in such bills as *Actively Promote the Beijing-based Putonghua as the Standard Pronunciation* (1955) and *Law of the National Common Language for the People's Republic of China* (2000) [8]. Government intervention that favours a standard language (Pǔtōnghuà: "common language") puts both provincial Chinese dialects (Cantonese, Shanghainese) and non-Chinese languages (Tibetan, Uyghur) at risk. Pǔtōnghuà is thus "enregistered" as an "accentless" dialect [8], while regional dialects are in danger as upwardly-mobile youth move to cities and adopt the standard variety. In 2003, Xing found that there were 22 minority languages with fewer than 10,000 speakers.

We will look at three recent naming policies in China and how they support the country's language policy. Two of them relate to inconveniences in representing names in a digital identification database. Here we see both the desire to propagate a standardised and progressive Mandarin and avoid the intrusion of global English. Likewise, a widely reported ban on "extremist" Muslim names in Xīnjiāng exemplifies the desire of China's leadership to spread a canonical Chinese culture throughout the country.

4.2 Second-Generation ID Cards

China's Public Security Bureau (PSB) instituted a digital system around 2004 to issue and track personal identification cards. The new IDs have an embedded microchip with personal and security information and were intended to improve the Bureau's population statistics and anti-forgery protection [4].

The change was not without drawbacks. The digital ID system caused administrative hassle for many Chinese citizens with uncommon names. Government computers (as of 2009) can only accommodate 32,252 Chinese characters; if someone's name includes a character outside the list, they are asked to change it [10]. A woman named Mǎ Chěng (马骋) was one victim of this policy, as reported by LaFraniere [10] for *The New York Times*. Mǎ's grandfather scoured a classical Chinese dictionary for a distinctive name and chose an obscure character, which complemented the family name, mǎ (马) "horse": chěng (騁) "gallop" (the traditional form of 马 (馬) written three times). Mǎ's previous ID card included a handwritten 騁, but the digital system would not allow this; thus the Bureau recommended she change her name for compatibility purposes.

The open-ended nature of Chinese script makes it possible to find legitimate characters that are barely comprehensible to the average reader, due to their be-

ing uncommon or archaic. Most characters consist of smaller radicals, which are themselves characters or derivatives thereof. Thus the writing system is composite and open to internal manipulation, unlike alphabetic systems. This fact can be viewed positively or negatively.

As Chinese uses comparatively few surnames, one can worry that name trends will carry parents away into the Classical Chinese abyss, away from the realm of mutual comprehension. A linguistics professor interviewed for the LaFraniere [10] article notes: “The computer cannot even recognize [some names] and people cannot read them. This has become an obstacle in communication.”

On the other, Mǎ lived satisfactorily with the name for twenty-six years. Whenever necessary, she explained her name to people. Agencies were often willing to accommodate the rare character, by handwriting it, writing in pīnyīn, searching the Unicode table, or even building the character themselves with software [13]. In the process, those whom Mǎ encounters learn more about their own writing system and its history. This give-and-take is lost when rigid administrative rules are instituted.

The government’s treatment of Ma’s name suggests an ambiguous relationship with the Classical Chinese legacy. Promoting a nationwide Pǔtōnghuà is presented in terms of the Confucian ideal of hé (和) “harmony”, under former President Hú Jǐntāo’s Harmonious Society programme [19]. Yet the CPC’s ongoing efforts to simplify and control the Chinese script favours progress over stability and seems to shuns the unifying force of the Classical past.

4.3 Zhao C

A similar situation occurred in the case of Zháo C (赵C) due to the English letter that appears in his name. The Bureau ruled that only Chinese characters may appear in names and refused to issue a second-generation card to Zháo. Since Zháo’s father is a lawyer, they appealed the decision, arguing that ’C’ appears in Pīnyīn romanisations and in tradenames of Chinese institutions like CCTV, the Chinese national broadcasting service. Apparently the judge was unconvinced, as Zháo volunatarily agreed to change his name, asking the public for suggestions. [14]

Although the letter ’C’ is easily represented on Chinese computers the restriction on English letters intends to protect the Chinese linguistic framework from Western encroachment. In this way, China’s approach is more typical of small countries protecting their national language, as we see in the case of Iceland and Lithuania. As Zháo pointed out, infiltration of English into Chinese society (CCTV, for instance) has occurred, despite the simultaneous spread of Pǔtōnghuà as a hegemonic dialect in China. China’s (and Lithuania’s) specific ban on foreign influence in names, contrasted with the relative lenience on matters like signs and business names (“taxi”, “TV”) suggests that names are considered very close to “the language itself”.

4.4 Xinjiang Ban on Islamic Names

Xīnjiāng's administrative boundaries and classification as Uyghur territory belie its ethnic diversity and historically contested identity. Its present form can be traced to the Qing dynasty when the name Xīnjiāng (literally "new territory" was bestowed in 1884. The official name, Xīnjiāng Uyghur Autonomous Region, groups together disparate ethnic groups, including Uyghurs, Kazakhs, Kyrgyz, Tatars, and Uzbeks under a single name [**ang16**]. The PRC encouraged Hàn to migrate to the province, changing the region's demographics over time from 95 percent Turkic-Muslim in 1949 to approximately 45 percent as of 2016. Hàn centred around the capital Ürümqi and control an outsized portion of the region's economic development. As Chinese is the preferred language of education and administration, and people who join the Communist Party are required to renounce religion. Sinicization is the clear path to upward mobility for a Xīnjiāng native.

4.5 Analysis

In both Lithuania and China, personal names are subject to more scrutiny than is language in general. Borrowed words like "taxi" or "TV" are accepted in a commercial context but not when used in a name. Speakers see names as exemplifying the social content and meaning of a language variety, and thus in need of stronger protection against foreign influence. Protection of a threatened national language is typical in the case of a small nation like Lithuania (cf. Iceland).

However, China's naming policies encompass a double thrust, attempting to counteract the ever-looming threats from English, but at the same time, as the world's largest country and language, attempting to produce its own hegemonic environment as a unifying language for China's many ethnic identities. In a sense, Chinese must fight a two-front war against both the past (conservative veneration of Classical Chinese) and the future (global English), seeking a balance between the two approaches.

5 Latvia

5.1 Introduction

After the fall of the USSR, the new republics moved quickly to legitimate their national languages and put them to use in all areas of public life. As young nation-states, it was considered imperative to assert a self-sufficient linguistic identity after years under the influence of Russian. Moveover, the threat of

Global English was salient, with the US standing as the world's sole superpower after the Cold War.

Latvia's constitution establishes Latvian as the official language. A 1999 law and associated regulations apply the law to names, requiring that non-Latvian names be transcribed to conform with Latvian spelling and grammar on official documents. This policy was challenged under international human rights law on two occasions: in the European Court of Human Rights in *Mentzen v. Latvia* [**mentzen01**] and under the International Covenant of Civil and Political Rights in *Raihman v. Latvia* [**raihman07**]. Although the two tribunals reached different verdicts, the reasoning employed by the parties and the courts reveals insight into the role of names in the language and as a tool for linguistic policy. The Latvian cases indicate that the official ideology in Latvia embraces a conservative and literary variety of the language as a national heritage, and moreover, that the promotion of an official state language is widely regarded as a legitimate function of the modern state.

5.2 History and Soviet Rule

5.3 Language Law in Latvia

The Latvian constitution of 1991, Chapter I, paragraph 4 states that "the Latvian language is the official language of the Republic of Latvia". This clause is implemented more specifically by the Official Language Law of 1999. The language law contains numerous provisions that outline the use of Latvian in all areas of modern life. With respect to personal names, section 19 says that "names of persons shall be presented in accordance with the traditions of the Latvian language and written in accordance with the existing norms of the literary language". This means that the authorities will Latvianise foreign names when included on official documentations. Latvianisation includes two processes, the addition of appropriate case endings (which depend on gender) and the phonetic transcribing of names into the Latvian script.

We should note that the Latvian process of transcribing even names originally written in the Latin alphabet differs from the literal reproduction used by most countries in this situation []. To this end, regulation 16, 2002 on "the transcription and use of names of foreign origin in the Latvian language" sets out in impressive detail how names should be transcribed, including sections for each common foreign language in Latvia with specific examples. For instance, to convert the name "John Wright" into Latvian will produce "Džons Raits", which retains the same phonetic value as the English original and adds the obligatory masculine nominative suffix -s. Because of Latvian declension rules, males and females with the same surname will have different endings attached. According to the regulation, President Hoover would be known as "Hūvers", while his First Lady would go by "Hūvere". In the case of transcribed names, regulation

295, 2000 provides that the original form of the name may appear on the passport with a certified stamp, if the person desires. The document states that "the form of the surname written in Latvian shall be legally identical to the original form of the surname, the historical form, or the form transliterated into Latin characters".

5.4 *Mentzen v. Latvia*

Juta Mentzen, a Latvian woman, married her husband in Bonn in 1998 and took his surname Mentzen. In 1999, she requested a new passport from the Latvian Interior Ministry, specifically asking that her married name be transcribed literally. The request was ignored, however, and she received a passport with the surname listed as "Mencena", reflecting the Latvian use of 'c' to denote [ts] and the -a feminine nominative suffix. Pursuant to the regulations, the original form was certified as Mentzen on a separate page of the passport. Mentzen found little success appealing within the Latvian court system for relief, although the Constitutional Court ruling against her did specify that the "original form" should be moved from page 14 to page 4 of the passport to be closer to the main page.

Apparently this did not satisfy Mentzen, who fild a complaint with the European Court of Human Rights, claiming that Latvia had violated her right to private and family life guaranteed by Article 8 of the European Convention on Human Rights. This article prohibits interference by authorities with this right except in accordance with the law and as necessary for promoting the legitimate interests of the state. It was admitted by all parties, including Latvia, that an article 8 interference had occurred and that such interference was lawful, being set out clearly in legislation and applying to all names equally. The legal substance of the case was to determine whether promotion of a national language by regulating names is a "legitimate" state function.

The Latvian government's defence of the law rested on the need to preserve the structural integrity of Latvian and the desirability of protecting the language after yars of Soviet rule. They state in their submission "that Latvian had only been able to survive as a result of the Latvian people's determination to carry on using and, and to the extent possible, to promote the use of their language". But official Latvian ideology does not simply call for the use of Latvian in any form, but specifically in the conservative literary form, noting that state language laws "aimed at protecting the right of others to hear and use *correct* Latvian on Latvian territory". Even the practice of transcribing foreign names, Latvia claims, is an ancient Latvian tradition, dating back to the first text published in Latvian, *Parvus catechismus catholicorum* by Saint Cainisius in 1585. They also claim that allowing literal transcription would threaten the case systems integrity and threaten to degrade the language's intelligibility: "Systematically permitting names to be entered in passport without endings would encourage

people to use the same form in conversation. Once such usage had become commonplace, it would open the door to the deformation of the language and its deterioration on a vast scale."

Mentzen countered on a number of linguistic grounds. As a living language, "Latvian could not be isolated from its environment" and "was inevitably influenced by other languages". She noted that foreign persons living in Latvia, such as her husband, tended not to have their names transcribed. Moreover, she noted that foreign words and institutional names commonly appear in Latvian media, while trademarks including foreign words or names are permitted in non-Latvianised form, even if they are sometimes placed in italics. (See discussion of trademarks in section _ below.) She claimed that she had personally experienced difficulties from having a different surname from her husband, complicating private transactions and travel abroad and that this undermined her choice to be permanently identified with her husband's family.

The Court decided in favour of the government, noting that the aim of promoting correct Latvian usage was a legitimate state function. They set out their view of an official language: "A language is not in any sense an abstract value. It cannot be divorced from the way it is actually used by its speakers. Consequently, by making a language its official language, the State undertakes in principle to guarantee its citizens the right to use that language both to impart and to receive information…implicit in the notion of an official language is the existence of certain subjective rights for the speakers of that language."

Although the Court acknowledged an interference with Mentzen's privacy, they determined that the measure was necessary, legitimate, and adequately tempered by Latvia's willingness to place the original form of the name on the passport nearby the official Latvianised form. Thus the ruling claims that names can legitimately be used as a tool for promoting specific linguistic behaviours in public life.

5.5 *Raihman v. Latvia*

The United Nations Human Rights Committee (UNHRC) considered essential the same question as ECHR, this time under the International Covenant on Civil and Political Rights (ICCPR). The case was brought by Leonid Raihman, a Latvian national and member of the Russian-Jewish minority. Raihman used his name in the original form from the time of his birth in the USSR until 1998, when Latvian officials granted him a new passport with his name Latvianised as Leonīds Raihmans, adding the masculine nominative suffix. He achieved even less success in Latvian courts than Mentzen, as he filed the complaint after her case had already established the precedents in the Constitutional Court. He claimed that the Latvian policy interfered with his rights under Article 17 of ICCPR, which states that "no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence" []. Latvia reit-

erated its defence from Mentzen that the policy was lawful and appropriate to the goal of protecting Latvian usage.

In their decision, the UNHRC broke with ECHR and found that the policy arbitrarily interfered with Raihman's privacy under Article 17, stating that "the Committee considers that the forceful addition of a declinable ending to a surname, which has been used in its original form for decades, and which modifies its phonic pronunciation, is an intrusive measure, which is not proportionate to the aim of protecting the official State language" [].

We should note that the two courts agree on most points of these very similar cases. They concur that states may legitimately promote an official language and that the interference in privacy presented by the Latvian policy was lawful, stemming from legislation that sets out general principles which leave little room for individual discretion on the part of administrators. Moreover, both the ECHR and UNHRC admit that Latvian's history of struggle under the Soviet régime and its strict nominal inflections are particularities that must be taken into account for ensuring the survival of Latvian.

However, ECHR determined that individuals' names were an appropriate forum for pursuing public linguistic policy, while UNHRC felt that the measure was unjustified. The UNHRC's favourable ruling may be influenced by the Committee's prior establishment of a "right to choose and change one's own name" under Article 17 of the Covenant, which they easily extended to protect names from undergoing passive changes by the State as well. Ultimately, these two cases reveal that the line between acceptable and unacceptable regulations on naming is constantly shifting and not yet clearly defined even by human rights scholars.

6 Iceland

Iceland's naming system is distinctive for its retention of patronymic (non-fixed) surnames and the government's maintenance of a Personal Names Register for child-naming. Both policies reflect Iceland's insular nationalism and pride for its conservative North Germanic language. Like Latvia, Iceland's active state promotion of language preservation occurred in a post-colonial context, as it asserted its unique heritage and emerged from the linguistic shadow of Danish rule. Controlling the spread of modern-type fixed surnames, which threatened to displace the indigenous patronymic system, was seen as a way of maintaining Icelandic identity [**willson02**]. The institution of the Personal Names Register also follows this logic and represents an effort to maintain the cultural and grammatical structure of Icelandic. However, the appropriateness of Icelandic regulations should be considered from the human rights perspective as well, especially in the wake of the UN decision in Latvia discussed above.

6.1 Icelandic Nationalism and Purism

Nationalist and Romantic tendencies gained strength in Iceland in the second half of the nineteenth century in the context of Iceland's struggle for independence from Denmark. Icelanders claimed their unique linguistic heritage as one justification for political independence. The ideology of linguistic purism went virtually unchallenged within the general populace. **kristinsson12** notes that there was harmony between "practices, beliefs, and management decisions" in language policy during Iceland's period of peak nationalism between 1860 and 1960.

A shift in focus occurred in Icelandic linguistic policy in the 1960s, when the state created the Icelandic Language Council. The postwar presence of US forces at a permanent military installation marked the end of Danish supremacy and the beginning of Anglophone cultural imperialism. **kristinsson12** interprets the creation of the Council as a reaction to the more fragile position of Icelandic, as linguistic policymakers sought to stem the tide of global cultural influence on Icelandic.

6.2 Surname Debate

Although Icelandic clearly faced an unprecedented global threat in the aftermath of World War II, we should note that this phenomenon was foreshadowed even around the turn of the century in the debate over whether to adopt modern fixed surnames, and that even during this time, linguistic purism ideology was not maintained entirely without legal intervention. One of Icelandic's salient characteristics is the patronymic system of surnames. The majority of Icelanders take as a surname their father's or mother's given name, in the genitive case and with the appropriate "-son" or "-dóttir" suffix attached, depending on gender.

Wilson notes that the preservation of this unique system was not inevitable, and policymakers and linguists at the turn of the century debated whether Iceland should adopt fixed surnames. Despite the linguistic purism of much of Iceland's population, this debate was responding to a real surge of Continental-style surnames in the nineteenth century, as persons from the upwardly mobile class pursued studies in Denmark or elsewhere in Europe and brought the practice home to Iceland. Ultimately, the spread of surnames was only prevented via legal action.

The first attempt to limit surname adoption was an 1881 bill introduced in the Alþingi instituting a tax on the adoption of such names. Thus the proposal would have required royal permission to adopt a surname, and if approved, would require the payment of five hundred; hereafter the nameholder would also be subject to an annual title tax ("nafnbótarskattur") of ten crowns per syllable in the

name [**willson02**]. This proposal was not approved, however, and the debate raged on about what should be done

To briefly summarise the debate presented in-depth by **willson02**, we can note that the two camps roughly represented the modernist and conservative perspectives. Writer Guðmundur Kamban presents an internationalist defence of surnames (he himself used a fixed surname), claiming that female Icelanders abroad will inevitably be referred to by their husband's patronymic, creating a gender mismatch, and moreover praises the extreme morphological simplification of English as a sign of linguistic development. Countering Guðmundur's forward-thinking approach, the conservative line was carried by linguist Jóhannes Jóhannsson, who touted the linguistic heritage of Icelandic and suggested that, if surnames should prove inevitable, they should be made more harmonious with the language by incorporating more authentic Icelandic elements.

A law on the topic finally passed the Alþingi in 1913, levying a moderate charge for surname adoption without any annual tax. A government report in 1915, *Íslenzk mannanöfn* (Icelandic Personal Names), carried on the work of Jóhannes in trying to develop an Icelandic adaptation of the modern surname practice, going to great lengths to justify their recommendations with sound philological argumentation. Still, the report emphasised the need for modernisation, as the writers chose not to include any surnames including the letter Þ, due to its likelihood for corruption in foreign contexts.

Apparently this report stretched the linguistic purism of Iceland's population to the breaking point. The report's suggestions were ridiculed by writers as an indication that surnames were inherently incompatible with Icelandic. The counterreaction was consummate in 1925, when the adoption of new surnames was firmly forbidden by the Alþingi. Although ultimately the patronymic system remained intact, the Icelandic surname debate casts doubt on the inevitability of maintaining Iceland's purity. Legal intervention was necessary to control the public's naming practices and prevent a structural change of the national language.

6.3 Personal Names Committee

A better-known aspect of Iceland's naming policy is the Personal Names Committee (Mannanafnanefnd). The committee of three people maintains a registry of permissible forenames that are "capable of having Icelandic genitive endings", "written in accordance with the ordinary rules of Icelandic orthography", and gender-conforming: "girls shall be given women's names and boys shall be given men's names" (Personal Names Act 1996). If a parent wishes to use a name absent from the list, they must make a request to the Committee for approval. Along with their ruling (which is explicity non-appealable under the Personal Names Act), the Committee publishes an explanation of their decision. As a typical example of their reasoning, "Huxland" was rejected in 2014 because

there was no precedent for geographical suffixes in given names (only in middle names!) and because the suffix "-land" implies a neuter noun (Kyzer).

The most famous case from the Naming Committee is that of Blær Bjarkardóttir Rúnarsdottir, whose first name was rejected by the Committee, since they classified it as a male name. Blær's mother had been mistakenly informed by a priest that the name was acceptable (AP). However, the family refused to back down and choose a new name. Thus the state applied the generic forename Stúlka ("girl") to all of Blær's official documents, including her passport. Clearly, Iceland takes enforcement of naming policies seriously. Only after arguing that the name Blær was used for a female character in a popular Icelandic novel did Reykjavík District Court allow the name to be used.

6.4 Human Rights Implications

- Iceland party to Covenant on Civil and Political Rights which recognizes right to choose one's own name
- Imposition of generic name Girl violates children's right to *a* name of several treaties, including Convention on the Rights of the Child, Article 7

7 Conclusion

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