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# **DIREITO LINGUÍSTICO (LINGUISTIC LAW) AND THE REGULATION OF LIBRAS: LINGUISTIC RIGHTS AND DUTIES IN FEDERAL LEGISLATION**

HANNA BEER  
Sign Language Interpreter\*

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## **Abstract**

This article examines how Brazilian federal law regulates Brazilian Sign Language (Libras) through the articulation of linguistic rights and duties linked to fundamental rights. Grounded in *Direito Linguístico* (Linguistic Law), it maps federal legislation enacted after the legal recognition of Libras in 2002, focusing on labour, political participation, and healthcare. The analysis shows that linguistic regulation is largely structured through accessibility norms and sector-specific legal instruments, alongside language-specific policy. While this framework establishes binding obligations, persistent failures derive not from normative insufficiency, but from institutional practices and prevailing conceptions of language and deafness that remain misaligned with Deaf communities' claims to linguistic agency and self-determination.

**Keywords:** Linguistic Law; Brazilian Sign Language (Libras); linguistic rights and duties; linguistic regulation; Deaf rights.

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## [A] INTRODUCTION

Access to rights is inseparable from access to language. Legal systems are constituted, interpreted, and applied through language, yet language itself has rarely been treated as an autonomous object of legal regulation within mainstream legal analysis. For linguistic communities outside the state's dominant language(s), the effective exercise of fundamental rights on how languages—and legally regulated practices of translation, interpretation, and communicational access—are structured through binding norms and implemented by public and private institutions

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Over recent decades, the legal recognition of sign languages has expanded across multiple jurisdictions (De Meulder & Ors 2019b; World Federation of the Deaf 2026). In Brazil, the recognition of Brazilian Sign Language (Libras) emerged from political mobilization by Deaf communities from the 1980s onwards (Brito 2013; Quadros & Stumpf 2019), culminating in the enactment of Law No 10.436/2002 (*Lei de Libras*, Libras Law) and its regulation by Decree No 5.626/2005. These instruments established the explicit legal recognition of Libras<sup>1</sup> and form the core of Brazilian federal sign language policy.

Comparative research shows that this configuration is not unique to Brazil. Deaf people are frequently positioned in law through a dual categorization: simultaneously as members of a linguistic minority and as persons with disabilities (De Meulder 2017; De Meulder & Ors 2019a). Within such frameworks, sign language recognition operates too through implicit forms of legal regulation, embedded in disability, accessibility, or equality law, rather than through language-status or language-rights legislation (De Meulder 2015).

While Libras benefits from explicit legal recognition through language-specific legislation, the dual categorization of deaf people as both a linguistic minority and a disability group also enables sign language to be regulated indirectly through statutory and regulatory frameworks whose primary object is not language. As a result, legal duties concerning Libras can be articulated through accessibility, equality, or other sector-specific norms. In Brazil, this produces a dispersed regulatory landscape in which obligations relating to accessible communication and information emerge across federal legislation governing constitutionally protected domains such as labour and employment, political participation, and healthcare—areas in which the effective exercise of rights presupposes communicative interaction between individuals and public or private authorities.

Against this background, this article examines how Libras is regulated within Brazilian federal law by mapping dispersed statutory and regulatory provisions of linguistic rights and duties. Informed by the perspective of *Direito Linguístico* (Linguistic Law), the study adopts a legal-mapping approach based on the systematic examination of Brazilian federal legislation, analysing normative acts in force to reconstruct how legal norms—whether explicitly linguistic or not—render linguistic obligations

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<sup>1</sup> Following De Meulder (2015), *explicit legal recognition* refers to the formal recognition of a sign language as a language in its own right through dedicated legal instruments that name and define the language as such. This contrasts with implicit legal recognition, whereby sign languages acquire legal relevance indirectly through provisions on disability, equality, or non-discrimination, without being recognized as languages of institutional operation.

legally operative (Turi 1986; 1990; Abreu 2016; 2019; 2020; Sigales-Gonçalves 2019; 2020).

The aim is to clarify the normative architecture through which linguistic rights and duties may arise across federal law, rendering visible obligations that are often beyond language-, disability-, or equality-specific legislation. The contribution lies in making these normative connections intelligible, thereby enabling a more precise understanding of the legal bases upon which such duties may be attributed, coordinated, and invoked in institutional contexts. Moreover, bringing light to the fact that the conditions under which existing norms are read, aligned, and operationalized, may also shape the effectiveness of linguistic rights and duties as claimed and experienced by Deaf people in constitutionally protected domains.

The article is structured as follows. Section [B] outlines *Direito Linguístico* as a legal field and linguistic duties as objects of legal regulation. Section [C] examines the legal recognition of Libras and its principal implications. Section [D] presents the legal-mapping methodology. Section [E] discusses the results in dialogue with existing scholarship. The final section addresses concluding considerations, limitations, and directions for future research.

## [B] *DIREITO LINGUÍSTICO AS A LEGAL FIELD*

### Conceptual foundations

*Direito Linguístico (droit linguistique)* offers a legal-analytical framework for examining how languages are regulated through legal norms. Its conceptual foundations were developed by Joseph-Giuseppe Turi, who advanced language as a distinct object of regulation within positive law. Writing in the Quebec context in the mid-1980s, Turi observed that although legal systems necessarily operate through language, linguistic regulation tends to appear in a fragmented and often implicit manner, rather than as a clearly articulated legal domain (Turi 1986; 1990).

In Turi's framework, *droit linguistique* operates in both an objective and a subjective sense. Objectively (*entendu objectivement*), it refers to the body of legal norms governing the status and use of one or more languages within a given political and institutional context (Turi 1990: 641). Subjectively (*entendu subjectivement*), it encompasses individual and collective linguistic entitlements, including the distinction between the right to *une* (a) language—the right to use designated languages

in official or institutional domains—and the right to *la* (the) language, understood as the broader freedom to use any language, particularly outside such domains (Turi 1990: 641-642). These distinctions are linked to the principles of territoriality and personality, and reflect the tendency of language law to regulate language primarily as a medium of communication (*langue-médium*), rather than as expressive content (*langue-message*) (Turi 1990: 644).

A central feature of this account is the dual position of language within the legal system: language functions simultaneously as the medium through which legal norms are formulated and as an object of legal regulation. This duality underscores the structural complexity of linguistic regulation, insofar as law operates through the very medium it may also seek to regulate (Turi 1986: 465).

Turi (1990) further emphasizes that linguistic regulation acquires legal relevance only insofar as it produces concrete normative effects within the legal order. Linguistic rights attain juridical significance when they are embedded in enforceable legal norms capable of structuring conduct, allocating competences, or generating obligations and constraints within institutional settings. Where linguistic recognition remains merely declaratory or programmatic, it tends to lack legal robustness and practical effect.

## Field construction and theoretical development

Drawing on international theoretical foundations and responding to the specific features of the Brazilian legal system and its sociolinguistic complexity, Brazilian scholarship has progressively articulated *Direito Linguístico* as a field within legal studies. A foundational contribution in this regard is offered by Ricardo Abreu (2016), who situates *Direito Linguístico* within legal theory. Abreu defines it as the field concerned with legal norms that regulate language use and the rights of individuals and groups to use languages (Abreu 2016; 2020).

Crucially, Abreu emphasizes that *Direito Linguístico* cannot be reduced to the mere recognition or enumeration of linguistic rights. Rather, it encompasses the broader normative architecture through which language is legally governed, including constitutional principles such as human dignity, equality, and non-discrimination, as well as the institutional and interpretive mechanisms that condition the application and effectiveness of linguistic norms (Abreu 2016; 2019; 2020).

Building on this field-consolidating framework, Jael Sigales-Gonçalves (2020) advances an analytical shift from the formal recognition of linguistic norms to their material operation within legal and institutional practice. In her work, *Direito Linguístico* is concerned not only with what the law declares about language, but with how linguistic regulation is produced, distributed, and operationalized through legal and administrative arrangements (Sigales-Gonçalves 2020).

This approach is illustrated in her analysis of institutional regulation affecting forced migrants' access to public higher education in Brazil. Although linguistic diversity is formally acknowledged, access and permanence are conditioned on proficiency in Portuguese, which functions as an implicit institutional requirement (Sigales-Gonçalves 2018; 2020). Linguistic regulation thus operates indirectly, through administrative practices that naturalize language requirements while obscuring their normative and political character (Sigales-Gonçalves 2018).

Similarly, Sigales-Gonçalves and Monica Zoppi-Fontana (2021) show that linguistic regulation may operate through legally constituted conditions of eligibility rather than through explicit language-rights provisions. Analysing Brazilian migration law and jurisprudence on naturalization, they demonstrate that the requirement to “communicate in Portuguese” functions as a legally operative criterion for access to citizenship, establishing language proficiency as a normative threshold for institutional membership. Language thus operates as a juridical condition for the exercise of rights, enforced through statutory interpretation and judicial reasoning.

From this perspective, linguistic rights cannot be analysed in isolation within *Direito Linguístico*. Linguistic regulation takes shape through the interaction between rights and legally imposed duties, in which language operates as a normative condition structuring access to institutions and participation in legally protected domains. This shift in focus brings into view not only who is the subject of linguistic rights, but which actors bear obligations, and through which legal mechanisms these obligations are produced and enforced.

## Linguistic duties as objects of legal regulation

Sigales-Gonçalves (2018; 2020) contributes to *Direito Linguístico* by shifting the analytical focus from the declaratory recognition of linguistic rights to the legal duties through which language is regulated in practice. Rather than treating language primarily as an object of rights attribution, she shows that its legal relevance often emerges through conditions and

requirements that structure access to legally regulated domains, even where language is not framed as a protected legal interest.

This perspective is articulated through a distinction between explicit and implicit linguistic duties, developed primarily in the context of migration law (Sigales-Gonçalves 2020). Migration regimes offer a particularly clear analytical site, as access to residence, documentation, or naturalization is routinely conditioned on language-related requirements.

Explicit linguistic duties arise where legal norms directly prescribe language-related obligations, such as statutory requirements to demonstrate proficiency in the official language or provisions designating the language of administrative and judicial procedures. In these cases, language operates as an identifiable legal criterion, generating defined obligations and, in some instances, enforceable legal positions.

Implicit linguistic duties, by contrast, arise where language is not expressly regulated but nonetheless becomes legally relevant for the exercise of recognized rights. Here, legal norms governing access to procedures or public services presuppose linguistic competence, effectively transforming language into an unstated condition of participation. Linguistic regulation thus operates not only through express mandates, but also through the legal structuring of access, shaping who may exercise rights directly and under what conditions institutional participation becomes possible (Sigales-Gonçalves 2020).

From this perspective, linguistic rights and linguistic duties operate as legal mechanisms through which language is regulated in practice. Legal systems may formally recognize access as a right while simultaneously conditioning its exercise on compliance with explicit or implicit language-related requirements (Sigales-Gonçalves 2020). Linguistic regulation thus shapes legal subjectivity by determining who may access rights directly, who must rely on mediation, and under what conditions institutional participation becomes legally possible. This perspective makes it possible to identify legally operative language obligations even where they are treated as procedural, technical, or discretionary, thereby clarifying the normative bases upon which institutional responsibilities may be assessed.

Although this body of scholarship does not take sign languages as its primary object of analysis, it provides a coherent analytical framework for examining their legal regulation. The following section therefore reconstructs the normative background through which the regulation of Libras has been incorporated into the Brazilian legal system.

## [C] THE LEGAL RECOGNITION OF LIBRAS

The legal recognition of Libras in Brazil resulted from political mobilization by Deaf organizations and their allies (Quadros & Stumpf 2019). As documented by Fabio Brito (2013), from the late 1980s onward Deaf movements challenged dominant educational and medical framings of sign language, contesting its treatment as a merely communicative resource detached from Deaf culture. Instead, they advanced claims grounded in the linguistic legitimacy of sign languages and in their recognition as central to Deaf cultural identity and collective life.

This mobilization culminated in the enactment of the *Lei de Libras*, which formally recognizes Libras as a *meio legal de comunicação e expressão* (legal means of communication and expression) used by Deaf communities in Brazil. The statute represents the first instance of explicit legal recognition of a sign language (De Meulder 2015) within Brazilian federal law.

Following the enactment of Law No 10.436/2002, the recognition of Libras was substantively developed through Decree No 5.626 of 22 December 2005, which implements the *Lei de Libras* by specifying concrete legal obligations. Together, the statute and the decree function as language-specific policy instruments regulating the use and promotion of Libras as the language of Deaf communities. The decree specifies obligations concerning the teaching of Libras, the training of professionals, the regulation of translators and interpreters, and the provision of interpreting services—most notably in education and public services (Quadros & Stumpf 2019).

At the same time, the legal status conferred on Libras through this framework remains institutionally circumscribed. Law No 10.436/2002 recognizes Libras as a *meio legal* (legal means), rather than as an official or national language. As Angela Baalbaki and Isabel Rodrigues (2011) observe, this formulation establishes an intermediate legal category: it authorizes the use of Libras in legally relevant interactions while excluding it from the constitutional framework governing state languages and core institutional functions. As Abreu (2019) demonstrates, it neither presumes institutional use nor entails a reorganization of administrative or judicial language practices, rendering the practical operation of Libras dependent on subsequent regulation and sector-specific norms.

As Brito (2013) documents, this limited institutionalization is not accidental. The *Lei de Libras* emerged from political negotiations in which demands for linguistic legitimacy and cultural recognition advanced

by Deaf movements were partially accommodated, while medical, rehabilitative, and assistential views of deafness continued to shape societal attitudes and policy-making processes. The resulting statute thus combines symbolic recognition with limited institutionalization.

This outcome is not unique to the Brazilian case. The resulting hybrid legal configuration exemplifies the broader dual categorization through which Deaf people have been positioned in law, simultaneously as a linguistic minority and as persons with disabilities (De Meulder 2017; De Meulder & Ors 2019a). The tension between recognition and legal effect that follows from this duality provides a key lens for analysing how Libras is regulated across different legal domains.

Within this context, as Sigales-Gonçalves (2020) observes, linguistic regulation rarely operates through a single, comprehensive legislative framework. Instead, it is typically produced through the interaction of norms distributed across distinct areas of law. In Brazil, linguistic rights and duties relating to Libras may also emerge from a fragmented set of statutory and regulatory provisions dispersed throughout federal legislation.

This dispersion makes it insufficient to analyse the legal regulation of Libras by reference to a language-specific regulatory framework. The following section therefore outlines the methodological approach adopted to reconstruct the relevant normative architecture and to identify the concrete legal bases through which linguistic rights and duties concerning Libras are constituted and may be attributed across constitutionally protected domains, such as labour and employment, political participation, and healthcare.

Across the domains examined below, a recurring tension emerges between the treatment of Libras as a means of mediated access—activated primarily through interpretation—and its recognition as a language of direct institutional operation, capable of structuring linguistic practices within public and private institutions.

## [D] METHODOLOGY

This study adopts a qualitative approach grounded in a plural conception of methodology in the social sciences, understood as the articulation of theoretical perspectives and analytical procedures for the systematic interpretation of social reality (Minayo 2008). Methodologically, it follows a descriptive documentary design (Gil 2010), appropriate to the examination of legal norms as social and institutional artefacts.

In this framework, descriptive documentary research aims to characterize a phenomenon on the basis of primary documentary sources that have not been subjected to prior systematic analysis. The phenomenon examined here is the federal legal regulation of linguistic rights and duties related to Libras. The empirical corpus consists of official federal infra-constitutional normative acts—primarily statutes and decrees—selected for their relevance to communicative and linguistic obligations. Consistent with Maria Oliveira (2007), documentary research is understood as the systematic examination of documents not produced for scientific purposes and is employed as the central analytical instrument of the study.

The analysis builds on a broader legal mapping of Brazilian federal legislation developed in previous research (Beer 2024). The present article constitutes an analytical subset of that mapping, concentrating on norms situated in three constitutionally protected domains in which communicative conditions are integral to the exercise of rights: labour and employment; political participation; and healthcare.

## Corpus construction

The corpus comprises federal infraconstitutional legislative instruments—laws and decrees—currently in force and enacted after April 2002, when Law No 10.436/2002 formally recognized Libras. This temporal delimitation reflects the understanding that the *Lei de Libras* constitutes a legal and political turning point, inaugurating a new phase in the federal regulation of language in relation to Deaf communities in Brazil.

Corpus construction and refinement were conducted in successive stages to ensure analytical relevance and informational reliability. All documents were retrieved exclusively from the *Portal da Legislação Federal Brasileira* (Brazilian Federal Legislation Portal), an official repository maintained by the Brazilian Government. As the corpus consists solely of authenticated statutory and regulatory texts, it presents a high degree of institutional reliability and ensures the authenticity and replicability of the search procedure (Cellard 2008).

The documentary search employed the following Portuguese keywords in order to capture variations in legal terminology:

- i) “*Libras*” returned 49 documents;
- ii) “*língua de sinais*” (sign language) returned 4 documents;
- iii) “*linguagem de sinais*” (sign communication/sign-based communication) returned 12 documents;

- iv) “*tradutor e intérprete*” (translator and interpreter) returned 19 documents;
- v) “*intérprete de Libras*” (Libras interpreter) returned 5 documents;
- vi) “*formatos acessíveis*” (accessible formats) returned 17 documents;
- vii) “*acessibilidade*” (accessibility) returned 247 documents.

These terms were selected to capture both explicit and implicit regulation of Libras. The initial search yielded 353 documents. For each document, basic metadata were recorded, including document type, number, date of enactment, official summary, and URL.

## Screening and refinement

Corpus refinement was carried out in successive stages to ensure analytical relevance and consistency with the objectives of the study. Following criteria adapted from prior documentary research (Bernieri 2020), selection was guided by four cumulative parameters: (i) a chronological criterion (2002-2023), corresponding to the period following the formal legal recognition of Libras; (ii) a typological criterion, limited to federal laws and decrees; (iii) pertinence, requiring that the meanings associated with search terms correspond to the analytical focus on language, communication, translation, and interpretation; and (iv) relevance, retaining only documents meaningfully connected to the regulation or exercise of fundamental rights.

In the first stage, *pré-leitura* (preliminary screening; Cervo & Bervian 2002) was used to assess semantic pertinence. Documents were excluded where search terms were employed with unrelated meanings (eg *libras* as a unit of measurement), where accessibility was addressed exclusively in architectural or physical terms, or where the content did not concern linguistic or communicational regulation. Revoked norms, temporary budgetary instruments, and provisions relating solely to concluded events were also excluded. Normative acts retrieved through multiple search terms were counted only once to avoid duplication. After this stage, 94 documents remained.

The second stage consisted of *leitura seletiva* (selective reading; Cervo & Bervian 2002), aimed at assessing substantive relevance. Documents were retained only where their provisions could be analytically linked to the regulation or institutional implementation of constitutionally protected rights, specifically work, political participation and health. Following this refinement, the final corpus comprised four federal legislative instruments. Table 1 presents the corpus analysed in this study.

Year	Search terms	Legislative instrument	Domain(s)
2005	Libras; tradutor e intérprete; Intérprete de Libras, acessibilidade	<i>Decreto n° 5626 de 22 de dezembro de 2005</i> (Decree No 5,626 of 22 December 2005—Regulation of <i>Lei de Libras</i> )	Health
2009	Libras	<i>Lei n° 12034 de 29 de setembro de 2009</i> (Law No 12,034 of 29 September 2009—Amendment to the Electoral Law)	Political participation
2015	Libras; Tradutor e intérprete; formatos acessíveis; acessibilidade	<i>Lei n° 13.146 de 06 de julho de 2015</i> (Law No 13,146 of 6 July 2015—Brazilian Inclusion Act)	Work, political participation, health
2018	Acessibilidade	<i>Decreto n° 9.405 de 11 de junho de 2018</i> (Decree No 9,405 of 11 June 2018—Regulation of accessibility obligations in labour policy)	Work

*Table 1: Federal laws and decrees composing the final corpus analysed in this study (selection criteria adapted from Beer 2024).*

## Analytical categories

The analysis of the final corpus focused on identifying linguistic rights and linguistic duties regarding translation and interpretation related to Libras, whether explicitly provided for in legal texts or implicitly derived. The analysis also examined how legal provisions conceptualize the role of Libras within institutional interaction, distinguishing between interpreter-mediated access and the direct use and dissemination of sign language in public and private services and institutions.

Analytical criteria were drawn from Sigales-Gonçalves (2020) and applied to each document. These include: (i) the sources and institutionalization of regulation; (ii) the explicit or implicit articulation of rights and duties; (iii) the nature of linguistic duties (positive or negative); (iv) the configuration of the legal relationship (subject- or object-centred); (v) the identification of right-holders and duty-bearers; and (vi) the nature of linguistic rights as legally enforceable entitlements.

## [E] LINGUISTIC RIGHTS AND DUTIES RELATED TO LIBRAS IN BRAZILIAN FEDERAL LEGISLATION

This section presents selected results and discussion arising from the legal mapping of Brazilian federal legislation regulating Libras, conducted in accordance with the methodology outlined in Section [D].

## Accessibility

A central feature of the Brazilian regulatory framework is that obligations concerning Libras have been articulated predominantly through accessibility norms, rather than through stand-alone language-policy instruments (Beer 2024). This configuration is anchored in the Lei Brasileira de Inclusão da Pessoa com Deficiência (Brazilian Inclusion Act, Law No 13.146/2015) which establishes accessibility as a transversal and legally enforceable regulatory category across the federal legal order.

Article 3(II) of the Act defines accessibility as:

possibilidade e condição de alcance para utilização, com segurança e autonomia, de espaços, serviços, ... informação e comunicação, inclusive seus sistemas e tecnologias [the possibility and condition of safe and autonomous access to spaces, services, ... information, and communication, including their systems and technologies].

Article 3(V) further defines communication as encompassing “languages, including Brazilian Sign Language (Libras)”, alongside other communicative modalities.

Enacted to internalize the United Nations Convention on the Rights of Persons with Disabilities (CRPD), these provisions in the Act normatively integrate Libras into the legal architecture of accessibility as a protected form of communication.

This structure mirrors the international framework of the CRPD, whose Article 2 similarly defines communication as including languages and sign languages. Once incorporated into domestic law, this definition enables accessibility provisions to operate as binding sources of linguistic regulation whenever legal obligations concern access to information, services, procedures, or institutional interaction.

Within this framework, linguistic regulation does not rely solely on language-specific policy. It also arises through legally binding rights and duties to ensure accessible communication.

## The right to work

The right to work is recognized in Brazil as a fundamental social right. Article 6 of the Federal Constitution of 1988 expressly includes work among social rights, while labour is further affirmed as a foundational value of the constitutional order. Work is thus protected not merely as an economic activity, but as a condition for dignity and equal participation in social life.

However, as Maurício Delgado (2007) argues, constitutional protection must be read in material terms: fundamental rights acquire juridical relevance insofar as they secure the conditions necessary for effective social participation. This interpretation is reinforced by Articles 170 and 193 of the Constitution, which ground the economic and social orders in the valorization and primacy of work.

Read together, these provisions establish the right to work as a structural constitutional principle guiding the interpretation of infra-constitutional legislation and supporting positive state obligations to address barriers that impair equal participation. In this sense, constitutional protection of work provides a normative basis for assessing whether legal and institutional arrangements effectively enable or hinder access to employment on equal terms (Delgado 2007).

Within Brazilian federal legislation, the Brazilian Inclusion Act (Law No 13.146/2015) gives concrete effect to constitutional commitments in the employment context by treating accessibility as a legal condition of the right to work. Article 34 establishes a linguistic right to “employment under *accessible and inclusive* conditions, on equal terms with others” (emphasis added). Paragraph 1 confers direct normative force on this right by imposing an explicit positive linguistic duty on all legal persons, public and private, to guarantee “accessible and inclusive work environments”.

Paragraphs 2, 4, and 5 specify the legally protected content of this right by recognizing rights to fair working conditions, equal remuneration, and accessible access to professional training, continuing education, and career advancement. Correspondingly, these provisions impose explicit positive linguistic duties on employers to ensure accessibility not only at the point of hiring, but throughout the professional trajectory, including qualification, progression, and participation in workplace life.

Articles 37 and 38 extend accessibility obligations to the point of entry into employment. Article 37 establishes the right to competitive placement in the labour market under accessible conditions and imposes corresponding explicit positive linguistic duties on employers to comply with accessibility rules, including reasonable accommodation and assistive resources. Article 38 reinforces this framework by imposing an explicit positive linguistic duty on entities responsible for recruitment and selection procedures—public or private—to observe accessibility norms.

Although these provisions do not enumerate specific linguistic measures, the requirement of communicational accessibility—defined in the Act as encompassing languages, including Libras—renders language(s) a legally

operative condition. Employers and recruiting entities are therefore subject to linguistic duties to ensure that Deaf signers can effectively access recruitment, training, and career progression processes through measures including sign language interpretation or the direct use of Libras.

Moreover, the interaction between accessibility obligations and other binding legal norms gives rise to additional implicit duties. Where communicational accessibility is ensured through interpreter-mediated interaction, compliance with statutory obligations necessarily presupposes the use of qualified professionals, in accordance with Law No 12.319/2010,<sup>2</sup> which regulates the profession of Libras translators and interpreters.

Although Articles 34, 37, and 38 do not expressly refer to Law No 12.319/2010, the effective fulfilment of accessibility obligations presupposes compliance with the professional standards governing interpretation. This illustrates a core insight of *Direito Linguístico*: linguistic duties arise not only from express legislative commands, but through the coordination of norms across distinct legal instruments, rendering language regulation operative by inter-normative interaction.

A similar logic applies to Decree No 9.405/2018, which modulates the temporal enforcement of accessibility obligations for microenterprises and small businesses without altering their substantive content. Accessibility—and by extension communicational and linguistic accessibility—is thus treated as a binding obligation whose implementation may be phased, but not displaced.

Nevertheless, the legal recognition of a right or a duty cannot be assessed solely at the level of formal normativity. Its effectiveness depends on how they are operationalized within institutional practice. This analytical focus is warranted because communicational conditions have historically structured access to work for Deaf people in Brazil: as Madalena Klein (2001) shows, linguistic exclusion has functioned as a structural mechanism sustaining occupational segregation, restricted access to professional qualification, and limited career mobility.

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<sup>2</sup> Law No 12.319/2010 regulates the profession of Libras translators, interpreters and guide interpreters in Brazil, establishing that its exercise is exclusive to duly qualified professionals (*exercício privativo*). As amended by Law No 14.704/2023, the statute defines minimum training requirements, working conditions, professional attributions, and binding ethical duties. The law therefore imposes an obligation on public and private institutions to engage qualified professionals when providing Libras translation or interpretation in order to comply with legal requirements.

Contemporary research indicates that these patterns persist under current legal frameworks. Drawing on interviews with human resources professionals in the private sector, Amanda Ponpeo (2021) documents recurrent strategies through which accessibility obligations are narrowly constructed and weakly enacted, including resistance to the provision of professional sign language interpreting at key institutional stages such as recruitment, training, and internal meetings. Employers' preference for hiring oral Deaf workers—perceived as requiring fewer organizational adjustments—facilitates formal compliance while materially limiting access to information, qualification pathways, and career advancement.

Similarly, initiatives presented as Libras training are often generic and insufficient to restructure communicational practices, functioning primarily as symbolic compliance rather than as mechanisms for transforming work environments. In this context, Libras is predominantly framed as a contingent accommodation—provided through interpretation when deemed necessary—rather than as a language capable of reorganizing workplace communication as a matter of ordinary institutional practice.

Similar dynamics are identified by Jorge and Saliba (2021), who show that Deaf workers remain disproportionately concentrated in low-qualification positions, face restricted promotion opportunities, and experience higher turnover rates. In these contexts, references to “communication difficulties” tend to operate as *ex post* justificatory narratives rather than as triggers for the activation of legally binding linguistic duties.

Research on Deaf workers in Brazilian public administration further confirms this gap between formal compliance and substantive inclusion. T G Nogueira and colleagues (2020) show that access to public employment does not ensure effective professional participation, as Deaf workers remain systematically excluded from meetings, training activities, and institutional decision-making due to the absence of communicational accessibility—what the authors characterize as false inclusion.

From a regulatory standpoint, these findings suggest a gap between legal norms and their institutional enactment. As Bernard Spolsky (2009) observes, language policy operates through the interaction of formal rules (management), (institutional) practices, and (shared) beliefs among different domains. In the employment context, linguistic rights and duties coexist with organizational belief systems that tend to frame sign language as exceptional, ancillary, or administratively burdensome.

Such belief structures may shape the operationalization of linguistic duties, leading institutions to adopt narrow or symbolic compliance strategies, rather than undertaking structural adjustments. In these cases, the difficulty lies not in the absence of legal norms, but in their limited activation in practice.

This configuration is not confined to employment relations. Comparable dynamics may also arise in other constitutionally protected domains where the exercise of rights presupposes communication. The following section therefore turns to political participation, examining how linguistic rights and duties concerning Libras are articulated—and constrained—within regulatory frameworks.

## Political participation

Political participation is constitutionally protected in Brazil as a fundamental right and a core element of democratic legitimacy. Article 1 of the Federal Constitution of 1988 establishes popular sovereignty as the foundation of the democratic state, exercised directly or through elected representatives.

Brazilian constitutional doctrine has rejected a restrictive understanding of political participation limited to the act of voting. As Bruno Chahaira (2024) argues, political participation must be understood in material terms, encompassing both the active and passive dimensions of political rights and requiring institutional conditions that allow citizens and social groups to effectively influence political processes and access positions of representation and power.

From this perspective, political participation operates as a conditioned fundamental right, whose effectiveness depends on the institutional arrangements through which it is exercised. Constitutional guarantees therefore give rise to positive state obligations to structure participatory and electoral processes in ways that mitigate structural asymmetries and promote material isonomy in political competition (Alves & Rigão 2017; Chahaira 2024). The concern is not merely with formal access to political procedures, but with the concrete conditions under which participation becomes feasible and meaningful.

Within the federal legislative framework, linguistic rights and duties related to political participation emerge not only through disability- or inclusion-oriented legislation, but also through general regulatory instruments governing electoral processes. A particularly salient example is the *Lei das Eleições* (Electoral Law).

Article 44(1) of the *Lei das Eleições*, as amended by Law No 12.034/2009, establishes an explicit positive linguistic duty by requiring free electoral television broadcasts to incorporate accessible communicational resources, including Libras or subtitles. This obligation is imposed on political parties and entities responsible for electoral propaganda and entails the active provision of accessible audiovisual translation—such as on-screen sign language interpretation—rather than a mere prohibition of discriminatory practices. Correlatively, the provision gives rise to a subjective linguistic right, enabling Deaf citizens to claim access to electoral information in Libras.

Notably, this linguistic obligation is embedded in a statute whose primary regulatory purpose is the organization of electoral competition and political communication, rather than the promotion of disability or inclusion policies. Its placement within Electoral Law illustrates a core insight of *Direito Linguístico*: linguistic regulation does not operate exclusively through language-specific statutes, but is frequently produced through the incorporation of language-related duties into general legal regimes that structure access to rights and institutional participation. In this sense, binding linguistic obligations may emerge incidentally, as a functional requirement for the effective exercise of constitutionally protected rights.

From this perspective, the implementation of Article 44 entails not only an explicit positive duty of provision—namely, the inclusion of communicational resources—but also implicit linguistic duties of effectiveness. Although the statute mandates the presence of accessibility resources, its proper fulfilment presupposes that such resources are capable of enabling meaningful participation. This requirement of effectiveness necessarily conditions how the duty is operationalized. In practice, it obliges political parties and audiovisual producers to engage qualified Libras translators and interpreters, whether Deaf or hearing, in accordance with the professional standards established by Law No 12.319/2010. Linguistic regulation thus also becomes operative through the coordination of electoral norms and professional regulation, rather than through express cross-reference.

This distinction between formal provision and effective access is not merely theoretical. Research indicates that the mere presence of an on-screen sign language inset does not, in itself, guarantee meaningful access to political information (Nascimento 2017). Accessibility measures are frequently implemented as compliance-oriented visual add-ons, with limited attention to translation quality, timing, framing, or communicative

adequacy. In such cases, broadcasts may formally satisfy statutory requirements while failing to secure intelligibility for Deaf viewers, thereby undermining the substantive purpose of the legal obligation.

As Jonas Angelim and Vinícius Nascimento (2022) observe, when compliance is reduced to the symbolic inclusion of a *janela de Libras* (sign language “window”), political communication is often designed without a Deaf addressee in mind. Language, in these contexts, remains formally present but substantively ineffective. This confirms that compliance with Article 44 cannot be assessed solely by reference to the existence of an accessibility feature, but must be evaluated in light of its capacity to enable informed, effective, and equal participation in democratic processes. Here, the recurrent reduction of Libras to an on-screen accessibility feature illustrates a broader tendency to treat sign language as an auxiliary resource for information delivery, rather than as a language of political communication addressed to Deaf citizens as full participants in the democratic process.

Having examined the articulation of linguistic duties within Electoral Law, it is necessary to situate these obligations within the broader legal framework governing political participation.

In this regard, the Brazilian Inclusion Act (Law No 13.146/2015) frames political participation as a binding obligation of the state, rather than as a discretionary policy choice. Article 76 guarantees persons with disabilities the full enjoyment of political rights on an equal basis, while Article 76(1)(I) specifies that voting procedures, materials, and equipment must be appropriate, accessible, and easy to understand and use. These provisions provide explicit, positive linguistic duties, oriented toward the effective exercise of political rights.

Responsibility for the fulfilment of these duties lies with the public authorities entrusted with the organization and administration of elections, notably the *Tribunal Superior Eleitoral* (Superior Electoral Court, TSE) and the *Tribunais Regionais Eleitorais* (Regional Electoral Courts, TREs).<sup>3</sup> Their obligations extend beyond the formal availability of voting rights to the concrete design of electoral procedures, information flows, and interactional conditions through which political participation is exercised.

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<sup>3</sup> The *Tribunal Superior Eleitoral* (TSE) constitutes the apex body of the Brazilian electoral justice system, with competence to regulate, supervise, and adjudicate electoral processes, including the issuance of binding normative acts. The *Tribunais Regionais Eleitorais* (TREs) exercise administrative and operational responsibility for the organization, execution, and supervision of elections at the regional level, including compliance with statutory obligations.

Electoral practice, however, indicates that the implementation of these duties is also shaped by underlying institutional beliefs about language (Spolsky 2009). In legal terms, such beliefs become relevant insofar as they inform discretionary choices, enforcement priorities, and compliance strategies adopted by public authorities when implementing formally binding obligations. In some instances, Regional Electoral Courts have sought to facilitate access by relying on volunteer interpreters or individuals with limited knowledge of Libras to assist Deaf voters during elections.<sup>4</sup> While often well-intentioned, such practices reveal an understanding of sign language as an auxiliary or charitable measure, relativizing both its status as a language and the legally regulated professional standards managing its use.

Moreover, Articles 76(1)(III) and 67 of the Brazilian Inclusion Act establish explicit positive linguistic duties requiring that official pronouncements, mandatory electoral propaganda, and televised political debates incorporate accessibility resources, expressly including Libras interpreting.

Research, however, highlights persistent limitations in the operationalization of these duties. Analysing Libras–Portuguese interpreting in Brazilian political broadcasts, Wharley dos Santos and Carlos Henrique Rodrigues (2022) show that sign language interpreting services are frequently treated as an accessory visual element rather than as an integral component of political communication. Recurrent problems relating to on-screen positioning, scale, visibility, and audiovisual integration result in broadcasts that may satisfy formal statutory requirements while remaining marginal for Deaf viewers.

Taken together, these analyses indicate that the persistence of shortcomings in the realization of linguistic rights—despite the clarity of statutory obligations—does not reflect a normative deficit, but deficiencies in normative construction, institutional implementation, and enforcement. Across both labour relations and political participation, binding statutory provisions formally recognize linguistic rights and impose positive duties on public and private actors in relation to core constitutionally protected rights.

Exclusion, however, arises not from the absence of legal norms, but from the restriction of their practical reach through institutional practices that preserve formal compliance while leaving communicational structures largely unchanged. Where language is treated as auxiliary or

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<sup>4</sup> See *Tribunal Regional Eleitoral do Ceará* (2022) and *Tribunal Regional Eleitoral de São Paulo* (2022).

merely symbolic, linguistic duties are effectively neutralized, weakening the constitutional guarantee of equal participation and contributing to what has been described as a condition of low-intensity democracy, in which participation is formally affirmed but substantively constrained (Santos 2003, cited in Ribeiro & Ors 2020).

The following section extends this analysis to healthcare, examining how linguistic rights and duties concerning Libras are articulated within Brazilian federal legislation.

## The right to health

The right to health is constitutionally recognized in Brazil as a fundamental social right and a duty of the state. Articles 6 and 196 of the Federal Constitution of 1988 establish health as a universal right, to be guaranteed through social and economic policies aimed at risk reduction and at ensuring equal access to actions and services for health promotion, protection, and recovery.

Brazilian constitutional doctrine has consistently rejected a reductive understanding of the right to health as mere access to healthcare services. As Ingo Sarlet and Mariana Figueiredo (2013; 2014) argue, the right to health possesses a complex normative structure, encompassing negative and positive obligations, individual and collective dimensions, and duties of both abstention and provision. Its legal effectiveness therefore depends not only on the formal availability of services, but on the institutional, procedural, and relational conditions under which healthcare is organized and delivered.

Accordingly, state obligations extend beyond infrastructure and treatment provision to include duties to structure healthcare systems in ways that safeguard human dignity, personal autonomy, and informed consent. In this sense, healthcare is inherently relational and mediated by communication: the exercise of the right to health presupposes conditions that enable individuals to understand relevant medical information, express concerns and preferences, and participate meaningfully in decisions affecting their own bodies and health trajectories (Sarlet & Figueiredo 2014).

Within Brazilian federal law, linguistic duties concerning Libras in the healthcare context are articulated primarily through Decree No 5.626/2005, a language-specific regulatory instrument implementing the *Lei de Libras*, and are further reinforced by the Brazilian Inclusion Act (Law No 13.146/2015). Unlike accessibility norms of general application,

the Decree directly regulates the use of sign language in institutional contexts, establishing concrete linguistic obligations for public authorities and service providers.

Chapter VII of Decree No 5.626/2005 specifically governs access to health services for Deaf persons and persons with hearing impairment, imposing binding obligations on both entities of the *Sistema Único de Saúde* (Unified Health System – SUS) and private providers delivering public health services. Article 25 establishes explicit, positive linguistic duties, requiring that healthcare be provided in Libras, either through direct communication by health professionals trained in Libras or through the use of qualified sign language translation and interpretation.

The language-specific character of this regulatory framework is reinforced by Article 26 of Decree No 5.626/2005, as amended by Decree No 9.656/2018. The provision introduces *explicit linguistic duty*, requiring that a minimum proportion of institutional staff (5%) within public administration bodies and public service concessionaires be trained in Libras. This requirement reflects a regulatory choice to embed sign language within ordinary institutional functioning, treating it as a structural component of healthcare delivery rather than as an exceptional or residual accommodation.

At the same time, Article 26, section 2, authorizes the use of interpreter services and communication mediation centres as complementary mechanisms, including through remote modalities. The lawful reliance on such measures is not unconditional: it presupposes adequate organizational and technological conditions—such as appropriate equipment, connectivity, system maintenance, and monitoring—so that communicational accessibility is substantively effective rather than merely formal. In this sense, the Decree differentiates between modalities of compliance while maintaining the effectiveness of communication as the governing legal standard.

This language-specific regulatory architecture is further followed—but not replaced—by the Brazilian Inclusion Act (Law No 13.146/2015). Articles 18 to 26 frame health as a fundamental right whose realization is inseparable from dignity, autonomy, and informed decision-making, extending binding obligations to both public authorities and private healthcare providers operating within the health system. Within this framework, several provisions generate explicit, positive linguistic duties, including the obligation to ensure adequate and accessible health-related information (Article 18, section 4(VIII)), to guarantee access to health services and information through all legally recognized forms of

communication (Article 24), to provide initial and continuous training of healthcare professionals (Article 18, sections 2–3), and to remove communicational barriers within healthcare environments (Article 25). Taken together, these norms confirm that linguistic accessibility is a legally binding condition for the effective exercise of the right to health, articulated through the coordination of language-specific and accessibility-based regulation.

Despite this robust normative design, research reveals a persistent gap between legal obligations and institutional enactment. Leticia Gomes and colleagues (2017), surveying physicians working within the SUS in the Federal District, found that only one out of 101 respondents reported basic knowledge of Libras, despite widespread experience in treating Deaf patients and general acknowledgment of the relevance of sign language to medical practice. This discrepancy has direct legal consequences, as it compromises the material conditions for informed consent, undermines patient autonomy, and affects the safety and effectiveness of care, thereby weakening the substantive enjoyment of the constitutionally protected right to health.

Further studies indicate that these shortcomings are not confined to the absence of direct communication. Gomes and colleagues (2021) show that linguistic mediation in healthcare is compromised where interpreters lack domain-specific medical expertise, with direct consequences for clinical accuracy and decision-making. Earlier work by Ringo Jesus (2017) identified structural constraints affecting the expansion of remote interpreting in healthcare, including unequal access to technological resources among Deaf users and an insufficient supply of interpreters adequately trained for medical and remote contexts.

The study also documents institutional barriers, including misunderstandings among healthcare professionals regarding the interpreter's professional role, resistance to mediated interaction, and ethical tensions inherent in triadic communication (Jesus 2017). Taken together, these findings demonstrate that the mere availability of mediation mechanisms does not ensure compliance with linguistic duties in the absence of adequate institutional capacity and adherence to professional standards.

As this section has shown, the healthcare domain confirms a pattern already observed in labour and political participation: the central difficulty lies not in the absence of legal norms, but in the material effectiveness of linguistic duties. The three domains illustrate how the persistent framing of Libras as a means of communication and access—rather than as a

language of institutional operation—functions as a common denominator across distinct legal regimes, despite differences in regulatory density and sector-specific obligations.

Even within a dense, language-specific regulatory framework such as Decree No 5.626/2005, the practical reach of these duties may be constrained when decisions concerning Libras are taken without the meaningful participation of Deaf communities and when sign language and interpreting services are treated as auxiliary communicative resources rather than as constitutive conditions of equality and institutional interaction. This misalignment does not suspend the validity of legal norms, but reshapes their institutional meaning, delimiting the scope of what counts as sufficient compliance within everyday administrative and professional practice. In such circumstances, regulatory compliance may be formally preserved while the substantive conditions for effective access remain unfulfilled.

This illustrates that linguistic regulation operates not only through statutory design, but through the alignment—or misalignment—between legal duties, institutional practices, and prevailing conceptions of languages and their users.

## [F] CONCLUSION

This article has examined how Brazilian federal law regulates Libras through the articulation of linguistic rights and corresponding institutional duties across a dispersed set of constitutional, statutory, and regulatory instruments. The analysis demonstrates that accessibility, as defined in Brazilian law, constitutes a legally dense and enforceable construct that expressly incorporates communication and languages, including Libras. Increasingly articulated through accessibility provisions—including in legal regimes not primarily concerned with language or inclusion, such as electoral law—this framework operates as a direct source of concrete linguistic rights and duties, even where sign language is not explicitly named. Brazilian legislation therefore already provides normative bases through which linguistic access may be demanded, supervised, and judicially enforced.

At the same time, existing research, when contrasted with this normative framework, points to persistent obstacles to the material implementation of these duties. Across labour relations, political participation, and healthcare, the literature documents recurring shortcomings, including inadequate technical infrastructure, insufficient professional training—particularly the absence of domain-specific qualifications—and the

non-fulfilment of explicit organizational obligations, such as staff training in Libras. These failures arise irrespective of whether linguistic duties are articulated through language-specific regulation or through general accessibility norms, indicating that the difficulty lies not in the formal source or density of the norm, but in how legal obligations are operationalized within institutional routines.

Beliefs and practices are thus analytically relevant not as extra-legal explanations, but as internal mediators through which binding legal duties are operationalized and enforced within institutional contexts. Where linguistic duties are grounded in binding norms, their non-fulfilment cannot be reduced to a policy deficit or discretionary shortcoming; it constitutes a legally cognizable failure of compliance, amenable to administrative oversight, judicial scrutiny, and institutional accountability. The recurring gap between legal provision and institutional practice therefore reflects not normative absence, but the mediating role of institutional beliefs about sign languages and Deaf communities in delimiting the practical scope of compliance.

The Brazilian case therefore demonstrates that the central challenge in sign language regulation lies less in expanding formal recognition than in activating, construing, and enforcing existing legal duties. Disputes involving Libras should accordingly be approached not as matters of accommodation or policy choice, but as questions of legal obligation within already established regulatory frameworks.

This article is limited to the analysis of federal normative texts and does not assess empirical compliance, institutional impact, or subnational variation in the implementation of linguistic duties. Its contribution lies instead in reconstructing the legal architecture through which linguistic rights and duties concerning Libras are produced, coordinated, and rendered legally enforceable within Brazilian federal law.

From this perspective, the findings suggest that disputes involving Libras are often mischaracterized as resulting from normative absence or policy discretion, when in fact they arise within an already dense and articulated legal framework. What remains underexamined is how these existing duties are systematically interpreted, activated, and constrained within administrative practice, judicial reasoning, and institutional routines. Future research may therefore productively focus on the operation of these duties in concrete institutional settings, as well as on the role of Deaf communities in shaping how formally recognized rights are translated into effective conditions of participation, equality, and linguistic justice.

### **About the author**

**Hanna Beer** holds a PhD in Linguistics from the Federal University of Santa Catarina (UFSC) and a Bachelor of Laws. She is an independent researcher working at the intersection of language and law, with a particular focus on linguistic rights and translation policy. She also works as a sign language interpreter and has professional experience in consultancy and in the design and implementation of linguistic policies in public and private organizations in Brazil.

Email: [hannabeerfurtado@gmail.com](mailto:hannabeerfurtado@gmail.com).

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## Legislation, Regulations and Rules

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Law No 10.436/2002 (Lei de Libras, Libras Law) (Brazil)

Law No 12.034/2009 (Lei das Eleições) (Brazil)

Law No 13.146/2015 (Lei Brasileira de Inclusão da Pessoa com Deficiência, Inclusion Act) (Brazil)

United Nations Convention on the Rights of Persons with Disabilities 2006