

# Language Rights of Linguistic Minorities

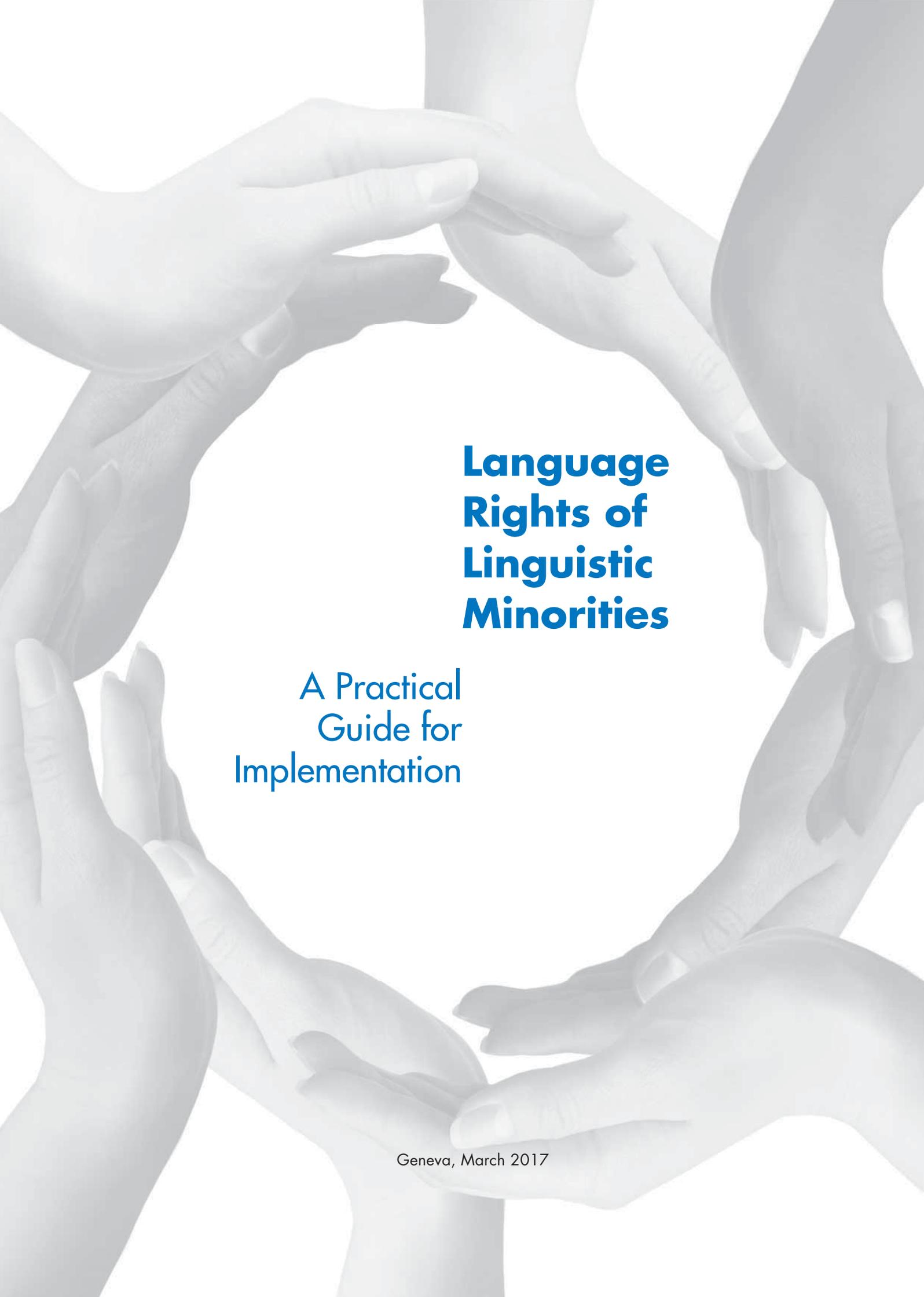
A Practical  
Guide for  
Implementation

## **Handbook by the United Nations Special Rapporteur on minority issues**

United Nations Special Rapporteur on minority issues  
c/o Office of the High Commissioner for Human Rights  
United Nations at Geneva  
814 Avenue de la Paix  
1211 Geneva 10  
Switzerland

<http://www.ohchr.org/EN/Issues/Minorities/SRMinorities/Pages/SRminorityissuesIndex.aspx>  
Email: [minorityissues@ohchr.org](mailto:minorityissues@ohchr.org)

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Geneva, March 2017

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In 2013, Rita Izsák-Ndiaye, the United Nations Special Rapporteur (the then Independent Expert) on minority issues, presented her annual report to the United Nations Human Rights Council focusing on the challenges and rights of linguistic minorities (A/HRC/22/49). In her report, the Special Rapporteur expressed concern that challenges to the enjoyment of the rights of linguistic minorities exist in all regions. They include restrictions on the opportunities available to linguistic minorities to learn and receive education for their children in minority languages, as well as limitations on the use of minority languages in public life and the media. She warned that globally, many minority languages are under threat of significant decline or disappearance due to such factors as the dominance of national and international languages, processes of assimilation, and a decline in the number of minority-language users. She identified and discussed nine areas of concern: (1) threats to the existence of minority languages and linguistic minorities; (2) recognition of minority languages and linguistic rights; (3) the use of minority languages in public life; (4) minority languages in education; (5) minority languages in the media; (6) minority languages in public administration and judicial fields; (7) minority language use in names, place names and public signs; (8) participation in economic and political life; and (9) the provision of information and services in minority languages.

The purpose of this Guide is to further assist policymakers and rights holders to understand the full scope of linguistic rights of linguistic minorities for their practical implementation. It is aimed to assist in the efforts to achieve the necessary balance between a state's official language or languages, and its obligations to use or respect the language preferences of linguistic minorities. Protection and promotion of language rights can also help to preserve the world's linguistic diversity. The Guide aims to:

- clarify the various rights of linguistic minorities relevant to language use and preferences;
- clarify the obligations of state authorities towards linguistic minorities;
- support the development and continuous improvement of effective (including cost-efficient) approaches to and practices for, these rights of linguistic minorities; and
- promote consistent approaches to the participation and inclusion of minorities in public life and the implementation of their language rights.

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<sup>1</sup> The Special Rapporteur expresses her appreciation to Fernand de Varenes for his contribution to this Guide.

## What are language rights?

'Language rights' and 'linguistic rights' are human rights that have an impact on the language preferences or use of state authorities, individuals and other entities. Language rights are usually considered broader than linguistic rights and this guide uses both terms to discuss both the necessary minimum and possible extra measures that should or can be taken to effectively implement the rights of linguistic minorities. Language is central to human nature and culture, and is one of the most important expressions of identity. Issues surrounding language are therefore particularly emotive and significant to linguistic minority communities seeking to maintain their distinct group and cultural identities, sometimes under conditions of marginalization, exclusion and discrimination.

Linguistic rights can be described as a series of obligations on state authorities to either use certain languages in a number of contexts, or not interfere with the linguistic choices and expressions of private parties. These might extend to an obligation to recognize or support the use of languages by minorities or indigenous peoples. Human rights involving language are a combination of legal requirements based on international human rights treaties and standards on how to address language or minority issues, as well as linguistic diversity within a state. Language rights are to be found in various provisions enshrined in international human rights law, such as the prohibition of discrimination, the right to freedom of expression, the right to a private life, the right to education and the right of linguistic minorities to use their own language with others in their group. They are also elaborated on in a variety of guiding documents and international standards, such as in the 1992 UN *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, UNESCO's *Three Principles of Language and Education*, the various recommendations of the *UN Forum on Minority Issues on Implementing the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, the Council of Europe's *Thematic Commentary No. 3 on the Language Rights of Persons Belonging to National Minorities under the Framework Convention*, and the Organization for Security and Co-operation in Europe (OSCE) *Oslo Recommendations Regarding the Linguistic Rights of National Minorities*. Despite some differences, all of these describe similar basic approaches for state authorities to meet their human rights obligations involving language, according to which they must:

- respect the integral place of language rights as human rights;
- recognize and promote tolerance, cultural and linguistic diversity, and mutual respect, understanding and cooperation among all segments of society;
- put in place legislation and policies that address linguistic rights and prescribe a clear framework for their implementation;
- implement their human rights obligations by generally following the proportionality principle in the use of or support for different languages by state authorities, and the principle of linguistic freedom for private parties;
- integrate the concept of *active offer* as an integral part of public services to acknowledge a state's obligation to respect and provide for language rights, so that those using minority languages do not have to specifically request such services but can easily access them when the need arises;

- put in place effective complaint mechanisms before judicial, administrative and executive bodies to address and redress linguistic rights issues.

Many international organizations have developed processes, tools and instruments to promote and clarify how to implement these language rights principles. The UN Forum on Minority Issues, UNESCO's Languages and Multilingualism Section, the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities, and the OSCE High Commissioner on National Minorities continue to provide a constructive set of platforms for the exchange of knowledge, support and expertise to enable these human rights processes, tools and instruments to be continually improved when it comes to the implementation of language rights. One important feature of all of these is the availability of reliable, disaggregated data to enable state authorities to effectively prepare, apply and evaluate their policies on implementing these rights, as well as improve their activities and efforts where needed.

The core language rights contained in these treaties, jurisprudence and guideline documents operate with four main focuses:

1. *Dignity*: Article 1 of the Universal Declaration of Human Rights declares that all human beings are born free and equal in dignity and rights. This is a fundamental principle and rule of international law, and especially important in issues surrounding the protection and promotion of minority identity.
2. *Liberty*: In private activities, language preferences are protected by basic human rights such as freedom of expression, the right to a private life, the right of minorities to use their own language or the prohibition of discrimination. Any private endeavour can be protected, whether commercial, artistic, religious or political.
3. *Equality and non-discrimination*: The prohibition of discrimination prevents states from unreasonably disadvantaging or excluding individuals through language preferences in the provision of any of their activities, services, support or privileges.
4. *Identity*: Linguistic forms of identity, whether for individuals, communities or the state itself, are fundamental for many. These too can be protected by the right to freedom of expression, the right to a private life, the right of minorities to use their own language or the prohibition of discrimination.

Linguistic rights issues: (i) should be considered in any activity that involves state authorities and language preferences; (ii) are closely associated with issues of national, collective and individual identity; (iii) have an impact on the participation and inclusion of minorities; (iv) if not properly addressed in a balanced, reasonable way, can lead to sentiments of alienation or marginalization and potentially instability or conflict; and (v) arise in extremely diverse circumstances and conditions. There is no 'one-size-fits-all' approach to implementing language rights in all the world's hugely diverse national contexts.

This Guide addresses the unique attributes of linguistic rights. It provides a framework for operating within the focuses of dignity, liberty, equality and identity on language matters, and applying and implementing the basic human rights approaches to language in such a way that a state is effectively complying with its international obligations.

### Why the implementation of linguistic rights is particularly important

The importance of language rights is straightforward: in addition to the obligation to respect human rights, there are important implications of language use that go to the core of inclusion and participation in a society with minorities.

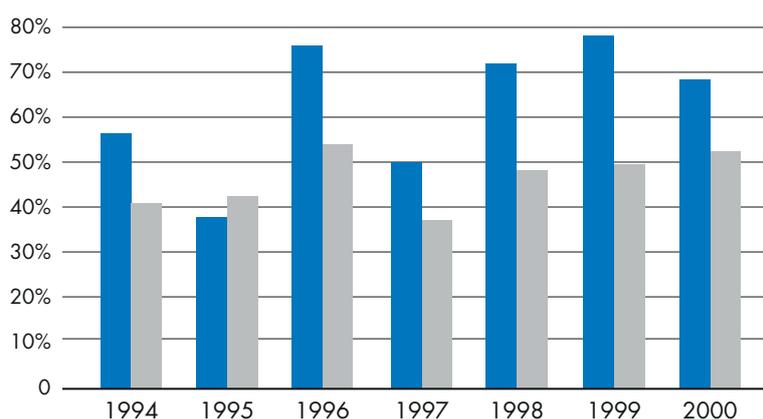
#### 1) It improves access to and the quality of education for minority children

Minority children around the world are much more likely to receive little or no formal education.

According to the World Bank: “Fifty percent of the world’s out of school children live in communities where the language of the schooling is rarely, if ever, used at home. This underscores the biggest challenge to achieving Education for All: a legacy of non-productive practices that lead to low levels of learning and high levels of dropout and repetition”.<sup>2</sup> When the mother tongue is used as the medium of instruction for at least 6–8 years, the results are impressive: enhanced self-confidence, self-esteem and classroom participation by minority children,<sup>3</sup> lower dropout rates, higher levels of academic achievement,<sup>4</sup> longer periods in school, better performance in tests and greater fluency and literacy abilities for minority (and indigenous) children in both the mother tongue and the official or dominant language.<sup>5</sup>

**In Mali, there is a 32% higher pass rate for children taught in their own language (blue) compared to those taught in the official language (French) alone.**

**Chart 1: End-of-primary Examination Pass Rates, 1994-2000**



Source: World Bank, *In Their Own Language: Education for All* (World Bank: Washington, DC, 2005).

<sup>2</sup> World Bank, *In Their Own Language, Education for All*, (World Bank: Washington, 2005).

<sup>3</sup> Alidou, H. et al., *Optimizing Learning and Education in Africa: The Language Factor, Stock-taking Review on Mother-Tongue and Bilingual Education in sub-Saharan Africa*, Association for the Development of Education in Africa (Deutsche Gesellschaft für Technische Zusammenarbeit: Paris, 2006).

<sup>4</sup> UNESCO, *Improving the Quality of Mother Tongue-based Literacy and Learning: Case Studies from Asia, Africa and South America* (UNESCO: Bangkok, 2008).

<sup>5</sup> UNESCO, *EFA Global Monitoring Report 2014: Teaching and Learning* (UNESCO: Paris, 2014).

## 2) *It promotes equality and the empowerment of minority women*

Minority women are among the most marginalized individuals in the world. They may also have had less access to schooling or opportunities to learn a majority or official language because of gender- or/and ethnic-based discrimination. Research shows that they perform particularly well when taught in their own language, thus increasing the likelihood of pursuing further studies or breaking out of the cycle of isolation and poverty.

Communication with public services in vital areas for minority women such as health care often improves with effective use of their own language. Various initiatives show that the use of minority languages to reach women is particularly effective at increasing their participation and empowerment.

### *“Viet Nam: When midwives and patients share a language, there are better results*

Research shows that one of the most important interventions for safe motherhood is to make sure that a trained health provider with midwifery skills is present at every birth. In Viet Nam, five to seven women die every day due to complications in pregnancy or childbirth. The highest numbers of deaths are in remote and mountainous ethnic minority areas, partly due to a shortage of skilled birth attendants and healthcare workers. Also, cultural barriers in those areas keep many women from using reproductive health services.

To address this issue, the government and international development partners are supporting an initiative to train local women to become village-based midwives. The new midwives’ understanding of the language, culture, and belief systems of their patients is key to gaining trust and encouraging women to receive appropriate health services. “Women are satisfied with my work,” said Te, a newly trained midwife. “They trust me for several reasons: I was born and grew up in this village. Therefore they know me...and we belong to the same ethnic minority group and speak the same language.” That trust makes it easier for Te to approach women to provide a variety of health services and has contributed to overcoming certain traditions (including forest births) that have made mothers slow to access maternal health services in the past”.

Source: UNESCO, *Why Language Matters for the Millennium Development Goals* (Bangkok: UNESCO, 2012), p.29.

## 3) *It leads to better use of resources*

The use of minority languages in public education and other areas is financially more efficient and cost-effective. Official language-only education programmes can ‘cost about 8 per cent less per year than mother-tongue schooling, but the total cost of educating a student through the six-year primary cycle is about 27 per cent more, largely because of the difference in repetition and dropout rates’.<sup>6</sup> It is also neither efficient nor cost-effective to spend money and resources on public information campaigns or public broadcasting in a language not well understood by the entire population. The use of minority languages in such cases is a better use of resources to reach all segments of society.

<sup>6</sup> World Bank (note 2).

#### 4) *It improves communication and public services*

The use of a minority language as a language for service delivery and communication also results in better and more effective delivery of public services by improving the quality of and access to health care, social services, education, employment advice, justice and other public services. Since communication is a two-way process, authorities should not seek to impose on everyone the use of a single, official language in all situations. They should reach out to those among their population who share a distinct language. Failure to engage with minorities in their own language increases their sense of exclusion, while the use of minority language reaches people more directly and increases their participation more effectively. It can also save lives, since language can be a major constraint on access to health services.

#### *“Mongolia: Minority language focus helps build human security*

Mongolia is developing rapidly but ethno-linguistic minorities remain highly disadvantaged. Recognizing this, the Mongolian Government and several United Nations agencies, including UNESCO, WHO, UNDP and UNICEF, launched a project in 2009 to bolster the long-term human security and self-sustainability of vulnerable rural and ethno-linguistic minority communities, including nomadic communities.

The importance of local languages is a key theme running through a range of initiatives to improve minorities’ access to education, health information and skills training. There is support for local language radio and television to provide key economic, health, educational and other information. Minority languages are being given increased recognition and support in child education, in non-formal adult education, and in skills training and identifying business opportunities. The project is intended to strengthen Mongolia’s current and future policy and practice in support of all the MDGs, especially MDG 7, and it is hoped that its focus on local languages will provide useful learning for policy makers”.

Source: UNESCO, *Why Language Matters for the Millennium Development Goals* (Bangkok: UNESCO, 2012), p.41.

#### 5) *It contributes to stability and conflict-prevention*

Ethnic tensions and conflicts within a state are more likely to be avoided where language rights are in place to address the causes of alienation, marginalization and exclusion. Since the use of minority languages helps to increase the level of participation by minorities, as well as their presence and visibility within a state and even their employment opportunities, this is likely to contribute positively to unity and

***“When minority rights are enshrined in constitutions, and implemented through electoral, justice and education systems before a conflict has the chance to fester, there is a chance that conflict might not occur at all.”***

Source: Baldwin, C., Chapman, C. and Gray, Z., *Minority Rights: The Key to Conflict Prevention* (Minority Rights International: London, 2007), p.2.

stability. Conversely, where the use of only one official language discriminates dramatically against minorities, violence is more likely to occur. This is one of the reasons why the OSCE developed the *Oslo Recommendations Regarding the Linguistic Rights of National Minorities* as a conflict prevention tool.

## **6) It promotes diversity**

The loss of linguistic diversity is a loss for humanity's heritage. States should not just favour one official language or a few international languages, but value and take positive steps to promote, maintain and develop, wherever possible, essential elements of identity such as minority languages. Respectfully and actively accommodating linguistic diversity is the hallmark of an inclusive society, and one of the keys to countering intolerance and racism. Embracing language rights is a clear step in promoting tolerance and intercultural dialogue, as well as building stronger foundations for continuing respect for diversity.

***“Language is the key to inclusion. Language is at the centre of human activity, self-expression and identity. Recognizing the primary importance that people place on their own language fosters the kind of true participation in development that achieves lasting results.”***

*Source: UNESCO, Why Language Matters for the Millennium Development Goals (Bangkok: UNESCO, 2012).*

### Understanding and implementing a human rights-based approach to language issues

A human rights-based approach to language can be framed as a ‘recognize-implement-improve’ method for ensuring that state authorities effectively comply with their obligations. Laws, policies and processes must recognize language rights within a human rights framework i.e., authorities must integrate these into their conduct and activities, and mechanisms must be put in place to effectively address problem areas where they exist and improve compliance.

The human rights based approach to implement language rights is important for the following reasons:

- It builds on existing instruments, mechanisms and monitoring and enforcement structures that are already in place to ensure protection and promotion of human rights internationally, regionally and nationally. To portray language rights as something exceptional, special or unusual could lead to misunderstanding, resistance or rejection. Acknowledging and highlighting their position within the human rights paradigm provides greater opportunities to respond effectively to language issues by working within the context of international human rights law, as well as domestic legislation.
- It provides human rights perspective that help elaborate and guide various language policies. Experience and knowledge from different countries can be shared, which contribute to replications of good practices among states. This helps to translate language rights as stipulated in international law and standards into practical legislation, policies and processes.
- It can help to identify and minimize language policies that do not meet international standards which could lead to the exclusion or marginalization of significant segments of a state’s population—and even conflict. A regularly practiced, systematic human rights approach to language issues helps to identify potential issues and negative impacts, while also providing the ways and means to respond to and correct them.
- There are four core areas in a human rights approach to language:

#### **Dignity**

Article 1 of the Universal Declaration of Human Rights declares that all human beings are born free and equal in dignity and rights. This is a fundamental principle of international law. The commentary on the UN Declaration on Minorities states that good governance includes legal, administrative and territorial arrangements which allow for peaceful and constructive group accommodation based on equality in dignity and rights for all, and which allows for the necessary pluralism to enable people belonging to different groups to preserve and develop their identity. Meeting the aspirations of minorities and ensuring their rights acknowledges the dignity and equality of all individuals, fosters participatory development and contributes to the lessening of tensions both within and among states.<sup>7</sup>

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<sup>7</sup> Commentary of the Working Group on Minorities to the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities, <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G05/133/85/PDF/G0513385.pdf?OpenElement>>.

## Liberty

One of the most significant areas of language rights involves the private sphere where international human rights law are in place to guarantee linguistic freedom in private matters. These include private commercial and information-related activities,<sup>8</sup> civil society and private organizations,<sup>9</sup> staging a private theatre play in a minority language, private political and participatory activities or events, private publications, and even the linguistic form of a person's own name.<sup>10</sup> The language used in all private activities, including the medium of instruction in private educational activities or for broadcasting, is included in the area of language rights. Generally speaking, freedom of expression, including to use the language of one's choice cannot be prohibited, unless this is necessary on a strictly limited number of grounds which are exceptional and circumscribed by law such as for the protection of public order, or of public health or morals, or to ban incitement to hatred. Linguistic minority groups must also be free from persecution and threat against their identity as linguistic minorities. The authorities must therefore protect them against hate crime and other forms of prohibited intolerance, including in social media.

Different circumstances may involve different set of human rights. For instance, the use of a liturgical language could give rise to freedom of religion issues. In general, the recognition of linguistic freedom as a fundamental language right in international law will be based on one of the following international legal obligations found in international human rights treaties:

- Freedom of expression, association or religion;
- The right to a private life;
- The right of individuals to use their own language with other members of their minority community;
- Prohibition of discrimination.

The right to equality without discrimination is not limited to private activities, but may also be raised where language policies or regulation affect private language choices and preferences.

Individual liberty in the private sphere, including in terms of the language used, is a basic characteristic of free, inclusive and democratic societies. Private activities in areas such as education, family life, the names of individuals or localities, private printed and electronic media, songs and cultural events, religious ceremonies and commercial or political activities by private parties, are all subject to the general linguistic freedom of the parties involved.

<sup>8</sup> Ballantyne, Davidson, McIntyre v. Canada, UN Human Rights Committee, CCPR/C/47/D/359/1989 and 385/1989/Rev.1, 31 March 1993.

<sup>9</sup> Ouranio Toxo and Others v. Greece, European Court of Human Rights, 74989/01, 20 October 2005.

<sup>10</sup> Raihman v. Latvia, UN Human Rights Committee, CCPR/C/100/D/1621/2007, 28 October 2010.

## Equality and non-discrimination

All persons are entitled to equal and effective protection against discrimination on grounds of language. This means that language preferences that unreasonably or arbitrarily disadvantage or exclude individuals are a form of prohibited discrimination. This applies to differences of treatment between any language, including official languages,<sup>11</sup> or between an official and a minority language.<sup>12</sup> In any area of state activity or service, authorities must respect and implement the right to equality and the prohibition of discrimination in language matters, including the language for the delivery of administrative services,<sup>13</sup> access to the judiciary,<sup>14</sup> the regulation of banking services by authorities,<sup>15</sup> public education,<sup>16</sup> and even citizenship acquisition.<sup>17</sup>

The general prohibition of discrimination contained in treaties such as the *International Covenant on Civil and Political Rights* and the *Convention on the Elimination of All Forms of Racial Discrimination*, as well as in guideline documents such as the *Principles of Language and Education*, and the *Recommendations of the UN Forum on Minority Issues on Implementing the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, suggest that the most efficient and effective way to address language preferences reasonably and non-arbitrarily—and therefore in a non-discriminatory fashion—is for states to broadly recognize, integrate and follow the principle of proportionality where practicable in their legislation, policies and practices.

The prohibition of discrimination on the ground of language and similar equality-based provisions lead to an obligation for the state to have in place reasonable and non-arbitrary language preferences. This does not affect a state's ability to determine its own official language(s), but entails that any language policy, preference or prohibition must conform with international human rights obligations. This human rights approach focuses on the differences in treatment between individuals, not languages. It is therefore the potential negative impacts, such as disadvantage or exclusion, on individuals rather than languages that are considered in assessing the reasonableness of any language preference in the policies, support or services provided at all levels by state authorities and actions. A basic approach to determining reasonableness is to use as a starting point the principle of proportionality, as far as is practicable given local circumstances, in all language matters related to public services.

Issues of disadvantage, exclusion and reasonableness are central to the basis for a proportional approach to the use of minority languages in a state's public services and other activities. Using a minority language results in better, more efficient and more inclusive communication and exchange of information by public authorities. Employment and economic opportunities are also increased by making a minority language a language of public service to a fair and proportionate degree, and service delivery including in critical areas such as public health reaches individuals more directly and effectively in their own language. Individuals understand better information provided to them in their own language by public media. In public education the consequences of the use of minority

<sup>11</sup> Kevin Mgwanga Gunme et al. v. Cameroon, African Commission on Human and Peoples' Rights, Communication 266/2003, 27 May 2009.

<sup>12</sup> J.G.A. Diergaardt et al. v. Namibia, UN Human Rights Committee, CCPR/C/69/D/760/1997, 25 July 2000.

<sup>13</sup> J.G.A. Diergaardt et al. v. Namibia (note 12).

<sup>14</sup> Bickel and Franz v. Italy, European Court C-275/96, 24 November 1998.

<sup>15</sup> Mgwanga Gunme et al. v. Cameroon (note 11).

<sup>16</sup> Case relating to certain aspects of the laws on the use of languages in education in Belgium v Belgium, European Court of Human Rights, 1474/62, 1677/62, 1691/62, 1769/63, 1994/63, 2126/64, 23 July 1968 (no.2).

<sup>17</sup> Costa Rican Naturalisation Case, American Court of Human Rights, OC-4/84, Advisory Opinion of 19 January 1984.

languages are even more far-reaching. Studies published by the World Bank,<sup>18</sup> UNESCO,<sup>19</sup> UNICEF,<sup>20</sup> and in different parts of the world,<sup>21</sup> confirm that the proportionate use of the language of minorities in education, combined with quality teaching of the official language:

1. Is more cost-effective in the long term.
2. Reduces dropout and repetition rates.<sup>22</sup>
3. Leads to noticeably better academic results, particularly for girls.<sup>23</sup>
4. Improves levels of literacy and fluency in both the mother tongue and the official or majority language.<sup>24</sup>
5. Leads to greater family and community involvement and support.
6. The use of minority languages in a state's administrative and other public activities thus involves fundamental issues of inclusiveness, participation, access, quality and effectiveness.

## Identity

In inclusive societies, both individual identity and national identity are important: neither excludes the other. This extends to the centrality of language as a marker of the identity of linguistic minorities as communities.

In addition to allowing an individual's own name to be used in private contexts, authorities should accept and use it in his or her language.<sup>25</sup> A non-discriminatory, inclusive and effective approach to language issues would also mean the use of topographical and street names in minority languages where minorities are concentrated or have been historically significant. Recognition and celebration of national identity should include an acknowledgment of the contributions of all components of society, including those of minorities and their languages.

The promotion of national identity and official languages is a legitimate objective from a human rights perspective. However, measures that seek to promote them must not be coercive or contrary to human rights obligations towards minorities, particularly where it affects their identity. The centrality of identity is emphasized in article 1 of the *UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*.

<sup>18</sup> Dutcher, N. and Tucker, G. R., *The Use of First and Second Languages in Education: A Review of Educational Experience* (World Bank: Washington DC, 1997); World Bank (note 2).

<sup>19</sup> Lopez, L.E., *Reaching the unreached: indigenous intercultural bilingual education in Latin America*, paper commissioned for the Education for All Global Monitoring Report 2010, Reaching the marginalized (UNESCO, 2010).

<sup>20</sup> UNICEF, 'Action Research on Mother Tongue-based Bilingual Education: Improving the equity and quality of education for ethnic minority children in Viet Nam', September 2012, available at <[http://www.unicef.org/vietnam/Edu\\_Pro\\_Brief\\_3\\_-\\_8\\_pages.pdf](http://www.unicef.org/vietnam/Edu_Pro_Brief_3_-_8_pages.pdf)>.

<sup>21</sup> UNESCO (note 4); Kosonen, K. and Person, K.R. 'Languages, identities and education in Thailand', in Peter Sercombe and Ruanni Tupas (eds), *Language, Identities and Education in Asia* (Palgrave Macmillan, 2014); Baron, K., 'ACLU sues state over English-language instruction', EdSource, 24 April 2013, <[http://edsources.org/today/2013/aclu-sues-state-over-english-language-instruction/30901#.UvsFZ\\_t\\_LSe](http://edsources.org/today/2013/aclu-sues-state-over-english-language-instruction/30901#.UvsFZ_t_LSe)>.

<sup>22</sup> Association for the Development of Education in Africa, 'Language and education', *ADEA Newsletter* (April–June 2005), p. 13.

<sup>23</sup> Benson, C., *Girls, Educational Equity and Mother Tongue-based Teaching* (UNESCO: Bangkok, 2005), <<http://www.unescobkk.org/resources/e-library/publications/article/girls-educational-equity-and-mother-tongue-based-teaching/>>.

<sup>24</sup> Cummins, J. (2000), *Language, Power and Pedagogy: Bilingual Children in the Crossfire* (Multilingual Matters: Clevedon, UK, 2000).

<sup>25</sup> Raihan v. Latvia (note 10).

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Respecting language rights is of course generally conducive to the maintenance of identity, but the issue of names is often even more intimately connected to identity and dignity. The names of individuals, but also of communities and territories, are a link to tradition, culture, history and belonging, which can be deeply emotive and significant.

### Implementation of specific linguistic rights

This section aims to help policymakers, state authorities and others considering the type of measures that are needed to implement international human rights standards for linguistic minorities, adopt relevant and efficient legislation and policies, and accommodate the needs and interests of various linguistic communities in order to ensure their integration into society. This is done by briefly describing for each area of application of linguistic rights:

- What should be done;
- Why it should be done;
- On what legally binding and other basis it can be done; and
- Good practices.

#### 4.1 Public Education

##### *What should be done?*

Where there is a sufficiently high numerical demand, public education services must be provided in a minority language to the appropriate degree, broadly following a proportional approach. This includes all levels of public education from kindergarten to university. If demand, the concentration of speakers or other factors make this not feasible, state authorities should as far as practicable at least ensure availability of minority language teaching. In addition, all children must have an opportunity to learn the official language(s).

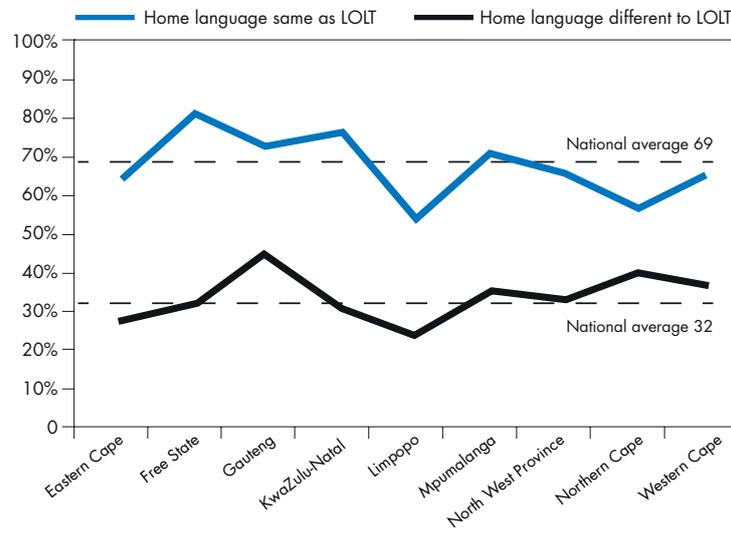
##### *Why it should be done*

The rights of linguistic minorities are human rights that must be respected, including in relation to the appropriate degree of use of minority languages. Education deals with what is perhaps the central linguistic right of minorities, and is also fundamental to the maintenance of linguistic diversity. A language that is not taught is a language that will ultimately vanish.

The benefits of education in the mother language are now fairly well established scientifically through studies of minority children in different parts of the world.<sup>26</sup>

<sup>26</sup> UNESCO (note 4); Kosonen and Person (note 21); Lopez, L. E. (note 19); Dutcher and Tucker, G.R. (note 18).

**Figure: Grade 6 language achievement by province in South Africa, where the home language is the same as the language of learning and teaching (LOLT) and the home language is different from the LOLT.**



Note: The blue line indicates the much better academic performance of children taught in their own language in the first years of education, as opposed to those taught in a language that is not their own (black line).

The issue of the cost-effectiveness of education in a minority language is considered far less often but just as important. Education in a minority language is more cost-effective, even if it has some slightly higher initial costs in terms of teaching materials or training, because it produces more secondary school graduates than a cheaper official language-only education. The cost of public education per successful secondary school graduate has been shown in the few studies that examined this issue directly to be lower than in other public schools, because of the higher success rate in minority schools. Schools that also use minority languages to communicate with parents have been shown to increase their involvement and improve their understanding of their children's education.<sup>27</sup>

For example, in Guatemala, the long-term cost saving as a result of first language-based education for all children who do not speak the official language was estimated to equal the cost of primary education for 100,000 students, or a potential saving of over 31 million quetzals (US\$ 5 million).<sup>28</sup> A similar study in Mali found that French-only programs cost about 8% less per year than mother-tongue schooling, but the total cost of educating a student through the six-year primary cycle is about 27% more, largely because of the difference in repetition and dropout rates.<sup>29</sup>

<sup>27</sup> Child Trends Data Dank, School communication in parents' native language, October 2015, <<http://www.childtrends.org/?indicators=school-communication-in-parents-native-language>>.

<sup>28</sup> Patrinos, H. and Velez, E. 'Costs and benefits of bilingual education in Guatemala: a partial analysis', *International Journal of Educational Development*, vol. 29, no. 6 (2009), pp. 594–598, at p. 597.

<sup>29</sup> World Bank (note 2).

## On what legally binding and other basis?

- Arts 2(2) + 13, International Covenant on Economic, Social and Cultural Rights (United Nations)
- Art. 26, International Covenant on Civil and Political Rights (United Nations)
- Art. 5(e)(5), International Convention on the Elimination of All Forms of Racial Discrimination (United Nations)
- Arts 2 + 28, 29, 30, Convention on the Rights of the Child (United Nations)
- Principle 1, UNESCO Principles of Language and Education (2003)
- Arts 1 + 4, Convention against Discrimination in Education (UNESCO)
- Art. 14 + Protocol No. 1, European Convention on Human Rights (Council of Europe)
- Art. 14, Framework Convention for the Protection of National Minorities (Council of Europe)
- Art. 8, European Charter for Regional or Minority Languages (Council of Europe)
- Art. 4, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (United Nations)
- Rec. 18, Guidance Note of the UN Secretary-General on Racial Discrimination and the Protection of Minorities (2013)
- Recs 11–18, The Hague Recommendations Regarding the Education Rights of National Minorities (OSCE)

### *How it should be done*

Most countries that effectively provide public education in minority languages follow three basic principles:

1. The principle of *proportionality*, based largely but not exclusively on a number of practical factors: the number and concentration of speakers of the language, the level of demand, prior use of the language as a medium of instruction and therefore availability of resources.
2. The principle of *active offer*, where public education in minority languages is accessible and actively encouraged.
3. The principle of *inclusiveness*, by which all students are given an opportunity to learn the official language and about inter-cultural understanding.
4. Quality public education in the mother tongue should 'be extended to as late a stage in education as possible',<sup>30</sup> up to and including public university education where practicable.<sup>31</sup> Ideally, the instruction in the mother tongue should last for a minimum of between six to eight years – more when this is feasible. If demand, the distribution of speakers or other factors make this not feasible, state authorities should provide for the teaching of the minority language as far as is practicable. Using one language as the medium for instruction just for a few years at primary level, and then switching over completely to another language should be avoided as this may

<sup>30</sup> UNESCO, Principles of Language and Education, Principle 1.

<sup>31</sup> OSCE, The Hague Recommendations Regarding the Education Rights of National Minorities, Recommendations 17 and 18.

lead to high dropout or failure rates, and could even lead to low levels of literacy in both the minority and the official language.

If a minority language is to be used as the medium of instruction only in the initial years of education, where practicable the amount of teaching carried out in the non-minority language should be increased gradually. This leads to better pedagogical results.<sup>32</sup> Where a minority language is used as the main medium of instruction throughout education in public schools, the final exams must also be in that language.

Admission exams or entrance requirements to public universities and other state educational institutions must take account of the use of minority languages as a medium of instruction in the educational system. Exams in minority languages or, when this is not feasible, some other arrangement must be put in place to accommodate minorities so that they are not unreasonably disadvantaged or excluded disproportionately from access to higher education.

Language differences must not be used as an excuse to segregate students along ethnic or racial lines in education.<sup>33</sup> When open to all who share the same language, regardless of ethnicity or race, the use of minority languages as a medium of instruction is neither discriminatory nor impermissible segregation.<sup>34</sup>

To promote tolerance and inclusion, all students should learn about each other: minorities must not be prevented from understanding the culture and language of the national community as a whole or from participating in its activities, and the majority must also be given similar opportunities in relation to minority cultures and languages.

Funding for all public educational activities, including for those in minority languages, must be accessible and disbursed in a non-discriminatory manner, including on the ground of language. Public education in minority languages must in addition seek to achieve bilingualism. Students should be provided with sufficient opportunities to achieve fluency in the official language, although not at the expense of education in their own language. Where the number of children who speak a minority language is quite small, flexibility in the implementation of a proportional approach can be adopted. Transportation can be provided for example to take students from surrounding areas to a more centrally located school teaching in a minority language.

Where a minority language is mainly oral, or there are no professionally trained teachers or little printed teaching material in a particular language, teaching assistants from the local community and modest translation programmes produced locally have been shown to be effective at improving the overall level of school performance among minority children. Financial and other support can be provided for private educational facilities where a minority is numerically too small for the operation of public schools. Authorities must ensure appropriate curriculum development and teacher training in the minority language, and bilingual education must be developed to be responsive to specific contexts. In addition, authorities should include the teaching of the histories, cultures and traditions of their minorities in the mainstream curriculum.

<sup>32</sup> Dooly, M. and Vallejo, C., *Educational Policies that Address Social Inequality: Thematic Report, Linguistic Minorities* (Faculty of Education, Universitat Autònoma de Barcelona: Barcelona, 2009).

<sup>33</sup> D.H. and Others v. the Czech Republic, European Court of Human Rights, 57325/00, Grand Chamber Final Judgement, European Court of Human Rights, 13 November 2007.

<sup>34</sup> Minorities and the right to education: Recommendations of the first session of the UN Forum on Minority Issues (2008), Recommendations 10 and 27.

## Good practices

- In the Philippines, awareness-raising has helped minority parents to understand the value of education in their language, and dispel fears that their children would not learn the 'language of power' as quickly as possible.
- In Bolivia, in 2008 the government set up three public indigenous universities, *Universidades Indígenas Bolivianas Comunitarias Interculturales Productivas*, for the three largest indigenous minorities (Aymara, Quechua and Guaraní), which develop and use minority languages for tertiary education.
- In Senegal, students taught in their mother tongue achieved a pass rate of 65 per cent, compared to the national average of 50.9 per cent for those taught in the official language.<sup>35</sup>
- In Guatemala, the long-term cost savings linked to the use of mother tongue teaching of minorities are estimated to be equal to the cost of providing primary education for 100,000 students, or a potential saving of over US \$5 million.<sup>36</sup>
- In Mali, education in the mother tongue of minorities is 19 per cent less expensive than education exclusively in the official language because of lower dropout and repetition rates.<sup>37</sup>
- In Burkina Faso, the Democratic Republic of the Congo and Eritrea, the use of a child's own language as the main language of instruction for the first 6–8 years led to reduced repetition and dropout rates, improved learning results and other benefits.<sup>38</sup>
- In the United States, schools that use minority languages to communicate with parents have been shown to engage with them better, increase their involvement and improve their understanding of their children's education.<sup>39</sup>
- India illustrates the proportionality principle in public education; more than 30 minority languages are used as the medium of instruction in public schools, and usually Hindi or English gradually introduced in later years of schooling.
- Tanzania started using Kiswahili instead of English in 2015 as the main medium of instruction in all levels of primary and secondary education in recognition of the overall positive effects of education being provided in the mother tongue of most of its children.
- In Italy, the German- and Ladin-speaking minorities make up only a very small percentage of the population, but are concentrated in a single region. Their concentration allows the use of each language as a medium of instruction in public schools, as well as at the tertiary level in the case of the larger German-speaking group in a trilingual public university.

<sup>35</sup> Agence universitaire de la francophonie, *Les langues de scolarisation en Afrique francophone: Enjeux et repères pour l'action, Rapport général* (AUF: Paris, 2010), p. 83.

<sup>36</sup> Patrinos, H. and Velez, E (note 28).

<sup>37</sup> World Bank (note 2).

<sup>38</sup> Alidou, H. et al., 'Optimizing learning and education in Africa: the language factor, stock-taking review on mother-tongue and bilingual education in sub-Saharan Africa' (Association for the Development of Education in Africa, Deutsche Gesellschaft für Technische Zusammenarbeit: Paris, 2006), p. 31.

<sup>39</sup> Ramirez, A.Y.F., 'Dismay and disappointment: Parental involvement of Latino immigrant parents', *Urban Review*, vol. 35, no. 2 (2003), p. 93.

- In the Seychelles, all students are initially taught in Creole (the mother tongue of almost the entire population) for the first six years of education. English is used as a teaching language for a small number of subjects after the third year, and French is introduced from the sixth.
- In Canada and Finland, where students who speak a minority language (French or Swedish) are dispersed, public transportation brings students from surrounding areas to a public school that teaches in their language.
- In Australia for some Aboriginal languages that are mainly used orally, or where there are no professionally trained teachers or little printed teaching material in a particular language, teaching assistants from the local community and modest translation programmes are used.
- In Cambodia, a Highland Children's Education Project included the recruitment and training of local teachers who speak minority languages in remote communities.

## 4.2 Private Education

### *What should be done?*

The establishment and operation of private schools and educational services using minority languages as a medium of instruction should be allowed, recognized and even facilitated.

### *Why it should be done*

It has been long recognized in international law that because of their vulnerability, linguistic minorities should always be entitled to their own schools where they can be taught in their own language, regardless of the general educational policies of a state.<sup>40</sup> This has at times been associated with the right of members belonging to a linguistic minority to use their own language with other members of their community. Linguistic minorities are often pressured, sometimes inadvertently but also at times forcefully, to assimilate or otherwise abandon their own language. To ensure that linguistic minorities are not isolated from the rest of the population, there is also a right to be taught the official language.

<sup>40</sup> *Minority Schools in Albania*, Permanent Court of International Justice, A/B64, Advisory Opinion of 6 April 1935.64.

## On what legally binding and other basis?

- Art. 2(2) + 13, 14, International Covenant on Economic, Social and Cultural Rights (United Nations)
- Arts 26 & 27, International Covenant on Civil and Political Rights (United Nations)
- Art. 5(e)(5), International Convention on the Elimination of All Forms of Racial Discrimination (United Nations)
- Art. 30, Convention on the Rights of the Child (United Nations)
- Principle 1, UNESCO Principles of Language and Education (2003)
- Art. 5(c), Convention against Discrimination in Education (UNESCO)
- Arts 10 & 14 + Protocol No. 1, European Convention on Human Rights (Council of Europe)
- Art. 13, Framework Convention for the Protection of National Minorities (Council of Europe)
- Art. 8(2), European Charter for Regional or Minority Languages (Council of Europe)
- Arts 2, 3 & 4, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (United Nations)
- Rec. 18, Guidance Note of the UN Secretary-General on Racial Discrimination and the Protection of Minorities (2013)
- Recs. 4, 8, & 9, The Hague Recommendations Regarding the Education Rights of National Minorities (OSCE)
- Rec. 6 of the Oslo Recommendations Regarding the Linguistic Rights of National Minorities (OSCE)

### *How it should be done*

Legislation must clearly allow the establishment and operation of private schools teaching minorities in their own language. No restriction should be placed on the use of a minority language, as either the medium of instruction or the language of administration of such schools, although authorities should be free to impose quality standards in terms of the content of education and other, language-neutral curriculum requirements. At the same time, as with public education, state authorities must avoid the isolation of minorities from other segments of society and encourage inter-cultural understanding. For this reason, authorities may require that all students be given the opportunity to learn the official language—while leaving minorities free to use their own language as the medium of instruction more generally—up to a reasonable level of fluency.

Legislation and policies should not just facilitate private education in minority languages, but actively support it. If, for example, public education is not possible or practicable in a minority language, financial and other forms of official support for private education in that minority language may be more reasonable and appropriate in some contexts, especially in the case of small or widely dispersed minorities.

While strictly speaking there is no obligation on state authorities to fund private schools,<sup>41</sup> the protection and promotion of linguistic diversity as well as the particular vulnerability of many minorities strongly support such measures. Some governments support private minority schools by assisting in the production and printing of teaching material in minority languages, or facilitating the import of such material from other countries and the hiring of teachers for these schools.

<sup>41</sup> Waldman v. Canada, UN Human Rights Committee, CCPR/C/67/D/694/1996, 3 November 1999.

Any support given to private educational facilities however must comply with the prohibition on discrimination. State support only for minority schools and teaching in particular languages could violate this fundamental principle and be discriminatory if the difference in treatment between languages is neither reasonable nor justified.

Policymakers need to ensure that minorities are not penalized for being taught in their own language in private schools. Their diplomas should be automatically recognized, and admission exams to universities and other state educational institutions should also be conducted in minority languages. Where this is not feasible, some other arrangement should be made to accommodate the admission of minorities so that they are not disproportionately excluded from higher education. This could take the form of tertiary education in minority languages where practicable. If students are disproportionately or unreasonably excluded from access to higher education, this could be considered discriminatory.

### **Good practices**

- Japan recognizes the qualifications of those who graduate from private Korean schools for admission to tertiary education.
- High schools which are semi-public and semi-private using Mandarin as the medium of instruction have been in place in Malaysia since the 1960s. Public primary schools also teach in this minority language.
- In Kazakhstan and Lithuania, bilateral agreements with other governments allow foreign state universities to operate and provide tertiary education in minority languages. Bialystok University, a Polish state university, maintains a campus in Lithuania. Its courses in Polish provide university-level education in the language of the country's largest minority.
- After three years of mother tongue (Malay) teaching in Southern Thailand, primary grade 1 (age 6-7) children taught in their own language scored an average 40 per cent better in reading, mathematics, social studies, and Thai language skills than children in the Thai-only public schools; Malay minority boys were 123 per cent more likely to pass the mathematics exam.<sup>42</sup>

## **4.3 Administrative, Health and Other Public Services**

### **What should be done?**

Where practicable, clear and easy access should be provided to public health care, social and all other administrative or public services in minority languages.

### **Why it should be done**

Where state authorities can practicably use a particular minority language in a specific territory, and in the absence of any reasonable basis to exclude such use of a minority language, it would be discriminatory in international law to forbid the use of a minority language and impose the use of the official language in administrative and other public services.<sup>43</sup> A state's resources must be

<sup>42</sup> Kosonen, K. and Person, K.R. (note 21).

<sup>43</sup> Diergaardt et al. v. Namibia (note 12).

spent judiciously – and effectively – whether it is on public health care, social services or public broadcasting. For public authorities to use only one language can be much more wasteful than using minority languages for official purposes in a country. Use of only the dominant language can be a powerful deterrent to seeking services for members of minority communities, particularly women.<sup>44</sup>

Measures in many countries to guarantee the reasonable and proportionate use of minority languages in the areas of administrative, health and other public services have had clearly positive results in terms of the effectiveness of communication and service delivery, the quality of services received by stakeholders, and the participation of minorities in various aspects of social and public life. The practice in a number of countries also shows that using minority languages reduces unemployment rates among the minorities concerned, and that the overall sense of inclusion and identification with the state increases. Policymakers, legislators and authorities must keep in mind that:

1. Inclusiveness requires the use of minority languages where appropriate – the best way for authorities to reach, communicate with and engage individuals is to use their language where possible.
2. Not using minority languages where reasonable and justified is ineffective (people may not understand or be comfortable with using the official language) and wasteful (resources are not spent on the most cost-effective form of communication).
3. Using minority languages reduces minorities' exclusion from political and public participation; it also increases the presence of members of such minorities in the institutions of the state that use these languages.

### On what legally binding and other basis?

- Art. 2(2) + 9, 10, 12, 15, International Covenant on Economic, Social and Cultural Rights (United Nations)
- Art. 26, International Covenant on Civil and Political Rights (United Nations)
- Arts. 5(a) & 5(e)(4), International Convention on the Elimination of All Forms of Racial Discrimination (United Nations)
- Arts. 2 + 28, 29 & 30, Convention on the Rights of the Child (United Nations)
- Arts. 24, 25, & 30, Convention (No. 169) Concerning Indigenous and Tribal Peoples in Independent Countries (International Labour Organization)
- Protocol No. 12, European Convention on Human Rights (Council of Europe)
- Art. 10(2), Framework Convention for the Protection of National Minorities (Council of Europe)
- Arts 10 & 13, European Charter for Regional or Minority Languages (Council of Europe)
- Rec. 11, Guidance Note of the UN Secretary-General on Racial Discrimination and the Protection of Minorities (2013)
- Recs 13–15, Oslo Recommendations Regarding the Linguistic Rights of National Minorities (OSCE)

<sup>44</sup> Ishida K. et al., 'Ethnic inequality in Guatemalan women's use of modern reproductive health care', *International Perspectives on Sexual and Reproductive Health*, vol. 38, no. 2 (2012), pp. 99–108.

### **How it should be done**

For health, social, administrative and other public services, the use of minority languages also involves issues of access, quality and equality:<sup>45</sup>

As with the implementation of the human rights of minorities in public education, the principle followed in many countries – broadly speaking – is proportionality: provision depends largely, although not exclusively, on the number and concentration of speakers. This will determine the extent to which and areas where the use of minority languages will be seen by the relevant authorities as reasonable and practicable. This is effectively what is in place in a majority of the world's countries that use more than one language in their administration and in the delivery of public services.

Not all minority languages present on a state's territory need to be used in the area of administrative and public services – only languages where the number and concentration of speakers make it reasonable and justified, in application of the principle of proportionality. Where minorities are concentrated above a certain percentage in a given territory, region or local administration, they have the right to use their language in administrative and other public service areas to an appropriate and proportionate degree. The more serious the potential consequences are of not using minority languages in a particular area of administrative or other public services, the more responsive policymakers should be to addressing effective service delivery and communication with this segment of the public through an appropriate degree of use of the relevant languages, as in the case of the use of minority languages in public health care where effective communication can be a matter of life and death. In applying the proportional principle, the employment of bilingual or multilingual employees to provide public services in minority languages increases inclusion and the participation of minorities in public life. Innovations such as using new technologies and the Internet offer encouraging approaches to reaching small groups or widely dispersed minorities.

Legislation needs to codify how and where these rights can be exercised, and ensure that effective mechanisms are in place to address and redress situations of non-compliance.

### **Good practices**

- In Iceland, the authorities use seven languages in addition to Icelandic (English, Polish, Serbian/Croatian, Thai, Spanish, Lithuanian and Russian) to communicate and provide more effective access to social or public information services through a Multicultural Information Centre and telephone information services.
- During the Ebola crisis in West Africa, the health departments of Sierra Leone, Guinea and Liberia worked with UNICEF and other international organizations to communicate more effectively in local minority languages through means such as radio dramas, printed materials, television programmes and posters to reach as many people as quickly and effectively as possible in order to save lives.
- In Ireland, information from public housing services such as tenant welcome packs is provided in languages other than Irish or English (either through translation or interpretation), where appropriate and feasible, particularly if there is a large minority ethnic community in a local authority.

<sup>45</sup> Diergaardt et al. v. Namibia (note 12).

- In bilingual Botswana, officials who deal with the general public usually communicate in Setswana, the language understood by most of the country's population (about 78%), or English. To ensure efficient and cost-effective service delivery and public administration in areas where larger linguistic minorities are concentrated, languages such as Yeyi are used in the north-west.
- In Australia, the use of computer-animated films depicting three-dimensional Aboriginal characters using indigenous languages has been described as 'revolutionizing' the delivery of important health care information to patients.
- In the United Kingdom, legislation imposes on public health care providers an obligation to ensure that those who are not fluent in English can access their services 'to fulfill equality of access and informed communication'. Local public health care providers therefore have in place, as far as is practical: bilingual medical staff, face-to-face interpreters, over-the-phone interpreting, printed translated medical information and website information, including documents and or videos.
- The Mexican Ministry of Health has set up an Office for the coordination of indigenous health to provide health care in local languages, recognizing the need to include indigenous languages in the public health systems in order to provide effective and appropriate care. One positive measure was the establishment of the Hospital de las Culturas in 2010 in San Cristobal, Chiapas.
- In Ethiopia, the authorities use the country's main languages (Somali, Tigrigna, Oromifa and Harari), where speakers are concentrated, for services provided by regional government and institutions.
- In India, which has 1.2 billion inhabitants and more than 400 languages, a proportional approach has resulted in the use of English and Hindi at the national level and the use of about 30 other languages by regional (state and territorial) governments. Even more, smaller, minority languages are used as the medium for instruction or in the provision of municipal and other local services where there are sufficient concentrations of speakers.
- US federal equality legislation determines that 'practicality' for the use of minority languages such as Spanish, Chinese, Farsi or Vietnamese in federal services is 10,000 people or 5 per cent of the population in a census district.
- Proportionality in Finland for a variety of public services is guaranteed in municipalities where at least 8 per cent of the population is Swedish or at least 3,000 people are members of a linguistic minority. For historical reasons both Swedish and Finnish are official languages at the national level. For the smaller indigenous Sami (about 7,500 Sami in the country), public health, social services and other information are provided in Sami in the traditional area where most live (the *Sámiid ruovttuovlu*).
- In Canada, what is reasonable or practicable for either official language (French or English) to be used for access to federal public services is generally deemed to be at least 5 per cent of the population in a census division (or 5,000 individuals in large cities). Other public services are provided where there are sufficient concentrations of Indigenous Peoples (Cree, Inuktitut, Micmac, etc.) or immigrants (Chinese, Vietnamese, Italian, Urdu, etc.).
- A growing number of municipalities in Brazil use indigenous or immigrant languages, in addition to Portuguese, where these languages are spoken by a significant proportion of a municipality. In São Gabriel da Cachoeira, this means the municipal authorities must use four languages (Portuguese, Nheengatu, Tukano and Baniwa) in the provision of basic services, as well as public information and publicity campaigns in the media.

## 4.4 Minority Languages and Identity

### *What should be done?*

A person's own identity, in the form of one's own name or surname in a minority language, must be respected, recognized and used by the state authorities. Where practicable, the use of minority languages on street signs and topographical designations should also be added, particularly where they have historical significance or where minorities are concentrated.

### *Why it should be done*

Central to the rights of minorities are the promotion and protection of identity. This is also deeply significant in relation to a private life and dignity. For many individuals, one of the most important markers of their identity is their own name in their own language. As language is central to human nature, culture and social identity, respect for the linguistic form of a person's name must therefore not only be tolerated, but protected and respected.<sup>46</sup> Respect for identity – and the obligation to protect and respect it – goes beyond the individual and should extend to the areas where minorities live.

### On what legally binding and other basis?

- Arts 17, 24, 26 and 27, International Covenant on Civil and Political Rights (United Nations)
- Art. 5, International Convention on the Elimination of All Forms of Racial Discrimination (United Nations)
- Arts 2 + 7, Convention on the Rights of the Child (United Nations)
- Art. 10, European Convention on Human Rights (Council of Europe)
- Art. 11, Framework Convention for the Protection of National Minorities (Council of Europe)
- Art. 10, European Charter for Regional or Minority Languages (Council of Europe)
- Art. 2, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (United Nations)
- Rec. 13, Guidance Note of the UN Secretary-General on Racial Discrimination and the Protection of Minorities (2013)
- Recs. 1-3, Oslo Recommendations Regarding the Linguistic Rights of National Minorities (OSCE)

### *How it should be done*

For individuals, most countries automatically and systematically recognize their right to have and use their own names and surnames, in their own language, and the corresponding obligation of authorities to respect this right. This must be provided for in legislation, setting out in a transparent procedure that individuals may use their own names in contacts with the authorities, and that authorities must also use this name in their own activities. There must also be legislation in place permitting, simply and without undue costs, the reversion to a minority's own name if this was forcibly changed by the authorities in the past because of assimilationist or similar policies.

<sup>46</sup> Office of the UN High Commissioner for Human Rights (OHCHR), *Minority Rights: International Standards and Guidance for Implementation* (OHCHR: Geneva, 2010), p. 8.

In addition to the private use of an individual name (personal name and patronym), state authorities must recognize and use the names of individuals in their own language, including in the issuance of birth certificates.

For names written in a language that uses a script that differs from the one used by the state authorities (Arabic vs. Latin; Chinese vs. Cyrillic, etc.), these must be transliterated, which means approximating the sounds of the characters of one script to the corresponding sounds of the other used by authorities.

Where names are written in a different language but share the same script as the official language (such as with Spanish and English, or Lithuanian and Polish), the authorities must reproduce the name literally (letter by letter) without alteration or translation.

Street and locality names and topographical indicators intended for the public are important as markers of social identity, culture and history. A good, practical approach adopted in most countries is for the authorities to provide transparent legislation or procedures to allow bilingual or even trilingual signs, usually following the proportionality principle where there is a sufficient concentration or demand for such signs in minority languages. While national legislation varies, the low threshold where it is considered practicable and reasonable to provide such signs tends to vary between 5 per cent and 20 per cent of the local population, with the lowest threshold usually associated with the use of a minority language that also has some kind of official status or for traditional, historical reasons. The criteria for the display of signs in minority languages must be given a clear and unambiguous legislative basis for it to be effectively implemented. Bilingual or multilingual signs used by public authorities demonstrate inclusiveness, and that various population groups share a locality in harmony and mutual respect.

### **Good practices**

- In Bulgaria, members of the Turkish minority can restore their names to their original linguistic form.
- Iceland recently removed the requirement that new citizens adopt an Icelandic name.
- In Morocco, since 2010, individual names in the Amazigh language are defined as being 'Moroccan in nature', meaning that first names in this language are acceptable for official registration and use by the authorities.
- Legislation in Albania allows individuals to revert to the traditional linguistic and cultural forms of their names.
- In the Russian Federation, street signs and topographical designations are often bilingual or trilingual: in addition to Russian, these are also usually in the official language(s) of the constituent republics, oblasts (or *krais*).
- In China, topographical and street signs are usually bilingual or trilingual in areas where minorities are concentrated (Mongolian, Uyghur, Tibetan, etc.). Trilingual signs and topographical indications can also be found in Algeria, Singapore and Switzerland, among many other places.
- A number of initiatives that include projects involving the recording of languages in decline are being implemented in different countries, including Cameroon<sup>47</sup> and the United States<sup>48</sup>.

<sup>47</sup> A/HRC/25/56/Add.1

<sup>48</sup> <http://recoveringvoices.si.edu/index.htm>

## 4.5 Minority Languages in the Area of Justice

### *What should be done?*

Free interpretation should be available in criminal proceedings if an accused member of a linguistic minority does not understand the language of proceedings, as well as free translation of the court documents necessary for his or her defence, preferably in their own language. Although all documents – and every aspect of proceedings – do not need to be translated, those which are essential to a case must be translated adequately and without cost to the defendant.

Court proceedings (civil or criminal) and other judicial or quasi-judicial hearings should be conducted in a minority language, where the concentration and number of speakers makes this a practicable measure.

### *Why it should be done*

The consequences of not using a language that is understood by individuals in the justice system are extremely serious. This appears in particular with respect to the right to fair trial as enshrined in international law, where in criminal and similar proceedings there must always be a minimum and adequate level of free interpretation and translation in place for accused or detained individuals who do not understand the language used by judicial or law enforcement officials so that they may exercise their right to a defence and to safeguard the fairness of proceedings. In addition, in the application of the principle of proportionality, judicial proceedings should be conducted in minority languages to the degree and extent appropriate, considering factors such as the number and concentration of speakers of a minority language.

### On what legal (and non-legal) basis?

- Arts 14, 26, International Covenant on Civil and Political Rights (United Nations)
- Art. 5(a), International Convention on the Elimination of All Forms of Racial Discrimination (United Nations)
- Art. 40, Convention on the Rights of the Child (United Nations)
- Arts 6, 14, European Convention on Human Rights (Council of Europe)
- Art. 10(2) & (3), Framework Convention for the Protection of National Minorities (Council of Europe)
- Art. 9, European Charter for Regional or Minority Languages (Council of Europe)
- Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings
- Rec. 11, Guidance Note of the UN Secretary-General on Racial Discrimination and the Protection of Minorities (2013)
- Recs. 17–19, Oslo Recommendations Regarding the Linguistic Rights of National Minorities (OSCE)

### ***How it should be done***

On the use of minority languages in the judicial field, the principles of proportionality and of a fair trial, as well as the concept of 'equality of arms', provide a series of language rights.

A person charged with a criminal offence must be informed promptly and in detail in a language which he or she understands of the nature and cause of the accusation.

Legislation must clearly spell out the right of everyone, including a member of a linguistic minority, detained or accused in criminal proceedings to be informed of the reasons for arrest or detention, and the nature and cause of any charge brought against him or her in a language that he or she understands. This is not limited to situations where individuals are not fluent in a state's official language(s), but would be in application of the principle of proportionality in terms of the effectiveness and practicality of public service delivery, although issues of access to justice are also involved. Because of the long-standing association with the fundamental right to a fair trial, these linguistic rights must be – and often are – recognized in law.

Despite being recognized and protected by legislation, these linguistic rights are not always systematically implemented because of inadequate financial resources, lack of qualified interpreters or even ignorance of this right on the part of the accused. This is a particular issue in relation to smaller linguistic minorities and can lead to serious miscarriages of justice. Positive and successful efforts by different states to ensure that these linguistic rights are fully safeguarded include:

- Information pamphlets, posters or other visible means in all courtrooms and police stations in the most widely used languages in the district to inform any accused or suspect of his or her rights to free translation or interpretation;
- Setting up a register of appropriately qualified translators and interpreters;
- Using communications technology such as videoconferencing, telephones or the Internet, as long as this does not result in unfair proceedings;
- Legally obliging the presiding judge or other court official to verify the linguistic abilities of an accused or suspect if it appears there may be comprehension issues on the basis of language;
- Providing a right to challenge a decision or a finding that there is no need for translation; or, when a translation has been provided, the ability to complain that the quality of the translation is insufficient to safeguard the fairness of the proceedings.

### ***Good practices and recommendations***

- Among the recommended good practices for all European Union member states is the provision of information pamphlets, posters or other visible means in all courtrooms and police stations in the most widely used languages of a district to inform any accused or suspect of his or her right to free translation or interpretation, as well as the setting up of a register of translators and interpreters who are appropriately qualified;<sup>49</sup>

<sup>49</sup> Council of the European Union, Directive 2010/64/EU of the European Parliament and the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings.

- In South Africa, the Department of Justice in collaboration with four universities has established a University Diploma in Legal Translation and Interpreting to improve the quality of service offered.
- In India, new communications technology such as videoconferencing has been used in recent years to link interpreters to court proceedings.
- In application of the proportionality principle, where it is practicable due to the concentration or number of speakers of a minority language, a number of states make legal provision for the use of minority languages in court proceedings, at least at lower levels, including the right to be heard and understood by a judge who understands that language.
- In Italy's province of Bolzano/Bozen, court proceedings in their entirety are held in either Italian or German.
- In Slovenia, in municipalities where minorities are sufficiently numerous and concentrated, the Italian or Hungarian language can be used in court proceedings.
- In Canada, a circuit court handling criminal and some social services matters conducts hearings entirely or partially in the Indigenous Cree language in Saskatchewan. Proceedings must also be in other languages, such as Inuktitut and French, in certain other areas because of the size of these linguistic communities.

## 4.6 Media and Minority Languages

### *What should be done?*

So that minorities can freely express themselves and communicate with their own members and others in their own language, the free use of minority languages in the broadcast, print and electronic media must be permitted.

On public sector media, the languages of minorities must be provided with sufficient and proportionate space. As much as is reasonably possible and practicable, their presence must be visible and audible to members of their communities as well as members of the majority.

### *Why it should be done*

All governments should serve the needs and interests of the whole population, including minorities, 'to access the media and impart and receive information, including in their own language' in line with the 'principles of pluralism, tolerance and broadmindedness'.<sup>50</sup> In relation to private sector media, and in accordance with fundamental human rights such as freedom of expression, this means minorities must be free to communicate among themselves in private media without obstacles to the use of their own language. Equality and non-discrimination require the media sector to apply the principle of proportionality in ways that are flexible and appropriate, and that any financial or other support provided to private sector media be allocated in a non-discriminatory manner, including in relation to those using minority languages. The role of public sector broadcasting in minority languages is particularly significant in terms of promoting not only tolerance but also acceptance, and creating a sense of integration among minorities where their own needs and interests are fairly reflected and communicated.

<sup>50</sup> OSCE High Commissioner on National Minorities, Guidelines on the use of Minority Languages in the Broadcast Media, October 2003.

## On what legally binding and other basis?

- Arts 19, 26, International Covenant on Civil and Political Rights (United Nations)
- Art. 5, International Convention on the Elimination of All Forms of Racial Discrimination (United Nations)
- Arts 2, 17, & 30, Convention on the Rights of the Child (United Nations)
- Arts 11 + 14, European Convention on Human Rights (Council of Europe)
- Art. 9, Framework Convention for the Protection of National Minorities (Council of Europe)
- Art. 11, European Charter for Regional or Minority Languages (Council of Europe)
- Art. 2(1), Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (United Nations)
- Recs. 13 & 15, Guidance Note of the UN Secretary-General on Racial Discrimination and the Protection of Minorities (2013)
- Recs. 8–11, Oslo Recommendations Regarding the Linguistic Rights of National Minorities (OSCE)

### *How it should be done*

State involvement in public media, where it occurs, must reflect cultural and linguistic diversity. This includes the use of minority languages by public broadcasters and to a degree that reflect the numbers and concentration of speakers of such languages. This must also take into account and address as much as possible the needs and interests of smaller linguistic minorities.

Programmes in minority languages need to be broadcast or available at convenient times, and in areas and formats that reach as many speakers of minority languages as is practicable, including through the use of new media.

Where a country's population is largely bilingual, public radio or television broadcasting can use both languages interchangeably. Multilingual and multicultural public broadcasting can serve to mainstream the presence and participation of minorities, and celebrate a state's diversity rather than segregate minorities from the majority.

Minorities must be involved directly in the development of broadcasts in their own languages. Using minority languages in public media plays a significant role in preserving minority languages, cultures and identity.

Ultimately, access to public media in people's own languages is a communication, information and integration tool between state authorities and minorities. It gives governments a tool to prevent the isolation of minorities in public life, establishes a direct communication and information link between the state and minorities, and provides a particularly effective tool for ensuring their inclusion while promoting tolerance, cultural diversity, mutual respect, understanding and cooperation.

From a practical point of view, authorities and policymakers should also consider that integration, communication and information need to be two-way processes: public media programmes and activities should target members of the majority as well. They should encourage the learning of minority and indigenous languages, as well as the setting up of multilingual and multicultural broadcasting facilities to mainstream minority concerns and promote programmes that celebrate a state's diversity rather than simply perpetuating a monolingual or single-culture vision of the state.

The principle of proportionality is generally practiced in public sector media and many states have adopted practical and appropriate measures for the implementation of linguistic rights in the sector. While there may be different approaches, the legal basis and reasons for providing minority language public media all involve more or less directly the need to 'take into account the numerical size, concentration and distribution as well as needs and interests' of linguistic minorities in order to implement effective equality of access.<sup>51</sup>

Freedom of expression includes the ability of minorities to express themselves and communicate freely with members of their own communities and others in their own language through *private sector* broadcast, print and electronic media.<sup>52</sup>

Official language quotas should be avoided for such media, particularly since they might impose burdens such as limiting broadcasting time or increasing costs that are either impermissible under freedom of expression or potentially discriminatory.<sup>53</sup>

Broadcasting frequencies or permits, as well as any state financial or other support for private sector media, must be allocated in a non-discriminatory manner, including in relation to those using minority languages. A proportional approach is generally speaking a good starting point in this regard. The digitalization of the media must not result in changes to terrestrial or other frequencies that do not take account of the needs and interests of minority communities, and in particular restrict access to media in minority languages.

Where the information and communications needs and interests of linguistic minorities are not properly served in their own languages by existing media, state authorities should privilege these needs and interests over others in the allocation of frequencies, permits or financial and other support. This could include measures to encourage and facilitate communication with and between minorities, as well as with members of the majority, such as incentives for private linguistic media through funding and favourable allocations of frequencies in order to increase their access to and presence in the media.

A flexible attitude to print media and new technology should also be adopted in order to address the particular challenges facing linguistic minorities, in particular smaller minorities or indigenous peoples. In all cases, support – financial or otherwise – must involve clear and transparent procedures. Tax relief and other incentives should be considered to support publications, and television and radio channels broadcasting in minority languages.

### **Good practices and recommendations**

- In Mexico, the *Comisión Nacional para el Desarrollo de los Pueblos Indígenas* provides preferential funding that permits broadcasting in some 30 minority languages by 20 private community radio stations.
- The authorities in Kosovo established a Minority Media Fund to provide financial and other assistance to electronic and printed minority language media.
- Canadian legislation requires that the broadcasting system must 'reflect the linguistic duality and multicultural nature of Canadian society, and the special place of Aboriginal peoples'. This has

<sup>51</sup> OSCE High Commissioner on National Minorities, *Guidelines on the Use of Minority Languages in the Broadcast Media*, Guideline 15, October 2003.

<sup>52</sup> *Ouranio Toxo and Others v. Greece* (note 9).

<sup>53</sup> Council of Europe, *Advisory Committee on the Framework Convention for the Protection of National Minorities, The Language Rights of Persons Belonging to National Minorities under the Framework Convention, Thematic Commentary no. 3*, ACFC/44DOC(2012)001Rev, July 2012.

resulted in preferential licensing and frequency allocations to a large number of minority and indigenous language community radio stations and funding to support their operations.

- In Spain, the authorities in Catalonia provide funding and tax concessions to strengthen the presence of the Catalan language in private sector publishing, radio and television.
- In Russia, the country's state broadcaster, VGTRK, and its affiliates broadly follow the proportionality principle. This results in radio and television productions in the regions where speakers of the Tatar language are concentrated in and outside Tatarstan, including in Perm and Tyumen, while smaller minorities generally receive less airtime in proportion to their size and concentration.
- Australia and Hungary, which have widely dispersed or much smaller minority languages, have one dedicated national, multicultural and multilingual public television or radio channel which broadcasts to the whole country (SBS in Australia, MR4 in Hungary) on air and online. MR4 broadcasts daily two-hour programmes in the more numerous Croatian, German, Romanian, Serbian and Slovak languages, as well as shorter 30-minute programmes on a weekly basis for the seven smaller linguistic minorities, and a one-hour programme five days a week for the Roma. These programmes in all 13 languages are also accessible online.
- Where a country's population is largely bilingual, public radio or television broadcasting can be simultaneously translated, or have both languages used interchangeably in the same programme, as is done occasionally in Cameroon, the Seychelles or Mauritius.

## 4.7 Linguistic Rights in Private Activities

### *What should be done?*

The use of any minority language in all private activities must be guaranteed, whether economic, social, political, cultural or religious, including when this occurs in public view or locations.

### *Why it should be done*

Individual liberty in the private sphere, including in the language used, is a basic characteristic of free and democratic societies. It follows that – barring exceptional, strictly limited, circumstances as circumscribed by law – the ability to use minority languages for private activities must be guaranteed.

### On what legally binding and other basis?

- Arts 19, 26 & 27, International Covenant on Civil and Political Rights (United Nations)
- Art. 5(d)(8) & (9), International Convention on the Elimination of All Forms of Racial Discrimination (United Nations)
- Arts 13 & 30, Convention on the Rights of the Child (United Nations)
- Arts 14 + 10, 14 + 11, European Convention on Human Rights (Council of Europe)
- Art. 10(1), Framework Convention for the Protection of National Minorities (Council of Europe)
- Art. 2, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (United Nations)
- Recs 4, 6, 8, 12, Oslo Recommendations regarding the Linguistic Rights of National Minorities (OSCE)

### *How it should be done*

As language is a form of expression, private parties must be allowed to use a minority language among themselves, including when visible or audible by others in public spaces. The language used in private conversations is similarly protected.

The use of a minority language in private cultural<sup>54</sup> or electoral events<sup>55</sup> must be respected within the sphere of linguistic freedom.

The use of a minority language by one parent cannot be used as a legitimate ground for the denial of custody of a child.

The promotion or protection of official languages is a legitimate objective but must not be interpreted in such a way as to prevent the use of minority languages in private matters.<sup>56</sup> The use of an official language in conjunction with other languages must not be disproportionate, onerous or otherwise an impermissible constraint.

### *Good practices*

- In Canada, the Québec authorities have adopted legislation that respects the private individual's language of choice in his or her own private affairs by not restricting the use of a language of preference on private signs, while still requiring that these display the official language in a predominant position. This shows how a state can effectively combine the legitimate goal of promoting and protecting an official language, while not preventing an individual's human right to use the language of his or her choice in private matters, including on signs visible to the general public.
- In the United States, clear guidelines have been adopted in some states about when it is permissible to require the exclusive use of an official language in the work environment, and when it is not permissible to prevent an employee or other person from using their own language, including in particular a minority language.<sup>57</sup>

## **4.8 The Effective Participation of Minorities in Public Life and Language**

### *What should be done?*

Steps to encourage and facilitate the effective participation of minorities in public life include, where practicable, the use of their languages in electoral, consultative and other public participation processes. In areas where speakers of a minority language are concentrated and in significant numbers, electoral information, ballots and other public documents pertaining to elections or public consultation and participation events should be made available in that language.

The use of minority languages must be allowed on posters, and in documents or the meetings and other activities of political parties, non-governmental organizations, lobbying groups or private individuals.

<sup>54</sup> *Ulusoy and others v. Turkey*, European Court of Human Rights, 34797/03, 3 May 2007.

<sup>55</sup> *Şükran Aydın and Others v. Turkey*, European Court of Human Rights, 49197/06, 22 January 2013.

<sup>56</sup> *Ballantyne, Davidson, McIntyre v. Canada* (note 8).

<sup>57</sup> US Guidelines on Discrimination because of National Origin, <[www.ecfr.gov/cgi-bin/text-idx?SID=c23c33ef4cf089f166b9e143789066bc&node=29:4.1.4.1.7&rgn=div5#29:4.1.4.1.7.0.21.7](http://www.ecfr.gov/cgi-bin/text-idx?SID=c23c33ef4cf089f166b9e143789066bc&node=29:4.1.4.1.7&rgn=div5#29:4.1.4.1.7.0.21.7)>.

### ***Why it should be done***

Among the most effective measures for increasing the participation of minorities in public life, including in the electoral or political sphere, is for authorities to use minority languages where practicable. Positive results obtained include higher voting rates, increased presence in elected bodies and involvement in political life, and an overall greater sense of identification with the state. Integration in public life is positively affected when minority languages are used according to the proportionality principle. Conversely, preventing the use of minority languages in the political sphere by political parties, NGOs or private individuals has at times led to feelings of alienation and rejection. The evidence also suggests that language proficiency requirements in elections are not only possibly discriminatory, but also tend to weaken the participation of minorities in elections and public affairs.

It is clear that measures and mechanisms to ensure the effective participation of minorities in public life, including steps to remove obstacles, lead to increased levels of integration within the state.

#### **On what legally binding and other basis?**

- Arts 25, 26, International Covenant on Civil and Political Rights (United Nations)
- Art. 5(c), International Convention on the Elimination of All Forms of Racial Discrimination (United Nations)
- Art. 14 + Art. 3 of Protocol No. 11, European Convention on Human Rights (Council of Europe)
- Arts 4 & 10, Framework Convention for the Protection of National Minorities (Council of Europe)
- Art. 10, European Charter for Regional or Minority Languages (Council of Europe)
- Art. 2 (2) & (3), Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (United Nations)
- Rec. 11 & 15, Guidance Note of the UN Secretary-General on Racial Discrimination and the Protection of Minorities (2013)
- Rec. 13, Oslo Recommendations regarding the Linguistic Rights of National Minorities (OSCE)
- Lund Recommendations on the Effective Participation of National Minorities in Public Life (OSCE)

### ***How it should be done***

In areas where speakers of a minority language are concentrated in significant numbers, ballots, and information documents pertaining to elections, consultations and other processes involving decision-making in public life should, to a reasonable degree, be available in minority languages.<sup>58</sup> This is likely to result in better informed individuals, increased participation and greater inclusion and integration of minorities.

Consultation, participation, representation and meaningful influence of minorities on the decision-making bodies and processes that affect them must at all times be considered and facilitated, in order to best inform policymakers and foster cooperation between authorities and minority communities.

<sup>58</sup> Office for Democratic Institutions and Human Rights, *Guidelines to Assist National Minority Participation in the Electoral Process* (Organization for Security and Co-operation in Europe: Warsaw, 2001), <<http://www.osce.org/odihr/elections/17569?download=true>>, p. 16.

State authorities should, to an appropriate degree, also put in place public service television and radio programmes in minority languages devoted to election campaigns and other consultative processes. This leads to more effective communication between the authorities and minorities, and eventually to greater participation by minorities in public life.

The use of minority languages in public meetings, campaign materials and media appearances by electoral authorities – and mainstream politicians – represents a positive step in reaching out to minority voters.

Linguistic requirements for voting or political participation must be non-discriminatory. Excluding individuals from voting or running for office because of their language, or lack of fluency in a state's official language, has extremely serious consequences. It precludes participation in public life and would generally be discriminatory.

Denial of citizenship through language requirements can be an insurmountable obstacle to participation in the public life of a state. If it is arbitrary or unreasonable, a language requirement could be considered discriminatory in the case of minorities.<sup>59</sup>

### **Good practices**

- For federal elections in the United States, 10,000 or more minority members or 5 per cent of a census district is sufficient to require the use of a minority language in voting materials and voting assistance. These include voting announcements, publicity, information and even oral assistance. Voting materials and assistance are provided in more than 12 languages in the USA to remove obstacles to the effective exercise of the right to vote and to encourage participation in public life. Voter registration is also possible in Chinese, Japanese, Korean, Spanish, Tagalog and Vietnamese.
- In India, the same considerations and the use of a multitude of languages under Union, state and local laws and regulations result in the use of more than 30 languages throughout the country.
- In Croatia, voters belonging to minorities can either vote for a general national list or for specific minority lists. Larger communities such as the Hungarian, Serbian and Italian minorities each have one seat, while the smaller minorities are grouped together to elect one deputy among themselves.
- In New Zealand, electoral information is provided in 26 languages, including sign language.
- In the Former Yugoslav Republic of Macedonia, the creation of an electoral district encompassing Shuto Orizari, where members of the Roma minority are concentrated, has permitted the election of a representative from that community.
- In the United Kingdom, in addition to English, sufficient fluency in Scottish Gaelic or Welsh satisfies the language requirements for citizenship; in Canada, French in addition to English may be required.
- In Switzerland, proficiency in German, French, Italian or Romansh is sufficient in terms of the language requirements for citizenship.
- In Norway, electoral information is provided in eight languages, including in the Samí language. Voting ballots are also available in the latter for elections to the indigenous Samí Parliament.
- Bolivia, Ethiopia, Finland, Paraguay, Russia, Singapore, Slovenia, South Africa and many others provide electoral material and information in a number of minority languages.

<sup>59</sup> Costa Rican Naturalisation Case (note 17).

## Further tools and resources: Legal guidelines and related official documents

1. UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UN), <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Minorities.aspx>
2. Report of the Independent Expert on minority issues on linguistic minorities, A/HRC/22/49, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/AHRC2249\\_English.PDF](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/AHRC2249_English.PDF)
3. Other reports of the mandate of the Special Rapporteur on minority issues, <http://www.ohchr.org/EN/Issues/Minorities/SRMinorities/Pages/Annual.aspx>
4. Recommendations of the UN Forum on Minority Issues on Implementing the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UN), <http://www.ohchr.org/EN/HRBodies/HRC/Minority/Pages/ForumIndex.aspx>
5. Promoting and Protecting Minority Rights: A Guide for Advocates (UN), [http://www.ohchr.org/Documents/Publications/HR-PUB-12-07\\_en.pdf](http://www.ohchr.org/Documents/Publications/HR-PUB-12-07_en.pdf)
6. Minority Rights: International Standards and Guidance for Implementation (UN), [http://www.ohchr.org/Documents/Publications/MinorityRights\\_en.pdf](http://www.ohchr.org/Documents/Publications/MinorityRights_en.pdf)
7. Marginalized Minorities in Development Programming: A UNDP Resource Guide and Toolkit (UNDP), <http://www.ohchr.org/Documents/Issues/Minorities/UNDPMarginalisedMinorities.pdf>
8. Advocacy Kit for Promoting Multilingual Education: Including the Excluded (UNESCO), <http://unesdoc.unesco.org/images/0015/001521/152198e.pdf>
9. Guidelines on Language and Education (UNESCO), <http://unesdoc.unesco.org/images/0012/001297/129728e.pdf>
10. Why language matters for the Millennium Development Goals (UNESCO), <http://unesdoc.unesco.org/images/0021/002152/215296E.pdf>
11. Thematic Commentary no. 3 on the Language Rights of Persons Belonging to National Minorities under the Framework Convention (Council of Europe), [http://www.coe.int/t/dghl/monitoring/minorities/3\\_fcnmdocs/PDF\\_CommentaryLanguage\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_CommentaryLanguage_en.pdf)
12. Oslo Recommendations regarding the Linguistic Rights of National Minorities (OSCE), <http://www.osce.org/hcnm/67531>
13. The Hague Recommendations Regarding the Educational Rights of National Minorities (OSCE), <http://www.osce.org/fr/hcnm/32184>
14. Guidelines on the use of Minority Languages in the Broadcast Media (OSCE), <http://www.osce.org/hcnm/32310?download=true>
15. Guidelines to Assist National Minority Participation in the Electoral Process (OSCE), <http://www.osce.org/odihr/elections/17569?download=true>

## Other resources

Baldwin, C., Chapman, C. and Gray, Z., *Minority Rights: The Key to Conflict Prevention* (Minority Rights Group International: London, 2007) <http://www.minorityrights.org/download.php?id=174>

Benson, C., *Mother Tongue-based Teaching and Education for Girls* (UNESCO: Bangkok, 2005), <http://unesdoc.unesco.org/images/0014/001420/142079e.pdf>

de Varennes, F., *Language, Rights and Power: The Role of Language in the Inclusion and Exclusion of Indigenous Peoples*, UN Expert Mechanism on the Rights of Indigenous Peoples (OHCHR: Geneva, 2011). <http://www.ohchr.org/Documents/Issues/IPeoples/EMRIP/StudyLanguages/FernandDeVarennes.doc>

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UNICEF and Vietnamese Ministry of Education and Training, *Action Research on Mother Tongue-based Bilingual Education: Improving the equity and quality of education for ethnic minority children in Viet Nam*, September 2012, [http://www.un.org.vn/en/publications/publications-by-agency/doc\\_download/312-action-research-on-mother-tongue-based-bilingual-education-improving-the-equity-and-quality-of-education-for-ethnic-minority-children-in-viet-nam.html](http://www.un.org.vn/en/publications/publications-by-agency/doc_download/312-action-research-on-mother-tongue-based-bilingual-education-improving-the-equity-and-quality-of-education-for-ethnic-minority-children-in-viet-nam.html)

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