

52. Skutnabb-Kangas, Tove (1999). Linguistic human rights - are you naive or what? **TESOL Journal** 8(3), Special Issue, **One World, Many Tongues, Language Policies and the Rights of Learners**, eds. Robert A. De Villar & Toshiko Sugino, Autumn 1999, 6-12.

Introduction - respect for human rights

My claim in this article, as in many earlier onesⁱ, is that the education of minorities in most countries, especially in the west, is organised in ways which not only counteract sound scientific evidence, but also violates basic linguistic and other human rights. This is true especially in relation to the wrong choice of medium of education. In this article I will substantiate the claim in relation to some fairly recent developments of linguistic human rights in education, and look especially at the performance of the United States of America.

Many governments applaud of human rights, as long as they can define them in their own way, according to their own cultural norms. Many governments demand that human rights be respected - at least by other countries. One can gauge the seriousness of governments in claiming respect for human rights by checking to what extent they themselves have ratified human rights instruments. Ratification means that the country promises to respect the rights in the documents it has signed (the human rights instruments) and to amend its domestic legislation accordingly.

Of course implementation then needs to follow. There are many examples of countries which have signed and ratified several human rights instruments but which are, nevertheless, violating many basic human rights in their practise.

Even if it is clear that mere ratification is not sufficient, ratification is a starting point for respect. If a state claims that rule of law is important, its own laws should be amended so as to conform to human rights requirements. This is also a precondition for asking other countries to respect human rights. We shall first examine what the ratification situation is worldwide in relation to some of the basic human rights documents.

UNESCO's most recent status report 'concerning the state of ratifications, successions and adhesions to human rights instruments' (1998:3), published by its Division on Human Rights, Democracy and Peace, lists which countries had by 31st May 1998 ratified the 52 **Universal Human Rights Instruments**. These consist of three groups: 5 **General Instruments**; the **Specific Instruments** (11 concerning prevention of discrimination; 5 on genocide, war crimes and crimes against humanity; 6 on slavery, traffic in persons and forced labour and 1 on freedom of information); and the **Instruments Relating to the Protection of Particular Groups** (4 on aliens, refugees and stateless persons; 8 on workers; 7 on women, children and family; and 5 on combatants, prisoners and civilians).

The UNESCO publication gives figures for how many of the 193 countries on the list have ratified each instrument. The **Convention on the Rights of the Child** is a leader, with 191 ratifications, the 2 non-ratifiers being Somalia and the USA. It is closely followed by the 4 main instruments in the Geneva Convention on war, with 188 ratifications. Interestingly enough, UNESCO does not give the figures for how many instruments each country has ratified - this might be embarrassing for some countries. But this can easily be counted from the information given, and I did this. My list is given in Table 1, in descending order - this is the Global Human Rights Olympics...

Table 1. How many of the 52 Universal Human Rights Instruments had countries ratified by 31st May 1998?

1. Norway: 46
2. Denmark, Netherlands: 44
4. Finland, Sweden: 43
6. Bosnia and Herzegovina, Croatia: 42
8. Australia: 41
9. Ecuador, Germany, Hungary, Spain: 40
13. Italy, Poland: 39
15. Cyprus, France, Slovenia: 38
18. Argentina, Russian Federation, Yugoslavia, United Kingdom: 37
22. Austria, Bulgaria, Czech Republic, Guinea, Macedonia (The former Yugoslav Republic of), Slovak Republic: 36
28. Algeria, Greece, Philippines, Romania, Senegal, Tunisia, Ukraine: 35
35. Belarus, Costa Rica, Guatemala, Iceland, Latvia, Luxembourg, Malta, New Zealand: 34
43. Brazil, Cuba, Egypt, Peru, Portugal, Uruguay: 33

49. Mali, Niger, Venezuela, Zambia, Libyan Arab Jamahiriya: 32
 54. Azerbaijan, Barbados, Belgium, Bolivia, Canada, Switzerland, Uganda: 31
 61. Jordan, Kyrgyzstan, Mexico, Yemen, Nicaragua: 30
 66. Albania, Cameroon, Chile, Colombia, Israel, Jamaica: 29
 72. Mongolia, Panama, Seychelles, Togo: 28
 76. Antigua and Barbuda, Armenia, Burkina Faso, Côte d'Ivoire, Ethiopia, Ireland, Lesotho, Morocco: 27
 84. Central African Republic, Estonia, Madagascar, Nigeria, Sri Lanka, United Rep. of Tanzania: 26
 90. Burundi, Chad, Dominican Republic, Ghana, Paraguay, Sierra Leone, Trinidad and Tobago: 25
 97. Benin, Gabon, Guyana, Iraq, Malawi, Rwanda, Suriname: 24
 104. Bahamas, Congo, Dominica, El Salvador, Kuwait, Mauritius, Rep. of Korea, Syrian Arab Republic, Turkey: 23
 113. Dem. Republic of the Congo, Honduras, India, Liberia, Lithuania, Mauritania, Moldova (Republic of), Turkmenistan, Uzbekistan, Zimbabwe: 22
 123. Cape Verde, Fiji, Georgia, Haiti, Mozambique, Nepal, Tajikistan: 21
 130. Afghanistan, Bangladesh, Iran (Islamic Rep. of), Lebanon, Namibia, Sudan, St. Vincent and the Grenadines: 20
 137. Angola, Belize, Botswana, Cambodia, Japan, Pakistan, Saint Lucia, San Marino, Swaziland: 19
 146. China, Djibouti, Gambia, Kenya, Solomon Islands, South Africa: 18
 152. Lao People's Dem. Rep., Papua New Guinea, Viet Nam: 17
 155. Saudi Arabia: 16
 156. Comoros, Equatorial Guinea, Guinea-Bissau, Liechtenstein, Somalia, United States of America: 15
 162. Bahrain, Grenada, Sao Tome and Principe: 14
 165. Malaysia, Monaco, Singapore: United Arab Emirates: 13
 169. Indonesia, Myanmar: 12
 171. Dem. People's Rep. of Korea, Maldives, Qatar, Samoa, Thailand: 11
 176. Holy See: 10
 177. Brunei Darussalam, Saint Kitts and Nevis: 9
 179. Oman, Vanuatu: 8
 181. Fed. States of Micronesia, Kazakhstan, Kiribati, Palau, Tonga, Tuvalu: 7
 187. Andorra, Bhutan: 6
 189. Eritrea: 2
 190. Cook Islands, Marshall Islands, Nauru, Niue: 1

total 193 countries, in descending order; the number of instruments ratified after the name of the last country in each group. Counted on the basis of information from UNESCO Division of Human Rights, Democracy and Peace 1998.

In addition to the **Universal Instruments**, the UNESCO publication also lists ratifications to **Regional Instruments**: 31 from the **Council of Europe**, 3 from the **Organization of African Unity**, and 14 from the **Organization of American States**. These organisations have, respectively, 40, 53, and 35 Member States. The correlation between ratifications of Universal and Regional Instruments seems to be quite high. In Tables 2, 3 and 4 I have counted the number of the Regional Instruments ratified by the various Member States, from the UNESCO publication mentioned above. Here I give the countries in alphabetical order.

Table 2. Number of the 31 Council of Europe Human Rights Instruments ratified by each of the 40 member states

Albania 11, Andorra 7, Austria 19, Belgium 15, Bulgaria 9, Croatia 12, Cyprus 17, Czech Republic 16, Denmark 20, Estonia 15, Finland 22, France 16, Germany 18, Greece 14, Hungary 18, Iceland 15, Ireland 17, Italy 23, Latvia 11, Liechtenstein 15, Lithuania 8, Luxembourg 17, Macedonia (The former Yugoslav Republic of) 13, Malta 15, Moldova (Republic of) 13, Netherlands 24, Norway 24, Poland 16, Portugal 19, Romania 16, Russian Federation 13, San Marino 17, Slovak Republic 16, Slovenia 17, Spain 16, Sweden 24, Switzerland 16, Turkey 13, Ukraine 10, United Kingdom 15.

Table 3. Number of the 3 Organization of African Unity Human Rights Instruments ratified by each of the 53 member states

Algeria 2, Angola 2, Benin 2, Botswana 2, Burkina Faso 3, Burundi 2, Cameroon 2, Cape Verde 3, Central African Republic 2, Chad 2, Comoros 1, Congo 2, Congo (Dem. Republic of the) 2, Côte d'Ivoire 2, Djibouti 1, Egypt 2, Equatorial Guinea 2, Eritrea 0, Ethiopia 1, Gabon 2, Gambia 2, Ghana 2, Guinea 2, Guinea-Bissau 2, Kenya 2, Lesotho 2, Liberia 2, Libyan Arab Jamahiriyah 2, Madagascar 1, Malawi 2, Mali 2, Mauritania 2, Mauritius 2, Mozambique 2, Namibia 1, Niger 3, Nigeria 2, Rwanda 2, Sao Tome and Principe 1, Senegal 2, Seychelles 3, Sierra Leone 2, Somalia 1, South Africa 1, Sudan 2, Swaziland 2, Togo 3, Tunisia 2, Uganda 3, United Rep. of Tanzania 2, Zambia 2, Zimbabwe 3.

Table 4. Number of the 14 Organization of American States Human Rights Instruments ratified by each of the 35 member states

Antigua and Barbuda 0, Argentina 8, Bahamas 1, Barbados 2, Belize 1, Bolivia 3, Brazil 13, Canada 3, Chile 8, Colombia 10, Costa Rica 11, Cuba 5, Dominica 5, Dominican Republic 8, Ecuador 12, El Salvador 11, Grenada 1, Guatemala 12, Guyana 1, Haiti 8, Honduras 8, Jamaica 1, Mexico 11, Nicaragua 8, Panama 13, Paraguay 10, Peru 11, Saint Kitts and Nevis 1, Saint Lucia 1, St. Vincent and the Grenadines 1, Suriname 5, Trinidad and Tobago 2, United States of America 3, Uruguay 12, Venezuela 9.

The United States of America and linguistic human rights in education

It may be interesting to note that the USA, posing as The Defender of Human Rights globally, occupies, together with 5 other countries, a shared 156th-161st position of 193, in terms of the number of its own ratification of Universal Human Rights Instruments - hardly a morally convincing record. Likewise, having only ratified 3 of the 14 American Regional Instruments, it occupies, together with 2 other countries, a shared 22-24th place out of 35. In the next section, we present some of the recent developments in the area of human rights for linguistic minorities in education, and look at the performance of the United States in this more restricted area.

Are there minorities in the United States?

The United States is one of the 55 members of OSCE, Organisation for Security and Cooperation in Europe. In 1992, OSCE created the position of a High Commissioner on National Minorities 'as an instrument of conflict prevention in situations of ethnic tension' (Rothenberger 1997: 3). In each member country, minorities and the state can use the services of the High Commissioner to try to prevent conflict. There is certainly both tension and conflict in the USA, and some of it could be labelled 'ethnic'. Is the High Commissioner's work relevant for the USA? Officially there are no 'national minorities' (even if there are indigenous native peoplesⁱⁱ). But does the United States, nevertheless, have any groups that in terms of international law could be labelled 'national minorities'. The answer is: Yes.

The United States **has**, together with 139 other states, ratified the UN International Covenant on Civil and Political Rights (ICCPR; 1966, in force since 1976)ⁱⁱⁱ. Article 27 of the ICCPR is the most far-reaching Article in (binding) human rights law granting linguistic rights:

In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Hitherto the Article has been interpreted as

- excluding (im)migrants (who have not been seen as minorities);
- excluding groups (even if they are citizens) which are not recognised as minorities by the State;
- only conferring some protection against discrimination (= 'negative rights') but not a positive right to maintain or even use one's language;
- not imposing any obligations on the States.

On 6 April 1994 the UN Human Rights Committee adopted a **General Comment on Article 27** (UN Doc.

CCPR/C/21/Rev.1/Add.5, 1994). UN member countries have to submit reports on their human rights performance to the Committee. The General Comment is an authoritative interpretation of Article 27 and will guide the Human Rights Committee's examination of these country reports. The **General Comment** interprets Article 27 in a substantially more positive way than earlier. The Committee sees the Article as

- protecting all individuals on the State's territory or under its jurisdiction (i.e. also immigrants and refugees), irrespective of whether they belong to the minorities specified in the Article or not;
- stating that the existence of a minority does not depend on a decision by the State but requires to be established by objective criteria;
- recognizing the existence of a 'right'^{iv};
- imposing positive obligations on the States.

The reinterpretation means, among other things, that all those groups who objectively fulfill all the criteria for being a minority, are protected by the Article and must be treated as minorities.

The question of what the 'objective criteria' are is a tricky one. There is no ultimate definition of 'a minority' in international law. But regardless of which one of the many possible definitions^v one uses, there are dozens of groups in the USA which fulfill all their requirements and thus come under the protection of Article 27. This is true, for instance, for all the Hispanic/Latina groups. This means that these minorities have positive language rights and the state has obligations towards them.

But what could these linguistic human rights in education be, then?^{vi} Now we go back to the OSCE.

The Hague Recommendations Regarding the Education Rights of National Minorities

The OSCE High Commissioner on National Minorities, Max van der Stoep, a former Foreign Minister of the Netherlands, had the following to say, after having worked several years with diplomatic conflict prevention at the highest level, and mainly with the help of international human rights lawyers:

...in the course of my work, it had become more and more obvious to me that education is an extremely important element for the preservation and the deepening of the identity of persons belonging to a national minority. It is of course also clear that education in the language of the minority is of vital importance for such a minority (van der Stoep 1997, 153).

Therefore, in order to prevent ethnic conflict, the High Commissioner recently published authoritative guidelines for minority education for the member states - and these include the United States. These guidelines, **The Hague Recommendations Regarding the Education Rights of National Minorities & Explanatory Note**, from October 1996, were worked out by a small group of 9 experts on human rights and education (including myself). The guidelines are an interpretation and concretisation of what international human rights law says about minority education. Even if the term used is 'national minority', the guidelines also apply to immigrated minorities, and one does NOT need to be a citizen in order to be protected by the guidelines - this was clear during the discussions in the expert group and it also follows from the reinterpretation of the ICCPR Article 27 described above (see Skutnabb-Kangas 1998 and in press a, b, c, for details).

Here I would also like to remind TESOL readers from the USA of the fact that using terms like 'linguistically diverse students' and other nice euphemisms which are used in the USA about minority students presents a dilemma. They came in instead of the earlier humiliating terms like LEP and NEP (= 'limited/no English proficiency') - these terms define children negatively, in terms of what they do NOT know, instead of positively, in terms of what they DO know). But even the new terms actually rob these children of the only protection they have in international human rights law. Objectively they ARE minority students and those who refuse to use the term are actually harming them. 'Linguistically diverse' students have no protection in international law. 'Minority' students do.

Next I shall present some parts of the OSCE guidelines. My question is: does the USA live up to its international human rights obligations if we judge by how linguistic human rights fare in education? Do schools teach minority students as they should, according to the **Hague Recommendations**?

In the section 'The spirit of international instruments', bilingualism is seen as a right and responsibility for persons belonging to national minorities (Art. 1), and states are reminded not to interpret their obligations in a restrictive manner (Art. 3). In the section on 'Minority education at primary and secondary levels', mother tongue medium education is recommended at all levels, including bilingual teachers of the dominant language as a second language

(Articles 11--13); i.e. all ESL-teachers should know the mother tongues and cultures of their students. Teacher training is made a duty of the state (Art. 14).

Below four central Articles from the Hague Recommendations are quoted:

11) The first years of education are of pivotal importance in a child's development. Educational research suggests that the medium of teaching at pre-school and kindergarten levels should ideally be the child's language. Wherever possible, States should create conditions enabling parents to avail themselves of this option.

12) Research also indicates that in primary school the curriculum should ideally be taught in the minority language. The minority language should be taught as a subject on a regular basis. The State language should also be taught as a subject on a regular basis preferably by bilingual teachers who have a good understanding of the children's cultural and linguistic background. Towards the end of this period, a few practical or non-theoretical subjects should be taught through the medium of the State language. Wherever possible, States should create conditions enabling parents to avail themselves of this option.

13) In secondary school a substantial part of the curriculum should be taught through the medium of the minority language. The minority language should be taught as a subject on a regular basis. The State language should also be taught as a subject on a regular basis preferably by bilingual teachers who have a good understanding of the children's cultural and linguistic background. Throughout this period, the number of subjects taught in the State language, should gradually be increased. Research findings suggest that the more gradual the increase, the better for the child.

14) The maintenance of the primary and secondary levels of minority education depends a great deal on the availability of teachers trained in all disciplines in the mother tongue. Therefore, ensuing from the obligation to provide adequate opportunities for minority language education, States should provide adequate facilities for the appropriate training of teachers and should facilitate access to such training.

Finally, the Explanatory Note to the Hague Recommendations states that

[S]ubmersion-type approaches whereby the curriculum is taught exclusively through the medium of the State language and minority children are entirely integrated into classes with children of the majority are not in line with international standards (p. 5).

A comparison of these recommendations with what happens in the education of minorities in not only the USA but in most western countries shows clearly that most countries and schools do not live up to human rights standards. To me it is clear that the education offered by human-rights-loving United States to most of the minority children is 'not in line with international standards' (Explanatory Note, p. 5). Likewise, many of the regulations in Proposition 227 which was passed in California 2nd June 1998, to delimit the already almost non-existing rights to bilingual education, are not only against solid research evidence but they constitute outrageous violations of central educational linguistic human rights.

My naive question here is: Why is it that the United States can run around the world policing human rights in **other** countries when it is seriously violating central human rights of children in its own country? When the schools in the USA are committing linguistic genocide every day?

What is linguistic genocide?

When the United Nations did preparatory work for what later became the International Convention for the Prevention and Punishment of the Crime of Genocide (E 793, 1948), linguistic and cultural genocide were discussed alongside physical genocide, and were seen as serious crimes against humanity (see Capotorti 1979). When the Convention was accepted, Article 3 covering linguistic and cultural genocide was voted down and it was thus not included in the final Convention of 1948.

What remains, however, is a definition of linguistic genocide, which most states then in the UN were prepared to accept. Linguistic genocide is defined (in Art. 3, 1) as

Prohibiting the use of the language of the group in daily intercourse or in schools, or the printing and circulation of publications in the language of the group.

Linguistic genocide as defined by the UN is practised throughout the world. The use of an indigenous or minority

language can be prohibited overtly and directly, through laws, imprisonment, torture, killings and threats (as in Turkey today vis-a-vis the Kurds, according to human rights organisations; e.g. Human Rights in Kurdistan 1989, 1990; Helsinki Watch Update 1990; see also Skutnabb-Kangas & Bucak 1994, and Hassanpour in press).

But the use of a minority language can also be prohibited covertly, more indirectly, via ideological and structural means. Especially in the West, but increasingly everywhere where literacy and formal education play an important role in children's socialisation, the formal educational systems (together with the other agents of the consciousness industry, mass media and religions) are the direct agents of this killing. Every time there are indigenous or minority children in day-care centres and schools with no bilingual teachers authorized to use the languages of the children as the regular and main teaching and child care media, this is tantamount to prohibiting the use of minority languages 'in daily intercourse or in schools'. This is the situation for most immigrant and refugee minority children in all Western European countries and in the US, Canada and Australia, as well for most indigenous first nations, both earlier and, for many, still today (see e.g. Fettes 1998; Hamel 1994; Jordan 1988).

Most minority children in the USA are in straight **submersion programmes**^{vii}, e.g. around 70 per cent in California. In the USA, what are called **structured or sheltered immersion programmes** are also factually submersion programmes: they teach minority children through the medium of the dominant language, and do not offer any alternatives. Mostly the teacher does not know the children's language. Obviously submersion programmes do not qualify as fulfilling the requirements, as the Hague Recommendations rightly point out. Neither do **early-exit transitional programmes**. Even **late-exit transitional programmes** prohibit the use of minority languages in schools later on.

It would be only **two-way programmes** lasting from K to 12 that would qualify as programmes which do NOT commit linguistic genocide. How many of them are there in the USA today? None, according to the expert who is responsible for describing them at the Center for Applied Linguistics, Donna Christian (personal communication, March 1998). I heard in San Diego (March 1998) about **plans** for two such programmes in Texas...

The person who coined the term 'genocide'^{viii}, Professor Raphael Lemkin (see Lemkin 1933), said that 'generally speaking, genocide does not necessarily mean the immediate destruction of a nation' (ibid.). He saw two phases in genocide: 'destruction of the national pattern of the oppressed group and the imposition of the national pattern of the oppressor' (quoted in Ruhashyankiko 1978: 5). Genocide could according to Lemkin be practiced in the political, social, cultural, economic, biological, physical, religious and moral fields. This means that forced assimilation of The USA type would according to Lemkin constitute genocide.

Another important part of the UN Genocide Convention which was originally under the cultural genocide article but was moved and is still in the Convention in its definition of genocide, defines in Article II (e) as one of the 5 types of genocide

'Forcibly transferring children of the group to another group'

Article III says:

The following acts shall be punishable:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

If we accept that children are 'forcibly transferred ... to another group' when they have been forced to accept the language and culture of the dominant group subtractively, at the cost of their own (instead of additively, in addition to their own; a perfectly achievable goal in education), then most education given to minority children in the USA represents genocide, according to the present Article II (e) in the Genocide Convention - which the USA **has** ratified. I will give an example from a recent study of Finnish children in Sweden (a labour migrant minority; groups B and C below) and Swedish-speaking children in Finland (a national minority, with extensive linguistic and other rights; group A below). The example shows both short- and long-term effects of submersion (Group C), late-exit transitional (group B) and maintenance programmes (group A). The USA has only submersion and late-exit transitional but no maintenance programmes.

Pirjo Janulf defended her doctorate in Stockholm in September 1998. In her longitudinal study she had several bilingual and monolingual groups in Finland and Sweden, altogether 1,389 students. 411 Finland Swedish minority

students from Åbo, Finland (Group A; my designation), participated. There were a total of 560 second generation Sweden Finns from Botkyrka, Sweden. 273 of them were in Finnish medium classes (FM) (group B) and 287 in Swedish medium classes (SM) (group C). There were also 'monolingual' control groups in both Finland (group D) and Sweden (group E). Questionnaires, tests and essays were used in 1980 and 1995. Reading and writing skills in both languages were compared. Table 2 (based on information given in Janulf 1998) presents an overview of the groups:

Table 2. Overview of subjects in Janulf 1998

Group N	Country	Mother tongue	Medium of education	Comments
A. N=411	Finland	Swedish	Swedish	Maintenance model
B. N=273	Sweden	Finnish	Finnish	Late-exit transitional
C. N=287	Sweden	Finnish	Swedish	Submersion
D. N=133	Finland	Finnish	Finnish	Controls
E. N=285	Sweden	Swedish	Swedish	Controls

I shall only mention two results from the study. The most bilingual group was A (those in a full maintenance programme (Swedish as the medium of education, Finnish studied as a subject and taught by bilingual teachers), in an officially bilingual city in Finland where Swedish-speakers are a small minority, under 5%). This minority group in Finland achieved better results on the Swedish tests than any other groups, including the Swedish-speaking Swedish-educated control group E in Sweden and the Swedish-educated Finnish submersion group C in Sweden. Group A also had considerably better results in Finnish tests than group C, even if these are native speakers of Finnish. Compared to the native Finnish-speaking group B, group A students read Finnish just as well or better but wrote somewhat less well^{ix}. Thus it is clear that a mother tongue medium maintenance programme for a minority, a programme which respects educational linguistic human rights, leads to high levels of bilingualism.

Secondly, in one sub-study, '41 former Sweden Finnish informants with an average age of 27 were revisited. Those who had been in the Swedish classes [group C] tended to let Swedish take over at home while those who had been in the Finnish classes [group B] used both languages. Sixteen of the former informants had children of their own. The language chosen when speaking to their children correlated with their own language skills and the language of their partner. **None of those who had been in the Swedish classes [C] spoke Finnish with their children.** Among those who were in Finnish classes [B] various combinations of languages were applied: 40% spoke Finnish, 25% spoke both languages and 33% spoke Swedish. Nearly 90% of those who had been in Finnish classes [B] wanted their children to learn Finnish in school.' (Janulf 1998, Abstract; emphasis added).

Those minority children, Swedish-speakers in Finland, who receive most of their education through the medium of their own language while studying the dominant language as a second language, taught by bilingual teachers, become high level bilinguals, and can pass on their minority language to their children (which most Finland Swedes naturally do). Those minority children, Finnish-speakers in Sweden, who are in Finnish-medium education, can achieve this too. But those Finnish-speaking children in Sweden who received Swedish-medium education, speak Swedish to their children. Not one of them passes on their language to their children. This means that their children have been forcibly transferred to another group, since the parents did not have any choice. The Swedish state and many local authorities in Sweden have repeatedly tried to prevent Finnish-medium education (see, e.g. Muncio 1994, 1996, Lainio 1997, Skutnabb-Kangas 1996a, 1998a). This is how states violate linguistic human rights of minority children and commit linguistic genocide.

If we were to compare with the USA and ask how many of those Spanish-speakers where the the present parent generation has been through a submersion programme or even an early-exit transitional programme, pass on their Spanish to their children, using it as the main language (which is necessary if the children are to become high-level bilinguals), we would probably get similar results: for most, English is the main language with the children, i.e. the children have been forcibly transferred to another language group.

One information effort which is needed in the USA is more contributions from educational situations where learning additional languages is both succesful and normal, and not subtractive. Additive language learners, and researchers supporting them, should unite against the pervasive spread of McDonaldised (see Ritzer 1996 and Hamelink 19xx, 19xx, for this concept), globalised, subtractive, uncritically anglophile ESL/EFL^x. The Nordic countries, the Netherlands, Hungary, just to mention a few, have a lot to offer, and many multilingual people working in EFL/ESL

outside the USA and UK may be closet subversives. May they come out soon!

For the maintenance of linguistic and cultural diversity on our planet and the development of languages, educational language rights are not merely vital but the most important linguistic human rights. If children are not granted the opportunity to learn their parents' idiom fully and properly so that they become (at least) as proficient as the parents, the language is not going to survive. Normally parents transmit their languages to their children. They do it partly by using the language themselves with the children and partly, and increasingly importantly, by choosing their own language as the medium of education for their children or otherwise ensuring that their children get full competence in their language in school. When more and more children gain access to formal education, much of the more formal language learning which earlier happened in the community must happen in schools. Where the school does not support the intergenerational transmission of the parents' language to children, it **may** be a conscious, voluntary choice by one or both parents, where they **are** aware of the long-term consequences of the non-transmittance for the children themselves, for the relationship between parents and children and sometimes even for the future of the language. But in most cases I would claim that there may not have been any conscious choice, with alternatives. Then it may be a question of linguistic genocide.

In Europe, just like in the United States, most immigrant minorities still experience linguistic genocide in schools, in submersion education (while several "national" minorities have maintenance programmes). With the border control in Fortress Europe becoming tighter, the atmosphere more and more racist and xenophobic, with extreme right wing parties (in France, in Norway, in Denmark) and groups (Germany, Sweden, Denmark) growing fast, many labour migrant and refugee minorities are enormously vulnerable and their protests, even against the forced assimilation in schools are weakening in many countries. Multicultural and anti-racist education, for instance in Britain, mostly either excludes multilingualism altogether or makes the learning of minority mother tongues a private affair, the exclusive responsibility of the parents and the minority communities.

On the other hand, there are also some positive signs and experiences, in the language of possibilities (see Freire 19xx, Giroux 19xx), and both the Hague Recommendations and the reinterpretation of the ICCPR Article 27 represent one. Minority schools are another one. Private but partially state-financed ethnic minority schools, with the minority language as the main medium of education, are showing excellent results in terms of high levels of multilingualism and multiculturalism and academic success. The Swedish government suspected that ethnic minority schools could contribute to increased social, cultural and economic segregation, and asked a Swedish research group to investigate the schools. The official report, published by the National Board of Education in October 1997 (Skolverket 1997) concludes that there is no reason to suspect that the schools lead to segregation. There is criticism in the report of some Muslim schools - most of which do **not** use Arabic as the main medium of education - in terms of the very traditional content of the education and sometimes of low teacher qualifications. But the minority language medium maintenance schools (which the Swedes call "the linguistically oriented schools" in the report) get high praise for the levels of knowledge and bilingualism attained, the enthusiasm and active engagement of parents, children and teachers, and the social, linguistic and cultural integration of the students. The Swedish team was looking for problems in these schools, in order to be able to suggest solutions. But they claim, with surprise, that they found no problems - and therefore there is no reason to suggest any solutions. Instead, they

have to agree with a student we interviewed who claimed that his school gave him as much as any [Swedish-medium] public school could give - plus some more! (my translation).

In general, what we see in Europe is polarization: more high-level multilingualism for the elites; harsher linguistic and cultural assimilation demands for minorities, especially immigrated and refugee minorities, and more sophisticated double-speak. On the other hand, there are also a few positive signs: the Hague Recommendations, some positive experiments, lots of grassroots activities, and, in many countries, an increasing awareness about the need to start taking multilingualism, language in general, and the increasingly important role of language in power and control seriously.

Both globally and in Europe, there is an increasing awareness about the necessity of high levels of multilingual competence in the future if one wants to have a high-level job, in administration or business. Big multinationals, like the British BP Oil International, demand trilingualism from all their new career-service appointees, with English as one of the three languages. Recent studies by François Grin and others in Switzerland show, predictably, that high level knowledge of English gives a higher salary.

But Grin also shows supply and demand curves for future development. When more and more people in the world learn English - which is today's tendency - competence in English will be the self-evident norm. There will very soon be an over-supply which lowers the price. Knowing English only will take you nowhere, especially in business. It will be knowledge of other additional languages that gives you the high salary. Already now knowledge of English

AND French AND German is starting to be a standard requirement for all young people in Europe who strive high. A fourth and fifth language is part of tomorrow's qualifications. Americans need to think of it, instead of killing the existing linguistic and cultural potential. The Chinese and the Russians are rapidly learning English, and many will have a high level of competence. Soon some Americans may be the only ones in the world suffering from the curable illness of monolingual stupidity, and in hundred years' time we may be showing some of the voluntarily monolingual individuals in pathological museums.

References

Andrýsek, Oldrich (1989). **Report on the definition of minorities**. SIM Special No 8. Utrecht: Netherlands Institute of Human Rights, Studie- en Informatiecentrum Mensenrechten (SIM).

Clark, Don & Williamson, Robert (Eds.) (1996). **Self-Determination: International Perspectives**. London: The Macmillan Press.

Eide, Asbjørn (1996). Classification of minorities and differentiation in minority rights. E/CN.4/Sub.2/AC5/1996/WP.2. New York: United Nations.

Giroux, Henry A. (1985). Introduction. In Freire, Paulo. **The Politics of Education. Culture, Power and Liberation**. Introduction by Henry A. Giroux. Translated by Donaldo Macedo. Houndsmills and London: Macmillan, xi-xxv.

Capotorti, Francesco (1979). **Study of the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities**. New York: United Nations.

Fettes, Mark (1998). Life of the Edge: Canada's Aboriginal Languages Under Official Bilingualism. In Ricento, Tom & Burnaby, Barbara (Eds.). **Language and Politics in the United States and Canada: Myths and realities**. Mahwah, N.J.: Lawrence Erlbaum.

Freire, Paulo (1985). **The Politics of Education. Culture, Power and Liberation**. Introduction by Henry A. Giroux. Translated by Donaldo Macedo. Houndsmills and London: Macmillan.

Giroux, Henry A. (1985). Introduction. In Freire, Paulo. **The Politics of Education. Culture, Power and Liberation**. Introduction by Henry A. Giroux. Translated by Donaldo Macedo. Houndsmills and London: Macmillan, xi-xxv.

Grin, François (1996). Economic approaches to language and language planning: an introduction. **International Journal of the Sociology of Language** 121, 1-16.

Grin, François (1997). Aménagement linguistique: du bon usage des concepts d'offre et de demande (Language planning: on the proper use of the concepts of supply and demand). In Labie, Norman (ed.). **Études récentes en linguistique de contact** (Recent studies in contact linguistics). Bonn: Dümmler, 117-134.

Grin, François (in press). Market forces, language spread and linguistic diversity. In Kontra, Miklós, Phillipson, Robert, Skutnabb-Kangas, Tove & Várady, Tibor (eds.). **Approaches to Linguistic Human Rights**. Budapest: Central European University Press.

The Hague Recommendations Regarding the Education Rights of National Minorities & Explanatory Note, October 1996, The Hague; for the use of the OSCE High Commissioner on National Minorities, Max van der Stoel.

Hamel, Rainer Enrique (1994). Indigenous education in Latin America: policies and legal frameworks. In T. Skutnabb-Kangas & R. Phillipson (Eds.), **Linguistic Human Rights. Overcoming linguistic discrimination**. Berlin and New York: Mouton de Gruyter, 271-287.

Hamelink, Cees J. (1994) **Trends in world communication: on disempowerment and self-empowerment**. Penang: Southbound, and Third World Network.

Hamelink, Cees J. (1995). **The Politics of World Communication. A Human Rights Perspective**. London, Thousand Oaks & New Delhi: Sage.

Hassanpour, Amir (in press). Language rights in the emerging world linguistic order: The state, the market and communication technologies. In Kontra, Miklós, Phillipson, Robert, Skutnabb-Kangas, Tove & Várady, Tibor (eds.). **Approaches to Linguistic Human Rights**. Budapest: Central European University Press.

Helsinki Watch (1990). **Destroying ethnic identity. The Kurds of Turkey. An update**, September 1990. New York & Washington, D.C..

Human Rights in Kurdistan (1989). **Documentation of the international conference on human rights in Kurdistan**, 14-16 April, Hochschule Bremen. Bremen: The Initiative for Human Rights in Kurdistan.

Human Rights in Kurdistan (1990). **Silence is killing them**, Bremen: The Initiative for Human Rights in Kurdistan.

Jordan, Deirdre (1988). Rights and claims of indigenous people. Education and the reclaiming of identity: the case of the Canadian natives, the Sami and Australian Aborigines. In Skutnabb-Kangas, Tove & Cummins, Jim (Eds.). **Minority education: from shame to struggle**. Clevedon: Multilingual Matters, 189-222.

Lemkin, Raphael (1933). **Les actes créant un danger général (interétatique) considérés comme délits de droit des gens**. Paris: Pedone.

Maffi, Luisa, Skutnabb-Kangas, Tove & Andrianarivo, Jonah (in press). Language diversity. In Posey, Darrell and Duffield, Graham (Eds.). **Cultural and Spiritual Values of Biodiversity**. New York: United Nations Environmental Programme & Cambridge: Cambridge University Press.

Mander, Jerry and Goldsmith, Edward (eds.) 1996. **The case against the global economy and for a turn toward the local**. San Francisco: Sierra Club.

Phillipson, Robert (1992). **Linguistic imperialism**. Oxford: Oxford University Press.

Phillipson, Robert (in press). International languages and international human rights. In Kontra, Miklós, Phillipson, Robert, Skutnabb-Kangas, Tove & Várady, Tibor (eds.). **Approaches to Linguistic Human Rights**. Budapest: Central European University Press.

Phillipson, Robert and Skutnabb-Kangas, Tove (1996). English Only Worldwide, or Language Ecology. **TESOL Quarterly**, Special-Topic Issue: Language Planning and Policy, eds. Thomas Ricento & Nancy Hornberger, 429-452.

Ritzer, George (1996). **The McDonaldization of Society. An Investigation into the Changing Character of Contemporary Social Life**. Revised edition. Thousand Oaks, CA, London & New Delhi: Pine Forge Press.

Ruhashyankiko, Nicodème (1978). **Study of the Question of the Prevention and Punishment of the Crime of Genocide**. UN Document E/CH.4/Sub.2/416, 4 July 1978.

Rothenberger, Alexandra (compiler) 1997. **Bibliography on the OSCE High Commissioner on National Minorities: Documents, Speeches and Related Publications**. The Hague: The Foundation on Inter-Ethnic Relations.

Skolverket 1997. **Barn mellan arv och framtid. Konfessionella, etniska och språkligt inriktade skolor i ett segregationsperspektiv** (Children between heritage and future. Confessional, ethnic and linguistically oriented schools in a segregation perspective). Dnr 97:810, 29 September 1997, 33.

- i This article draws on Skutnabb-Kangas 19xx, xx Joan Kelly art, book, Hong Kong, Dublin
- ii Indigenous peoples are NOT minorities in international law. They have access to all the protection that minorities have, but their position is special, and they are supposed to have more and different rights from minorities. See, e.g. Thornberry, forthcoming, and de Varennes 1996.
- iii The USA has, however, **not** ratified its Optional Protocol from the same year (which, among other things, gives access to the complaint procedure), or the UN International Covenant on Economic, Social and Cultural Rights, ratified by 137 states. Neither has the USA ratified the general American Human Rights Instruments, nor the fairly recent (1990) American Protocol to the American Convention on Human Rights to Abolish the Death Penalty. For educators it might also be interesting to remember that the uSA has not ratified the UNESCO Convention against Discrimination in Education from 1960, in force since 1962 and ratified by 87 states.
- iv This means that the Article does not only imply a prescription **not** to discriminate ('negative right'), but includes a positive right to protection.
- v The definitions of both minority and different types of minorities (indigenous, national, regional, territorial, immigrant etc) are notoriously difficult (see e.g. Capotorti 1979; Andrýsek 1989; see also UN Human Rights Fact Sheet No 18, Minority Rights, 1992: 8--10; Eide 1996). The following summary of definitions is from Skutnabb-Kangas & Phillipson 1994, Note 2 - at the end I have added 'before the reinterpretation of Article 27' and changed the present tense to past. As can be seen, we anticipated the reinterpretation:

Most definitions use

A. Numbers as a defining characteristics.

B. Dominance is used in some but not others ("in an inferior and non-dominant position", Andrýsek 1989: 60; "in a non-dominant position", Capotorti 1979: 96).

C. The group has to possess ethnic or religious or linguistic traits, features or characteristics or cultural bonds and ties which are (markedly) different from those of the rest of the population, according to most definitions.

D. A will/wish (if only implicit) to safeguard or preserve or strengthen the patterns of life and behavior or culture or traditions or religion or language of the group is specifically mentioned in most definitions (e.g. Capotorti 1979: 96). Language is not included in all of them (e.g. not in Andrýsek's definition 1989: 60).

E. Most definitions in charters and covenants require nationality in the state concerned as part of the definition, i.e. minorities are defined so as to give national or regional minorities more rights than to immigrants and refugees (who, by definition, are considered non-national and non-regional). In contrast, academic definitions for research purposes often make no mention of nationality as a criterion (cf. Riggs 1985: 155, 102).

We use here the following definition of a minority for purposes of linguistic human rights:

A group which is smaller in number than the rest of the population of a State, whose members have ethnical, religious or linguistic features different from those of the rest of the population, and are guided, if only implicitly, by the will to safeguard their culture, traditions, religion or language.

Any group coming within the terms of this definition shall be treated as an ethnic, religious or linguistic minority.

To belong to a minority shall be a matter of individual choice.

The definition is based on our reformulation of the definition used by Council of Europe Commission for Democracy through Law (91) 7, Art. 2; see Appendix). We have in our definition omitted the requirement of citizenship ("who are nationals of that State"), because a forced change of citizenship to our mind cannot be required in order to be able to enjoy basic human rights. As long as many immigration states practice a fairly restrictive policy (for instance residence requirements which are more than 3-4 years, and/or linguistic requirements, often based on evaluations by non-linguists) in granting citizenship, it also seems to us that especially children may suffer unduly if they are only granted basic linguistic rights after upwards of 5 years in the new country.

If an individual (before the reinterpretation of Article 27) claimed that she belonged to a national minority, and the State claimed that there are no national minorities in that State (e.g. Kurds in Turkey or Finns in Sweden), there was a conflict, and the State could refuse to grant the minority person/group rights which it has promised to grant to national minorities. In most definitions of minority, minority rights thus became conditional on the acceptance by the State of the existence of a minority in the first place, i.e. only exo-definitions (definitions by outsiders, not by the individual/group concerned) of minorities were accepted. According to our definition, minority status does NOT depend on the acceptance of the State, but is either 'objectively' ("coming within the terms of this

definition") or subjectively ("a matter of individual choice") verifiable. Many of the definitions of indigenous minorities have this combination of "objective" characteristics and self-identification (e.g. the definitions of Sámi for the purposes of voting rights to the Sámi Parliaments in Finland and Norway, see Magga, this volume). The trend seems to be towards self-identification only, for numerically small groups. Minority definitions can be compared to definitions of ethnic groups - see the discussions in Stavenhagen 1987; Skutnabb-Kangas 1987, 1991c; Riggs 1985.'

vi I give below my own basic list in relation to **individual** rights (i.e. not collective rights - these are necessary too, and are about the right of the group to exist as a minority, to control its own education, etc - see xx).

from Skutnabb-Kangas 1998: 23.

vii A SUBMERSION or SINK-OR-SWIM PROGRAMME is a programme where linguistic minority children with a low-status mother tongue are forced to accept instruction through the medium of a foreign majority/official language with high status, in classes where some children are native speakers of the language of instruction, where the teacher does not understand the mother tongue of the minority children, and where the majority language constitutes a threat to the minority children's mother tongue (MT), which runs the risk of being displaced or replaced (MT is not being learned (properly); MT is "forgotten"; MT does not develop because the children are forbidden to use it or are made to feel ashamed of it) - a SUBTRACTIVE language learning situation. This is the most common - and most disastrous - method in the present world for educating minority children (Skutnabb-Kangas 19xx: xx).

viii From the Greek **genos**, 'race, tribe', and the Latin suffix **cide**, 'killing'.

ix Their Finnish skills could be at native level if a few subjects were taught through the medium of Finnish in upper secondary school, as the Hague Recommendations suggest.

x Another naive question could be: Why is it that the people running around the world, posing as ESL- and EFL-experts on how to teach English as an **additional** language to the world, i.e. teaching them how to become high level multilingual, mostly come from the two countries, namely the USA and UK, which are notoriously among the most unsuccessful ones in the world in making their **own majority population** high level bilingual, not to speak of high level multilingual? How can they be the best experts in the world in something they have never tried out or succeeded with at home?