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Introduction

Many people have struggled throughout history to get **language rights** for themselves (and others). Language rights have been discussed and written about for quite some time, before and, especially, during the era of the League of Nations, and often by lawyers writing constitutions. **Human rights** is a much more thoroughly studied and clarified but still contested concept which has been at the centre of a whole field of study and politics, but, so far, by very few language experts.

Putting language rights **together** with human rights gives **linguistic human rights**. This topic has been approached only very recently, and a lot of work needs to be done, both scientifically and politically.

The Importance of Linguistic Human Rights in Education

Language rights in education are central for the maintenance of languages and for prevention of linguistic and cultural genocide, regardless of whether this education happens in schools, formally, or in the homes and communities, informally, and regardless of whether and to what extent literacy is involved. Transmission of languages from the parent generation to children is **the** most vital factor for the maintenance of languages. Children must have the opportunity of learning their parents' idiom fully and properly so that they become (at least) as proficient as the parents. Language learning in this sense has to continue at least into young adulthood, for many functions throughout life. When more and more children get access to formal education, much of their more formal language learning which earlier happened in the community, happens in schools. If an alien language is used in schools, i.e. if children do not have the right to learn and use their language in schools, the language is not going to survive because children educated through the medium of an alien language are not likely to pass their own language on to their children and grandchildren. "Modernization" has accelerated the death/murder of languages which without formal education had survived for centuries or millennia.

When the United Nations worked on the final draft of what was to become The Convention on the Prevention and Punishment of the Crime of Genocide (E 794, 1948), a definition of **linguistic genocide** was included in Article III.1:

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.

In the final vote in General Assembly, Art. III was voted down, and is NOT part of the final Convention. Still, the definition can be used. If we accept the claim that "prohibition" can be direct or indirect, it follows that if the minority language is not used as a medium of education in the preschool/school and if there are no minority teachers in the school, the use of the language is **indirectly** prohibited in daily intercourse/in schools, i.e. it is a question of linguistic genocide.

For maintenance and development of languages, educational linguistic rights, including the right to mother tongue medium education, are absolutely vital. I would not hesitate in calling **educational language rights the most important linguistic human rights** if we are interested in maintaining linguistic and cultural diversity on our planet.

The Development of Linguistic Rights

Charters produced during the American and French Revolutions, forerunners of today's human rights charters, contained no clauses on the rights of minorities and did not guarantee minorities any language rights in education. Before 1815 language rights were not covered in any **international** treaties. The Final Act of the Congress of Vienna 1815 had clauses safeguarding national minorities who of course also were linguistic minorities. Several constitutions and bi- and multilateral treaties in the 19th century also had similar clauses. Some also gave educational language rights (e.g. the Austrian Constitutional Law of 1867).

The Peace Treaties that concluded the First World War attempted to guarantee minority rights, including language rights in education, in Central and Eastern Europe, but Britain, France and the United States, signatories to the Treaties, did not offer equivalent rights to their own minority group citizens. Several countries (e.g. Latvia 1922, Lithuania 1925, Poland 1932, 1933, 1934) proposed universal minority protection within the League of Nations, but all the drafts were rejected.

The period from 1945 to the 1970s implied a relative neglect of minority and therefore also language rights, with the exception of broad formulations outlawing discrimination. It was thought that human rights instruments in general provided enough protection for **every individual** and that specific rights to minorities were thus unnecessary. Proposals to include a provision on minorities in the Universal Declaration of Human Rights did not succeed.

A more positive era started with the publication in 1979 of the report **Study of the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities** by Francesco Capotorti, UN Special Rapporteur on Minorities. More about it below.

Analysis of human rights instruments on language rights in education

In many of the post-World-War2 human rights instruments, language is mentioned in the preambles and in general clauses, as one of the characteristics on the basis of which individuals are not to be discriminated against in their enjoyment of human rights and fundamental freedoms. The other original characteristics (from the joint Art. 2, Universal Declaration of Human Rights, and Art. 2.1, International Covenant on Civil and Political Rights) are "**race, colour, sex, religion, political or other opinion, national or social origin, property, birth or other status**". Later instruments have added **disability, economic status or any other social condition, ethnic origin, conviction, nationality, age and marital status**. The original and basic four (in the United Nations Charter, Art.13) are "**race, sex, language, or religion**". This shows that language has been seen as one of the most important characteristics of humans in terms of their human rights.

When we move from the non-duty-inducing phrases in the preambles, to the binding clauses, and especially to the educational clauses, something very strange happens.

Often **language disappears completely**. This happens in **The Universal Declaration of Human Rights** (1948): the paragraph on education (26), does not refer to language at all. Often there is still a list which has all or most of the others - but language is no longer there. **The International Covenant on Economic, Social and Cultural Rights** (adopted in 1966 and in force since 1976) mentions language on a par with race, colour, sex, religion etc in its **general** article (2.2), but then omits any reference to language in the **educational** Article 13, even if the Article does explicitly refer to "racial, ethnic or religious groups" - but not "linguistic" groups. In 1970, The United Nations appointed a Special Rapporteur on Minorities, Francesco Capotorti whose report (1979) still is one of the most thorough existing treatises of minority rights (only Thornberry 1991 and de Varennes 1996 have superseded it). Capotorti saw a clear need for more international legislation to protect minorities. Several Declarations and Conventions to protect minorities and/or minority languages have been passed in the 1990s. But even in the new instruments strange things are happening in relation to the Articles about language rights in education.

If language indeed **is** included, the Article with language-related rights is so weak and unsatisfactory that it is virtually meaningless. All or many of the other human characteristics are still there and get proper treatment and detailed, positive rights. The clauses about them create obligations and contain demanding formulations, where the states are firm dutyholders and '**shall**' do something positive in order to ensure the rights; there are few modifications, few opt-out clauses and few alternatives on a gliding scale. Many of the other characteristics get their own specific conventions (e.g. conventions to prevent racism or sexism, or to guarantee freedom of religion). But not so for language, especially in education.

Compare the *demanding formulations* relating to other characteristics (1.1, 1.2), with the treatment, with the many opt-outs, modifications and alternatives, that language in education (4.3) gets in **The UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities**, adopted by the General Assembly in December 1992 (my emphases):

1.1. States *shall protect* the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories, and *shall encourage* conditions for the *promotion* of that identity.

1.2. States *shall* adopt appropriate legislative *and other* measures *to achieve those ends*.

4.3. States should take appropriate measures so that, wherever possible, persons belonging to minorities have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.

Clearly such a formulation as in Art. 4.3 raises many questions. What constitute "appropriate measures" or "adequate opportunities", and who is to decide what is "possible"? Does "instruction in" the mother tongue mean "through the medium of the mother tongue" or does it only mean instruction in the mother tongue as a subject?

We can see the same phenomenon in the **European Charter for Regional or Minority Languages** (22 June 1992). A state can choose which paragraphs or subparagraphs it wants to apply (a minimum of 35 is required). The formulations in the education Article 8 include a range of modifications like "as far as possible", "relevant", "appropriate", "where necessary", "pupils who so wish in a number considered sufficient", "if the number of users of a regional or minority

language justifies it", and a number of alternatives as in "to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education".

While the Charter demonstrates how difficult it is to write binding formulations which are sensitive to local conditions (and this is, we certainly have to admit, a real problem), just like in the UN Declaration above, its opt-outs and alternatives permit a reluctant state to meet the requirements in a minimalist way which it can legitimate by claiming that a provision was not "possible" or "appropriate", numbers were not "sufficient" or did not "justify" a provision, and that it "allowed" the minority to organise teaching of their language as a subject, outside school, at their own cost.

Also in a new Council of Europe **Framework Convention for the Protection of National Minorities** (adopted by the Committee of Ministers of the Council of Europe on 10 November 1994), again the Article (14.2) covering the medium of education is more heavily qualified than anything else in the Framework Convention:

In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught in the minority language or for receiving instruction in this language (my emphases).

There is a hierarchy, with different rights, between different groups whose languages are not main official languages in the state where they live (see Human Rights Fact Sheets from the UN Centre for Human Rights in Geneva for these). **Traditional/territorial/autochthonous/national minorities** have more language rights than other groups and most human rights instruments pertain to them. **Immigrant/guest worker/refugee minorities** have practically no language rights in education in relation to their own language, and only few in relation to learning the official language. The UN International Convention on the Protection of the rights of All Migrant Workers and Members of Their Families, from December 1990 but not yet in force because of lack of signatures, in its assimilation-oriented educational language Article (45) accords minimal rights to the mother tongues and is even more vague than the instruments mentioned before. **Indigenous peoples** have on paper some rights and more are suggested in the **UN Draft Universal Declaration on Rights of Indigenous Peoples** - but see below.

Work in Progress

A more recent attempt to promote language rights, a Universal Declaration of Linguistic Rights, accepted in Barcelona in June 1996 and handed over to UNESCO, also suffers from similar shortcomings even if it for several beneficiaries (**language communities** and, to some extent, **language groups**) represents great progress in relation to the other instruments described. Still, indirectly its education section forces all others except those defined as members of **language communities** (which roughly correspond to national territorially based minorities) to assimilate. For all others, only education in the language of the territory is a right, i.e. not education in their own language (see below). There are many states which claim that they do not have minority language communities, or which do not want to give these communities any rights. Since **self-determination** is not an unconditional right in international law, neither internally (autonomy of

some kind) nor externally (secession, independence), a Declaration which gives most of the rights to linguistic **communities**, without firm dutyholders, makes these communities completely dependent on the acceptance of their existence by states, an acceptance that many states are not willing to grant. This makes individual rights enormously important in the Declaration. But these individual rights are the weakest part of the Declaration.

The new Universal Declaration does not give any positive **educational** language rights to **all** individuals, regardless of which category they belong to - and this is exactly what individual human rights are supposed to do. If something is to be seen as an individual **human right**, it means, per definition, a right which **every individual** in the world has, simply because that individual is a human being. It means an unconditional, fundamental right that no state is allowed to take away. In addition, the new Declaration seems to be in many ways completely unrealistic - few if any states in the world would be willing to accept it in its present form.

This will probably be the fate of the UN **Draft Universal Declaration on Rights of Indigenous Peoples** also, according to its chair, Erica Irene Daes (1995). Despite the careful negotiations over a decade, several countries, most importantly the United States, are probably going to demand substantial changes which undermine the progress achieved in the Declaration (Morris 1995).

The conclusion is that we are still to see the right to education through the medium of the mother tongue become a human right. We are still living with basic language wrongs in human rights law, especially in education policy. Denial of linguistic human rights, linguistic and cultural genocide and forced assimilation through education are still characteristic of many states, notably in Europe and Neo-Europes.

Development of the Denial

States seem to have three main reasons for denying linguistic human rights, one more economic, two more political.

The **economic** reason has to do with (falsely) seeing homogenization (including monolingualism or subtractive learning of official or "world" languages) and standardization as necessary prerequisites for industrialisation, "modernization", consumerism, efficiency and large single markets.

The principle of the territorial integrity and political sovereignty of contemporary states is often presented as being in conflict with another human rights principle, that of self-determination, both important principles in human rights law. The first **political** reason for the denial of linguistic human rights is to try to "solve" this conflict. Minorities with educational linguistic rights, reproducing themselves as distinct minorities, are seen as a threat to the present states because they are expected by the states to demand first internal then external self-determination. Therefore, many states strive, through homogenizing forced assimilation, towards eradicating distinct groups which could demand self-determination. By denying them linguistic human rights and by committing linguistic and cultural genocide in education and otherwise, the states seem to hope that there will eventually not be any distinct groups left to demand self-determination: the states will be homogenized as a result of the forced assimilation. Language plays here a multiple role from a collective point of view (Skutnabb-Kangas, 1997a).

The second **political** reason has to do with the changing forms of power and control. Physical violence as a means of control is already increasingly seen as unacceptable between states (but

not yet within states - most of today's wars are intra-state wars). Physical violence is in the process of being replaced by carrots and ideas (remuneration and persuasion, Galtung 1980; symbolic violence, Bourdieu 1991) which are more efficient and cheaper to use for the power-holders, both economically and psychologically. In order for people to accept common norms which are a prerequisite for seeing at least symbolic remuneration, for instance status-related rewards and benefits, as remuneration, hegemonic ideas have to be spread and consent manufactured.

Ideas are spread mainly through the consciousness industry (most importantly education, mass media and religions). Even if visual and audio-images are important, ideas are mainly spread via language.

In order for everybody to understand the power holders' language (and to prevent people from the analyses needed for counterhegemonies), indigenous peoples, minorities and dialect-speakers have to be forcefully assimilated (Skutnabb-Kangas & Phillipson 1994, 1996), and everybody in the world has to learn (some) English (Phillipson 1992). A common language, preferably learned in a subtractive way, is the most important prerequisite for ruling and control via ideas. Again, this can be achieved by denying linguistic human rights. And this is in fact what is done in education (Skutnabb-Kangas, forthcoming).

Problems, Difficulties and Challenges

From a research point of view, there are several conceptual challenges to be tackled. Some of the most urgent ones are in my view the following:

A. Firstly, most language rights are related to "minorities", but there is no commonly accepted definition of the concept "minority" (see Andrysek 1989, Capotorti 1979, Gromacki 1992, Packer 1994, Thornberry 1991, de Varennes 1996 for discussions).

B. Secondly, many other concepts needed for language rights are equally unclear. What does it mean to "learn/acquire a language", or to learn it "fully" or to be "proficient" in it? How should "mother tongue" be defined for language rights purposes? What are the consequences for concept definitions of including sign languages (so far, only Uganda and Finland seem to grant them constitutional rights). What is the borderline between "language" and "dialect" or "standard variety" (see reviews by Corson - in press a, b - on non-standard varieties) and other varieties? Does an entity called "language" really exist, or is it a Western myth? (see Mühlhäusler 1996 for discussions). Peter Mühlhäusler (1996) seriously questions some of our basic concepts in his work on sustainable language ecologies. Mühlhäusler claims that the existence of separate languages may be a Western myth and substantiates this with examples from the Pacificⁱ.

A second claim by Mühlhäusler is the following: "that successful communication depends on having a shared grammatical and lexical code is a Western assumption, not a fact". This means that forcing people to accept shared grammatical rules or excluding certain words or ways of pronouncing, in general, standardizing language, does not necessarily make oral communication more successful - on the contrary, it can harm it. This **may** of course be different for **some** written communication.

Now if Mühlhäusler is right in his claims about the doubtful existence of the very object we are discussing in linguistic human rights, namely "language", what are the consequences for analysis and political action? Can we struggle for linguistic human rights and, as part of this struggle, demand linguistic human rights, if we cannot properly define the languages that these rights

should pertain to?

C. The legitimacy of hierarchies between rights of various groups needs clarification. So far, (im)migrant minorities have not had any linguistic rights in education to use and maintain their languages. **The European Charter for Regional and Minority Languages**, for example, explicitly excludes immigrant minority languages. So do the **OSCE** (Organisation on Security and Cooperation in Europe) and several other non-binding documents. Some of the UN documents (e.g. the **UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities**) are unclear/open to different interpretations as to whether (im)migrant minorities count as minorities. Should they have rights? When do they cease to be immigrants and become minorities? So far Hungary seems to be the only country which has defined this in law (after 100 years).

It makes little sense, though, to differentiate between the language rights of majorities, indigenous peoples and autochthonous or immigrant minorities **in education** - the needs of every child to learn their own and at least some other languages are similar.

The only distinction one might make is that between **necessary** rights and **enrichment-oriented** rights. In my view the **necessary individual rights** on the one hand and **enrichment-oriented rights** on the other hand. **The necessary rights** have to do with access/right to one's mother tongue(s) and to an official language if it is not the mother tongue, with the relationship between them, meaning no enforced language shift, and with language-related access to primary formal education. **The enrichment-oriented rights** have to do with access/right to learn any foreign languages.

For instance in the **Draft Universal Declaration on Linguistic Rights** (see above), members of **language communities** have more rights, when they want to learn any foreign language in the world, than individuals not defined as members of language communities, when these want to learn their **own** language. Language communities

are entitled to an education which will enable their members to acquire a full command of their own language, including the different abilities relating to all the usual spheres of use, as well as the most extensive possible command of any other language they may wish to know (Art. 26),

i.e. they get very extensive necessary **and** enrichment-oriented rights. On the other hand, others, meaning threatened groups and individuals who are not accepted as "language communities" only have a right to be educated in the language of the territorial language communities (and the territories are seen as monolingual, not multilingual), and their own mother tongues are only granted conditional ("may") and negative ("does not exclude") rights which put the mother tongue at the same level as any foreign languages in the world.

1. Everyone is entitled to receive an education in the language specific to the territory where s/he resides.

2. This right does not exclude the right to acquire oral and written knowledge of any language which may be of use to him/her as an instrument of communication with other language communities (Art. 29).

This means that the most important right of **everyone**, the linguistic **human** right that is necessary for the maintenance of linguistic diversity, is NOT in the Declaration, while a strongly formulated positive enrichment-oriented but not necessary rights to foreign languages is there for

language community members. To those who have, shall more be given. Surely this cannot be the intention of the Declaration!

In my view, **only the necessary rights should be seen as linguistic human rights**. Enrichment-oriented rights, for instance the right to learn foreign languages, can be seen as **language** rights but not linguistic **human** rights. I have formulated one set of proposals of what linguistic human rights should guarantee at an **individual** levelⁱⁱⁱ (Table 1):

<p>Table 1</p> <p>A UNIVERSAL DECLARATION OF LINGUISTIC HUMAN RIGHTS SHOULD GUARANTEE AT AN INDIVIDUAL LEVEL, IN RELATION TO</p> <p>THE MOTHER TONGUE(S) that everybody can</p> <ul style="list-style-type: none">- identify with their mother tongue(s) and have this identification accepted and respected by others,- learn the mother tongue(s) fully, orally (when physiologically possible) and in writing (which presupposes that minorities are educated through the medium of their mother tongue(s)),- use the mother tongue in most official situations (including schools). <p>OTHER LANGUAGES</p> <ul style="list-style-type: none">- that everybody whose mother tongue is not an official language in the country where s/he is resident, can become bilingual (or trilingual, if s/he has 2 mother tongues) in the mother tongue(s) and (one of) the official language(s) (according to her own choice). <p>THE RELATIONSHIP BETWEEN LANGUAGES</p> <ul style="list-style-type: none">- that any change of mother tongue is voluntary (includes knowledge of long-term consequences), not imposed. <p>PROFIT FROM EDUCATION</p> <ul style="list-style-type: none">- that everybody can profit from education, regardless of what her mother tongue is.
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But a discussion about the scope of rights, including the question of necessary and enrichment-oriented rights, is one of the challenges.

D. Fourthly, there is the problem of how the presumed conflict between **individual rights** and **collective rights** be solved? Is there a conflict? (In my view: no).

E. And fifthly, it is important to specify how the rights and duties of both **beneficiaries and dutyholders** should be defined so that they are firm and clear (instead of vague and conditional) but at the same time flexible and sensitive to local conditions?

In my view both have to be specified. All enforceable rights **must** include a dutyholder - they must specify whose duty it is to see to it that the rights are really granted. If a dutyholder is not specified in an international human rights instrument, rights are in most cases empty phrases; likewise, the beneficiary has to be properly specified, and humanity as a collective entity is also a legitimate beneficiary.

Possible beneficiaries and dutyholders are the **individual** (the preferred Western solution in human rights instruments in general), a **collectivity** (for instance an indigenous or minority group), the **state**, and **humanity** (Table 2).

Table 2
RIGHTS AND DUTIES

SOLUTION	ENTITY	RIGHTS of beneficiary (BF)	Vague/conditional (V, C) or firm (F)	DUTIES of dutyholder (DH)	Vague/conditional (V, C) or firm (F)
NICE PHRASES	IND <u>COM</u> <i>STATE</i> HUMANITY	all (all) not BF all	VVV V - V	not DH not DH not DH not DH	- - - -
DIRECT ASSIMILATION (not the worst nightmare...)	IND <u>COM</u> <i>STATE</i>	■MT as subject outside school ■not BF ■to demand that IND learns L2, "integrates", COM is loyal	VVVC V F	■to learn L2, to assimilate ■to be loyal ■to offer L2-medium education	F F V
ASSIMILATION ORIENTED , more sophisticated	IND <u>COM</u> <i>STATE</i>	■MT as subject in school ■allowed to exist ■to demand that IND learns L2, "integrates", COM is loyal	VC VVVC F	■to learn L2, to assimilate ■to be loyal ■to offer L2-medium ed.; to offer MT as subject	F V F VC
LIBERAL INDIVIDUALIST	IND <u>COM</u> <i>STATE</i> HUMANITY	■transitional MT-medium ed. ■not BF ■to demand that IND learns L2, integrates ■some	VC - F VVV	■to learn L2, to integrate ■to be loyal ■to offer L2-medium ed.; to offer transit. MT-medium ed. ■ not DH	F F F VC V
TSK's preferred solution	IND <u>COM</u>	■MT-medium ed. etc; see Table ■to exist; not be forced to assimilate	F F	■to learn MT and L2 ■to provide students; to be loyal (state must fulfil its duty)	F F C

	STATE	■to demand that IND learns L2 and that COM is loyal	C (state must fulfil its duty)	■to grant LHRs, including MT medium ed.	F
	HUMANITY	■to demand that linguodiversity is maintained	F	■to demand that linguodiversity is maintained	F

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The nightmare solutions make the individual and the collectivity the dutyholders and the state the beneficiary.

The typical liberal sophisticatedly assimilationist solution, seen in many of today's international instruments, makes humanity and the individual vague, conditional beneficiaries and the state a firm beneficiary, demanding loyalty, assimilation (called integration) and L2-learning from minorities. Correspondingly, it makes the state a very vague, conditional dutyholder but the individual and the collectivity firm dutyholders who have to deliver loyalty etc to the state. My favourite solution makes all four both beneficiaries and dutyholders, in a firm and detailed way.

Future Directions

UN Human Rights Committee's General Comment on Article 27

Three promising developments should be mentioned. The UN ICCPR (International Covenant on Civil and Political Rights) Article 27 still grants the best legally binding protection to languages:

"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."

In the customary reading of Art. 27, rights were only granted to individuals, not collectivities. "Persons belonging to ... minorities" only had these rights in states which accepted that the minorities exist. So far, the Article has been interpreted as

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

In 1994 the **UN Human Rights Committee** adopted a **General Comment** on Article 27 which interprets it in a substantially more positive way than earlier. The Committee sees the Article as

- 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";
- imposing positive obligations on the States;
- 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.

What the possible implications of the General Comment on the educational linguistic human rights of (im)migrant minorities we do not know yet. It remains to be seen to what extent this General Comment will influence the State parties. If the Committee's interpretation ("soft law") becomes the general norm, and if the Western European countries where migrant and refugee minorities live start observing this norm, the educational linguistic rights might improve.

OSCE: The Hague Recommendations and Explanatory Notes

The second positive development is the new educational guidelines from the **OSCE High Commissioner on National Minorities**, Max van der Stoep, **The Hague Recommendations and Explanatory Notes** (October 1996). These guidelines were worked out by a small group of experts on human rights and education (including the undersigned). According to them, the genocidal language policy in education

... [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.

UNESCO to revise the Draft Universal Declaration on Linguistic Rights - prospects?

The work of UNESCO to revise the Draft Universal Declaration on Linguistic Rights began in autumn 1996. Despite many shortcomings the Declaration represents, together with several Articles in the UN Draft Universal Declaration on Rights of Indigenous Peoples, the most fargoing suggested protection so far for some of the groups needing language rights in education. Still, other protection is needed for the groups which are outside the rights described in these. Besides, Declarations are usually not binding. But the greatest hurdle of all is the fact that none of the linguistic human rights in education included in these Declarations, nor other types of protection seem to be easily (if at all) acceptable to many states. Several Western states (notably Britain, France, Greece, Turkey, the USA) have during this century not only **not promoted** but in fact **tried to prevent** the acceptance of positive language rights in education (see Skutnabb-Kangas 1996 for an analysis).

States should grant linguistic human rights for egoistic reasons

Absence of **economic and social rights** between the two "World" Wars, "the widespread unemployment and poverty", led according to Asbjørn Eide (1995, 29-30) of the UN Human

Rights Commission, to "the political upheavals and the emergence of totalitarian regimes". This realization led, he claims, to a genuine interest in **securing** economic and social rights, not only for their own sake but also for the preservation of individual freedom and democracy.

Economic and social concerns are "equally important in the **present** time" (ibid.) and have therefore, predictably, received a lot of international attention. Linguistic and cultural identity are at the core of the cultures of most ethnic groups (Smolicz 1979). Threats towards these identities can have a very strong potential to mobilize groups. Still, Eide claims that **cultural rights** have, both in human rights theory and in practice, lacked importance and received little attention, despite the fact that today "ethnic conflict" and "ethnic tension" are seen as the most important possible reasons for unrest, conflict and violence in the world.

Just as **absence** of economic and social rights in the period **between** the world wars **promoted** the emergence of totalitarian regimes, I claim that **absence or denial of linguistic and cultural rights** are **today** effective ways of promoting this "ethnic" conflict and violence. This has been acknowledged by many researchers from several fields. E.g. Jurek Smolicz, Australia, formulates it as follows:

"... attempts to artificially suppress minority languages through policies of assimilation, devaluation, reduction to a state of illiteracy, expulsion or genocide are not only degrading of human dignity and morally unacceptable, but they are also an **invitation** to separatism and an **incitement** to fragmentation into mini-states." (Smolicz 1986, 96; my emphasis)

I see **lack** of linguistic rights as one of the causal factors in certain conflicts. Language-related issues are potential causes of conflict **only** in situations where groups **lack** linguistic rights **and/or** political/economic rights, and where at the same time political and/or economic power and material resources are unevenly distributed along linguistic and ethnic lines. Denial of linguistic human rights is an efficient way of **promoting** conflict. This conflict which has multiple causes **can** then take ethnically and linguistically defined or articulated forms. There are, therefore, strong reasons why states should **support** rather than try to kill linguistic and cultural diversity. The elites of the world should support linguistic rights **for egoistic reasons**, not only for human rights reasons. The myth that granting linguistic and cultural human rights to minorities leads to the disintegration of the state, must be deconstructed. The gulf between the good intentions expressed in preambles of human rights documents and the de facto dearth of LHRs in the West can be understood as symptomatic of the tension created by this myth. Still, the developments described above might include a glimmer of hope...

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i My own metaphors and explanations would be as follows: We like to put things, including our ways of communicating, into boxes and think that they have clear borders, fixed grammatical rules, a definitive vocabulary (even if it changes with time). The building blocks we use when we communicate can rather be seen as taken from big pools, from rainbows, from partially overlapping continua. Fixing borders between them (for instance, between "blue" and "green", calling what is inside a certain border one language ("green") and the other one another language ("blue"), deciding where exactly the core is and calling the shades outside the core dialects (and all blues could have several cores: indigo, marine, steel blue, etc), all of this border drawing has more to do with our wish to create order and master things by labelling, naming them, than with the inherent characteristics of what we are naming.

ii What should LHRs be?

In a civilized state, there should be no need to debate the right to identify with, to maintain and to fully develop one's mother tongue(s) (the language(s) a person has learned first and/or identifies with). It is a self-evident, fundamental **individual** linguistic human right. There should be no need to debate the right for minorities and indigenous peoples to **exist** and to reproduce themselves as distinct groups, with their own languages and cultures. It is a self-evident, fundamental **collective** human right.

In my view, universal linguistic human rights should be guaranteed for an individual in relation to the **mother tongue**, in relation to an **official language** (and thus in relation to bilingualism), in relation to a possible **language shift**, and in relation to **drawing profit from education** as far as the medium of education is concerned.

In relation to the **mother tongue(s)** a universal convention of linguistic human rights in my view should guarantee that

1. everybody has the right to identify with their mother tongue(s) and have this identification accepted and respected by others,
2. everybody has the right to learn the mother tongue(s) fully, orally (when physiologically possible) and in writing. This presupposes that minorities are educated through the medium of their mother tongue(s), within the state-financed educational system),
3. everybody has the right to use the mother tongue in most official situations (including

day-care, schools, courts, emergency situations of all kinds, health care, including hospitals, and many governmental and other offices).

4. any change of mother tongue is voluntary, not imposed. (If parents/guardians, choosing the medium of day-care and education for children, are not offered alternatives or do not know enough about the probable long-term consequences of their choices, the change of mother tongue which mostly is the result of majority-medium education for minorities, cannot be designated voluntary).

In relation to an **official language** a universal convention of linguistic human rights should guarantee that everybody whose mother tongue is not an official language in the country where s/he is resident, has the right to become a high level bilingual (or trilingual, if s/he has 2 mother tongues) in the mother tongue(s) and (one of) the official language(s) (according to her own choice). This presupposes bilingual teachers. In my view, for instance a monolingual English-as-a-second-language teacher in Australia or the United States or Hong Kong is per definition incompetent. An English teacher **must** know both English and the student's mother tongue. Likewise, here the parents **must** know enough about the research results when they make their choices - minority parents must e.g. know that good MT-medium teaching also leads to better proficiency in the dominant language, for instance English, AND in the mother tongue than English-medium teaching.

In relation to **drawing profit from education** a universal convention of linguistic human rights should guarantee that everybody can profit from formal education, regardless of what her mother tongue is. "Profit" should be defined in educational equal outcome terms, not just in terms of having the right to receive marks (as it has been interpreted in human rights courts so far). The rights that should be guaranteed at an individual level are summarized in Table xx.