

322. Skutnabb-Kangas, Tove and Phillipson, Robert (2017). Introduction to Volume 2: Language Policy in Education: Violations or Rights for All? In Skutnabb-Kangas, Tove and Phillipson, Robert (eds) (2017). *Language Rights*. London/New York. Series Critical Concepts in Language Studies. 4 volumes, 1-22. ISBN: 978-0-415-74084-5.

## VOLUME 2. LANGUAGE POLICY IN EDUCATION: VIOLATIONS OR RIGHTS FOR ALL?

### Introduction

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#### **Why and how language rights in education?**

If Indigenous/tribal peoples and minorities are to reproduce themselves as Indigenous/tribal and as minorities, and if their languages and cultures are to survive, language rights in education are, in addition to socio-economic rights, the most important rights that states can grant them. This will thereby contribute to maintaining the linguistic and cultural diversity of the world. Languages and cultures do of course develop and change constantly: we are not into freezing them as museum pieces. To transfer these languages and cultures from one generation to the next, the parents and the family of the children are vital. When parents make their choices about which language(s) to use with their children, they decide to a large extent the future of not only their children but also of their languages (see the Introduction to Volume 3, and references there).

Much of the learning of the more formal aspects of a language, including vocabulary over and above what is used in informal everyday face-to-face interaction, is in most cases learned in and through formal education. Besides, if ITM<sup>1</sup> children are taught in school through a dominant language that they may not initially understand, schooling does not give them the linguistic and cognitive competence in their own language(s) that it should. They may also, as research shows, not be able to develop the competencies that they need to achieve in school, including high-level competence in the dominant language. This is why educational language rights are vital. Their importance can also be read from the UN Committee on Economic, Social and Cultural Rights, *General Comment 21, Right of Everyone to Take Part in Cultural Life*.<sup>2</sup> It states: ‘The right of everyone to take part in cultural life is also intrinsically linked to the right to education (arts. 13 and 14), through which individuals and communities pass on their values, religion, customs, *language*, and other cultural references, and which helps to foster an atmosphere of mutual understanding and respect for cultural values’ (emphasis added). Without mother-tongue based multilingual education this is not possible. It is the state’s responsibility to provide this in non-fee schooling.

Most of the nineteen texts in this volume are about the lack of LRs and LHRs in the education of ITM children, and about what should be done and is being done to achieve these rights. We start by reporting on some of the challenges encountered by two high-level lawyers who have worked within the United Nations system. In order to be able to fulfill missions like theirs, many compromises are probably necessary

<sup>1</sup> ITM children = Indigenous/tribal, minority and minoritised children.

<sup>2</sup> E/C.12/GC/21, 21 December 2009, para. 2I.

(the title of Kristin Henrard's 2010 edited book *Double standards pertaining to minority protection* signals many of the difficulties). The lengthy extract from a report by the UN Independent Expert on Minority Issues, Gay McDougall, which we cite in the next section of this Introduction, reveals that the constraints in force may make it somewhat difficult to see how minority issues, especially in education, can be furthered. Mother-tongue-related language rights, especially in education, are somehow obscured, possibly 'forgotten', in an eagerness to emphasise the absolute right to the learning of the dominant language of the country. What is normal for most dominant language speakers, namely to be educated using a language that they understand, becomes, despite the pious rhetoric, something that is temporary and exceptional when it comes to linguistic minorities. The second lawyer, Katarina Tomaševski, was a much more forthright critic of the UN system, as one can see from her many reports and books, including the article that we summarise below.<sup>3</sup>

After that we introduce briefly the concept of linguistic genocide in the education of Indigenous/tribal children, and follow up with a discussion and some examples of historicide as part of cultural genocide. In later sections we make short presentations of the texts in Volume 2, at the same time contextualising them with examples. Finally we look at some similarities in arguments and strategies used in denying language rights in education for users of Sign languages and oral languages.

### **Language policy and language rights in education – challenges within the United Nations system**

This is how the UN Independent Expert on Minority Issues, Gay McDougall, formulated the role of education in the Recommendations from the UN Forum on Minority Issues: *The Right to Equal Access to Quality Education* (2008):<sup>4</sup>

1. Education is an inalienable human right, and is more than a mere commodity or a service. Furthermore, education is a human right that is crucial to the realization of a wide array of other human rights, and an indispensable agency for the expansion of human capabilities and the enhancement of human dignity. Education plays a formative role in socialization for democratic citizenship and represents an essential support for community identity. It is also a primary means by which individuals and communities can sustainably lift themselves out of poverty and a means of helping minorities to overcome the legacies of historical injustice or discrimination committed against them.
2. The right to education is not in practice enjoyed equally by all. Minorities in various regions of the world suffer disproportionately from unequal or restricted access to quality education and inappropriate education strategies. Lack of education leads to denial of civil and political rights, including rights to freedom of movement and freedom of expression, and limits participation in the cultural, social and economic life of the State and in public affairs, such as the exercise of voting rights. Lack of education also limits the enjoyment of economic, social and cultural rights, including rights to employment, health, housing and adequate standard of living. Lack of education results in reticence to engage with law enforcement authorities, inhibiting access to remedies when human rights are violated.
3. Women and girl members of minority communities suffer disproportionately

<sup>3</sup> Many more references to authors we mention can be found in the over 400-page bibliography at <http://www.tove-skutnabb-kangas.org/en/Tove-Skutnabb-Kangas-Bibliography.html>.

<sup>4</sup> A/HRC/10/11/Add.1, Human Rights Council, Tenth Session, Agenda Item 3,

from lack of access to education and from high illiteracy levels. Lack of education represents an absolute barrier to their progress and empowerment.

4. Bad education strategies can violate human rights as much as good strategies enhance rights and freedoms. Unwanted assimilation imposed through the medium of education, or enforced social segregation generated through educational processes, are harmful to the rights and interests of minority communities and to the wider social interest. (McDougall 2015, 363-364).

Who could disagree – everything above is true, extremely good, and thoroughly thought through. But in her Introduction McDougall does not mention language at all. Yet the striking lack of the most important educational LHR, the right to mother tongue medium education, is the main reason for all the disproportionate non-participation or early push-out, and the poor academic achievement of ITM children all over the world. In the rest of the Recommendations, there is no binding right to mother tongue medium education or mother-tongue-based multilingual education. The Recommendations text is still full of ‘should’, ‘appropriate’, ‘wherever possible’, ‘may have adequate opportunities’, and ‘to learn their mother tongue *or* to have instruction in their mother tongue’ (emphasis added). These formulations have been identified by both lawyers and educationists as completely unsatisfactory. There have been extremely few changes over recent decades, despite new human rights instruments: the denial of quality education continues. The ‘bad education strategies’ consist of subtractive submersions education where ITM children are taught mainly through the medium of dominant languages, at the cost of their own languages – but McDougall does not spell this out. Some of the Recommendations are, just as they were in the Council of Europe’s Framework Convention for the Protection of National Minorities almost 20 years ago (see Skutnabb-Kangas 2004), contradictory, as the example below shows. McDougall’s Article 27 starts with

State or local policies or practices that, de jure or de facto, result in separate classes or schools for minority pupils, or schools or classes with grossly disproportionately high numbers of minority pupils, *on a discriminatory basis*, are prohibited, *except in limited and exceptional circumstances* (2015: 368; emphases added).

Thus a school or class which teaches ITM children through the medium of their mother tongue (of course with the dominant language as a second or foreign language subject) is prohibited as a main rule. But this kind of teaching should of course be the normal way of educating ITM children. All serious research, as is clear from texts in this volume, shows that children in mainly mother tongue medium programmes do at least as well and in most cases better as a group than children in dominant language medium submersion programmes. Thus there should not be anything exceptional about such programmes; they should be the norm if we want ITM children to have ‘The Right to Equal Access to Quality Education’, which is what the Recommendations are about. It is impossible to teach minority children mainly through the medium of their mother tongue if they cannot be in their own classes – unless 90/10 Two Way programmes<sup>6</sup> are used, and there are very few of them in

<sup>5</sup> See Skutnabb-Kangas & McCarthy 2008 for terms in bilingual education.

<sup>6</sup> These mainly North American programmes have around 50% each of minority and dominant group children in the same classroom. The minority language is initially used as the medium of education 90% of the time in the 90/10 programmes, becoming 50% of each language by grade 6. See Note 3, and Christian et al. 1998.

Europe. The phrase “on a discriminatory basis” above seems to only refer to “misuse of psychological or learning ability tests for enrolment of children in primary school” (ibid.); such tests have been used with Roma children in some European countries, e.g. Slovakia. But the phrase “on a discriminatory basis” can be and has been interpreted as covering *any* kind of mother tongue medium classes. McDougall’s Article 27 then continues:

The creation and development of classes and schools providing education in minority languages should not be considered impermissible segregation, if the assignment to such classes and schools is of voluntary nature. However, where separate educational institutions are established for minorities for linguistic, religious or cultural reasons, no barriers should be erected to prevent members of minority groups from studying at general educational institutions, should they or their families so wish.

Even here minority language medium schools seem to be treated as the exception. In most cases the mother-tongue-based multilingual education (including Sign-language medium education for Deaf children) have come into existence because ITMs themselves demand it. The only cases we know of where children have been forced into segregated MT-medium education were in apartheid South Africa. The Roma children in Slovakia and elsewhere who have been in what could be called segregation education have *not* had Romani as the teaching language<sup>7</sup>. The first sentence in the extract cited above covers the essential point about ‘voluntary’ choice; the second sentence is unnecessary. McDougall’s reports as UN Independent Expert on Minority Issues (collected in her 2015 book) reveal the deficiencies, limitations and challenges of working with minority issues in general in the United Nations system.

An article by Katarina Tomaševski in 2005, a passionate, well-documented analysis (with 146 often lengthy footnotes embedded in the short article) of her six years of experience as the UN Special Rapporteur on the Right to Education, shows the deficiencies in UN policies and in the functioning of the UN system even more clearly.<sup>8</sup> Tomaševski found her mandate immensely frustrating<sup>9</sup>. She energetically elaborated the task, traced the way the right to education had appeared in the UN rights system initially in the Cold War period, investigated educational rights worldwide by determining the nature of the right to education in human rights law, and inspecting a wide range of countries. She aimed to not merely document activity and inactivity but also to reveal that this right was toothless if violations of the right were not explicitly addressed and followed up in the UN system. She met a wall of bureaucratic resistance and obstruction. Funding for the activities of the Special Rapporteurs was inadequate (the Swedes came to the rescue in her case). With over 500 staff in the Human Rights Commission, the office of the High Commissioner for Human Rights is bloated, inefficient and ineffective. A major factor is that the variables of the Right to Education that Tomaševski elaborated - the 4 As, Availability, Accessibility, Acceptability, and Adaptability; see a presentation of them in 2.1 - presuppose free education for all. But education has been increasingly developed towards being seen as fee-paying, a commodity for commercial

<sup>7</sup> See European Roma Rights Center 2004 and Tavani 2012 for Roma rights. See also <http://errc.org>.

<sup>8</sup> We revisit this issue in the Introduction to Volume 4.

<sup>9</sup> Just as McDougall found her mandate.

exploitation, an international trade (Tomaševski 2003). She elaborated the importance of her findings and principles in her annual reports. The abolition of school fees in some African countries is encouraging. Interest in a right to education, including educational language rights, is greatest in Latin America.

However the UN system failed to build on the massive evidence provided by their own Special Rapporteur, her analyses and proposals. In her dismay she reflects on whether human rights really matter. One major weakness of the system is that economic, social and cultural rights are at the crucial interface between the international and the national. Few people, even senior government staff, know anything about the commitments in international human rights law that their countries should be applying. She concludes in her 2005 article: ‘Long ago, I learned that human rights are too important to be left to governments. When they are acting collectively together in the World Bank or the Commission, the outcomes are not necessarily favourable to the right to education, regardless of what the rhetoric might be. It is within these constraints that battles for human rights have always been fought.’ (236). She sees the need for rights to be worked through by economists and statisticians; human rights work is ‘overpopulated by lawyers’ (237). Human rights work is long term. It is uphill because the World Bank is a key agent and does not recognize education as a human right. Too little can be achieved in the UN, so it is up to other constituencies to take the initiative to achieve the right to education for all<sup>10</sup>.

### **Indigenous peoples’ lack of language rights in education – linguistic genocide**

Most of the Indigenous/tribal peoples in most of the world’s countries lack not only LHRs but also many basic socioeconomic rights, including rights to land and water. The extracts from Skutnabb-Kangas, Bear Nicholas & Reyhner (3.1.3) present the grim situation of Indigenous peoples in Canada and the USA. These two countries, together with Australia and Aotearoa/New Zealand, were the only four states voting against the UN Declaration on the Rights of Indigenous Peoples in 1998. All four have since, grudgingly, accepted the Declaration. They are also the four that have managed to reduce more languages to either extinction or very serious endangerment than governments in any other regions in the world. The USA is the only state in the world that has not ratified the UN Convention on the Rights of the Child, and is among those states which have ratified the lowest number of general human rights instruments (see <http://indicators.ohchr.org/>; see also Gromacki, 1.2, p. 560 on USA). Despite two significant achievements, namely the Treaty of Waitangi from 1840 (<http://www.nzhistory.net.nz/politics/treaty-of-waitangi>), and the fact that Māori is an official language in Aotearoa/New Zealand (along with English and New Zealand Sign language), the country is restrictive in relation to Indigenous rights. Just like the other three countries above, these countries, meaning their elites, fear the consequences of Indigenous people not granting the ‘free, prior and informed consent’ that might prevent the exploitation of Indigenous lands (for this consent, see Articles 10, 11.2, 19, 28, 29.2, 30.2 and 32.2 in the UN Declaration on the Rights of Indigenous Peoples ([http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf))).

Simons and Lewis have updated Michael Krauss’s pioneer estimate of language extinction in 1992 (which we reproduce in text 2.11): their new data indicate that 78% (207 out of 266) of the languages of USA and Canada are either already extinct or not being learned by children, as are 85% (329 of 388) in Australia and New Zealand

<sup>10</sup> Tomaševski was incredibly energetic and productive (she also produced practical manuals for follow-up) but died from a medical problem contracted during one of her foreign missions.

(2013: 14) In no other countries does the figure exceed 50%.

The Summary of the final report of the Truth and Reconciliation Commission of Canada (2015). *Honouring the Truth. Reconciling for the Future* shows throughout its almost 400 pages in detailed ways how the LHRs of the First Nations were constantly and intentionally violated. This is how the Report starts (p. 1):

For over a century, the central goals of Canada's Aboriginal policy were to eliminate Aboriginal governments; ignore Aboriginal rights; terminate the Treaties; and, through a process of assimilation, cause Aboriginal peoples to cease to exist as distinct legal, social, cultural, religious, and racial entities in Canada.

The establishment and operation of residential schools were a central element of this policy, which can best be described as "cultural genocide."

*Physical genocide* is the mass killing of the members of a targeted group, and *biological genocide* is the destruction of the group's reproductive capacity.

*Cultural genocide* is the destruction of those structures and practices that allow the group to continue as a group. States that engage in cultural genocide set out to destroy the political and social institutions of the targeted group. Land is seized, and populations are forcibly transferred and their movement is restricted.

Languages are banned. Spiritual leaders are persecuted, spiritual practices are forbidden, and objects of spiritual value are confiscated and destroyed. And, most significantly to the issue at hand, families are disrupted to prevent the transmission of cultural values and identity from one generation to the next.

In its dealing with Aboriginal people, Canada did all these things<sup>11</sup>.

Many Indigenous peoples have experienced and continue to experience linguistic and cultural genocide, and both this and the denial of it have been documented for a long time (see, e.g. our 1989, and Churchill 1997 and Costo & Costo 1987 for USA). A few countries that have committed large-scale violations of human rights, including (but not restricted to) the linguistic, cultural and educational rights of Indigenous peoples (and also of minoritised people, as in South Africa) have now started to reconsider past policies. At least some apologies have been forthcoming (e.g. in Australia, Aotearoa/New Zealand and Canada). It remains to be seen to what extent these result in real policy changes, and in compensation that in practice could also result in revitalisation (see volume 3).

*Linguicide/linguistic genocide* has, if it has been mentioned at all in reports and legal articles, mostly been subsumed under cultural genocide, just as in the Canadian report above (but see 2.1). Both linguistic and cultural genocide were separately mentioned in the final draft of what became the UN Convention on the Prevention and Punishment of the Crime of Genocide<sup>12</sup> (see e.g. 1.2 and 2.1). Article III.1 of the draft contained linguistic genocide and defined it: "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" (see below for cultural genocide and historicide). Article III which containing linguistic and cultural genocide was voted down by the UN General Assembly when the draft was approved, and thus these two types of genocide are not directly in the Convention. Text 2.1, which describes in detail Indigenous/tribal children's legal right to education and the linguistic and

<sup>11</sup>[http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Exec\\_Summary\\_2015\\_05\\_31\\_web\\_o.pdf](http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Exec_Summary_2015_05_31_web_o.pdf)

<sup>12</sup> E793, 1948; 78 U.N.T.S. 277, entered into force Jan. 12, 1951; for the full text, see <http://www1.umn.edu/humanrts/instreet/x1cpcpg.htm>)

cultural genocide that has occurred, and continues, also demonstrates how Articles 2b and 2e in the present Convention can be activated to show that these crimes against humanity occur.

*Econocide* as a concept has been described, for instance, in relation to slavery (Drescher, 2010) and eliminating the urban poor (Skirtz, 2012). It is equally relevant in relation to ITMs. Mark Curtis's (1995) analysis also describes the intent, required in the UN Genocide Convention, in how the world's powerful states have pursued policies that promote poverty.

One basic fact [is] that the mass poverty and destitution that exist in much of the Third World are direct products of the structure of the international system. Moreover, an elementary truth is that the world's powerful states have pursued policies with regard to the Third World which knowingly promote poverty. It is clear that the policies they have encouraged or imposed on the Third World - in the earlier postwar period following military intervention and in the later period through the international financial institutions - have betrayed no institutional interest in eradicating poverty or in promoting a form of economic development meaningful to the poor. Rather, policies have been imposed with the understanding that they will not contribute to these ends" (Curtis 1995: 236).

This kind of analysis is also necessary when trying to understand the causal factors behind violations of language rights.

### **Historicide as part of cultural genocide and resistance to it**

*Historicide* (see Bear Nicholas 2003) is a recent term for a valid categorisation of what many Indigenous peoples have experienced (see Bear Nicholas 4.21). The phenomenon itself has been well known for some, but crystallising it in a term akin to (other forms of) extermination seems to make it easier to recognise and describe (see also Skutnabb-Kangas, Bear Nicholas & Reyhner, 3.1.3). İsmail Beşikçi's article (3.1.12) describes physical, linguistic, and cultural genocide and definitely covers *historicide*, the intentional destruction of knowledge about the history of the Kurds, and about their language(s) and culture(s). Kathleen Heugh provides examples of *historicide*, historical amnesia, in Africa "forgetting" its past, for instance the fact that African languages were used for educational and scientific purposes already from the 12<sup>th</sup> century onwards, as the rediscovery of the thousands of manuscripts in Timbuktu has shown (Heugh 2009: 95-96).

Some mainly physical aspects of *historicide* could have been covered under Article III.2 of the final Draft of the Genocide convention (see above): 2. Destroying or preventing the use of libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group." (UN Doc. E/AC.25/12).

Many scholars and others have started countering *historicide*, researching archives and interviewing people, in search of the knowledge and experiences that their parents, grandparents and ancestors have about this variant of cultural genocide ("speaking bitterness"). This has also included the knowledge of their languages (see, e.g. Robert Amery's PhD-based book (2000) on the Australian Aboriginal language Kurna; the last first language speaker died in 1931). There is a revival movement now, and this has produced many second language speakers. Svein Lund's work in Norway, (co)-editing many volumes of Saami school history (the first one appearing

in 2005), spending most of his life in researching archives and interviewing people, is one example of this search for historical knowledge. The work in Canada by the Truth and Reconciliation Committee looking into Indigenous education, especially boarding schools, and hearing thousands of testimonies, is another example (see above).

One goal in unearthing historicide has also been to develop arguments for strong resistance to genocidal policies in general. Many have learned that their ancestors did not just accept injustice passively. Instead, many resisted, and attempted to create alternatives, some successfully, to historicide and its physical, legal and mental consequences. For many ITMs, a vital moment, often a turning-point in their lives, is experienced when they discover and understand, not only cognitively but also emotionally, what has happened to them and their people. As late as in the early 1970's, most ordinary Roma, at least in Sweden and Finland, had no idea that the Roma originally came from India. One of us (TSK) experienced many old Roma women crying from sadness and joy when this was revealed, after a few Roma from the Nordic countries had attended the First World Romani Congress in 1971. Likewise, the knowledge that their ancestors have not just taken genocide lying down strengthens ITM's self-confidence.

To contextualise even more, we present examples of counteracting the gross violations of language rights in North Kurdistan, the Turkish part of Kurdistan. Kurds are, like Tibetans and Uyghurs in China, among the numerically largest peoples whose educational linguistic (and often other) human rights are being seriously violated. The situation of the Kurds is much better in Iraqi Kurdistan but very shaky in Iran.<sup>13</sup> Kurds have until now been deprived of any educational language rights in Syria.

The lists of Kurdish publications and associations before 1925 in Beşikçi's article (3.1.12) must be news to most young and middle-aged Kurds in Turkey today. Knowledge about them can be relevant when some Turks, even a few professors, continue to claim that a Kurdish people, a Kurdish language, and Kurdish literature have never existed (see Skutnabb-Kangas & Fernandes 2008 for some examples; see also Hassanpour 4.25). This knowledge is arguably even more important for the identity and self-confidence of Kurds than for many other peoples, not least because many of them cannot read their old source material because Kemal Atatürk changed the orthography from Arabic script to Latin, and because teaching Kurdish in Turkey has been forbidden in schools (see Bayir 3.1.13 for legal aspects of and prospects for Kurdish self-determination). Echoing Gandhi (2.4) and Tagore (2.6) in India, and Ngũgĩ (4.18) and Mateene (4.17) in Africa, the Diyarbakir Institute for Political and Social Research (DISA, [www.disa.org.tr/](http://www.disa.org.tr/)) in Turkish Kurdistan, states on the back cover of one of its publications (Birgül, September 2015):

A society which can freely use language and culture of its land in education, raises conscious individuals who are at peace with themselves. However, the same society, if under pressure and oppression of the hegemon does not refer to its own values, but values of the oppressor, becomes alienated from its own land, history, culture and language and raises individuals lacking self-confidence. Kurds, who possess rich language, culture, history and land, have been constantly prevented from growth by oppressive and colonialist states. Therefore, language and cultural values of Kurdish nation could be passed on new generations in written form only

<sup>13</sup> See, e.g. Amir Kalan's Introduction in Kalan, ed., in press; see also Sheyholislami, Hassanpour & Skutnabb-Kangas, eds, 2012 and other publications by the first two editors.

in a limited scope. Kurds managed to protect and preserve to this day their values in oral form through efforts of dengbêjs, storytellers and singers and that is how they created considerable repertoire of oral culture.

The fieldwork described in the book was based on interviewing 854 people in 76 villages all over Northern Kurdistan in 2014, and recording and archiving Kurdish folklore for use in pre-school education. The letter accompanying the book sent to us by DISA tells that ‘an educational set has been published in Kurmanci and Zazaki dialects as a result of this research, consisting of 21 books ... of fables, stories and a collection of riddles, plays, poems and rhymes’. The set is intended to be used ‘as educational materials in recently opened private and semi-public preschools of the region this year’. The letter, signed by the Chairman of DISA’s board, finishes: ‘We hope these researches will contribute to the scientific debate concerning a multilingual and multicultural future in Turkey as well as the linguistic struggle of all communities in need of a mother tongue based education’. To gauge the importance of this set of books for the struggle for linguistic human rights in Turkey, it is vital to know that until now (2015) there have not been any Kurdish medium preschools or schools in Turkey – they have been forbidden by law, and still are, in effect. The civil disobedience involved in starting and running these institutions (or even claiming that Turkey should have a multilingual future) has to be seen in the light of recent (2015), well-documented savage killings of civilians, including many children, by Turkish police and military.

Similar collecting of what has been called ‘folklore’, i.e. orature, oral literature, has been undertaken in Odisha (earlier Orissa), India, by many researchers, e.g. Mahendra Kumar Mishra, to be used in mother-tongue-based multilingual education (MLE). Ajit Mohanty and Minati Panda were pioneers in counteracting the lack of LHRs for Indigenous/tribal children. The research leading to the Odisha Guidelines (4.20) involved collecting Traditional Indigenous Knowledge, which was then used as a basis of their MLE+ classes. The teaching in these MLE+ classes was based on thorough anthropological studies of their culture, including their mathematical concepts (see Mohanty’s presentation of “ordinary” MLE classes and MLE+ classes in Mohanty & Skutnabb-Kangas 2013). The teaching was conducted in the mother tongues of the tribal children (Saora and Kui).

### **Presenting and further contextualising texts in Volume 2**

The longest text in this book, *Skutnabb-Kangas & Dunbar, 2.1*, is transdisciplinary, with law, education and sociolinguistics as the main disciplines, but also using arguments from economics, anthropology, ecology and political science. It argues that subtractive Indigenous and tribal education in the past and still now, when children are taught using a dominant language as the main teaching language at the cost of their own languages, violates their right to education. It can be seen, using Articles 2b and 2e in the present UN Genocide Convention, as meeting the criteria for genocide, from an educational, linguistic, psychological and sociological point of view. It shows, in the words of Magne Ove Varsi, the then executive director of of Gáldu, Resource Centre for the Rights of Indigenous Peoples, in the Preface to the 2.1 book (p. 6) that “this kind of education intentionally transfers children from their own group to the dominant group linguistically and culturally, and can and often does cause both physical and mental serious harm to them, with consequences that can last for generations”. Text 2.1 also shows that such policies may be seen as a crime against humanity.

*Kristin Henrard* (2.2) relates the societal goals of minority education (equality, identity, integration) to their support in international law in general and more specifically to minority protection instruments. Her magisterial survey of charters, recommendations, the UN Minorities Declaration, and advisory opinions, and of litigation clarifies the current extent of minority language rights promotion in law and in the wider world. Different types of integration are clarified, in general and in relation to education, with copious reference to source material in both the legal and the educational literature. Detailed analysis of the jurisprudence of the European Court of Human Rights permits conclusions about the extent to which judgements are positive for linguistic minorities or more limited. The commentaries on education and on language rights in the Framework Convention for the Protection of Minorities are also scrutinised to assess how far the right to mother tongue based bilingual education, including the right to proficiency in an official language, is supported. Henrard draws firm conclusions about the need in international law for greater endorsement of minority language educational rights, and explains why this can improve prospects for greater equality and structural integration.

*Stephen May* (2.3) analyses the way minority language speakers are virtually demonised in much political science. The purported solution to this fundamentally racist diagnosis of deficit in the USA is a switch from Spanish to an exclusive use of English, at least for the children of immigrants, so as to ensure social mobility. English is projected as a cosmopolitan language, a panacea, despite a lot of evidence to the contrary. Citizenship, in this academic scenario, is monocultural and monolingual rather than pluralist.<sup>14</sup> May reports on international law instruments that are strengthening minority language rights, and on their implementation in post-fascist Spain. This exemplifies the workings of the territorial principle, whereas many other countries follow the personality principle. He summarises the strong evidence of successful bilingual education in the USA and the impact of English Only advocacy and its negative effects. May highlights the way public ignorance about research, the realities of successful bilingual education that strengthens language rights, and ignorance of international law is aggravated in media coverage in the USA. Academics need to be proactive so as to counter these misrepresentations.

*Mohandas Karamchand Gandhi* (2.4) has a short chapter on education policy in a book written originally in Gujarati in 1909 that was a blueprint for Indian independence. His basic stance on language policy in education, and its decisive importance for general education and character building, is similar to the analysis presented a century later by Skutnabb-Kangas and Dunbar in 2.1. Gandhi criticises British policy, articulated by Macaulay in 1834, which decreed that India's own languages, including the classical ones (which had existed in written form many centuries before English) were 'inherently incapable on their own of creating anything of intellectual merit' (2.4, p. 84). For Gandhi, Macaulay's policy had enslaved Indians, a policy that the Indians themselves had internalised and carried out.

Education policies in India fluctuated under British rule, but the pre-eminence of English continued unchallenged. A resolution formulated by Lord Curzon as Viceroy in 1904, expressed serious dissatisfaction with the organisation of education in India and considerable insight into how improvement could be achieved (see 2.1, Example 42 for Curzon's assessment). His recommendations are completely in line with what

<sup>14</sup> This is in the spirit of Theodore Roosevelt in 1919: 'We have room for but one language here, and that is the English language'. See text 2.1, Example 2, for the whole quote. Likewise, Article 3.1 in the Turkish Constitution states: "The Turkish state, with its territory and nation, is an indivisible entity. Its language is Turkish"; see text 2.1.

research shows today, as are Gandhi's thoughts. Our *Wanted! Linguistic Human Rights* (Skutnabb-Kangas & Phillipson 1989) cites similar experience from around the world, including the Saami in Sweden and Norway, where knowledge about what was wrong and what should be done also existed at the beginning of the 20<sup>th</sup> century (see also Lund et al. 2005 and 5 later volumes).

On Macaulay and enslavement, Gandhi wrote: 'I do not suggest that he had any such intention, but that has been the result' (2.4, pp. 84-85). The same concern can be seen in connection with lively discussion (and reinterpretations) about 'intent' in the definitions of what constitutes genocide in the UN Genocide Convention (see 2.1, Section 4.4, and pp. 69-70). Intention does not need to be directly verbalised but can be deduced from the results, and from the existence of knowledge about such results. The quotation from Diyarbakir above resonates with Gandhi, and Ngũgĩ (4.18), with colonial enslavement of not only the body but also the mind entailing deprivation of cultural and language rights. Annamalai's (2.11) text shows that these century-old debates continue in India (and elsewhere, see below).

The short extract from *Eve Mumewa Fesl* (2.5) from Australia touches on similar issues from an Indigenous point of view, also showing how naming contributes to enslaving. The powerful book that this text comes from describes the tragic cultural and linguistic genocide perpetrated by settler decision-makers, settlers, and missionaries in Australia. She also refers to a number of official documents that have addressed how Australian Aboriginal Languages should be strengthened. There is also some coverage of Koorie languages (her term for them) in the influential *National Policy on Languages* (1987) written by Joseph Lo Bianco. This triggered a great deal of language policy activity. Political change has resulted in much less official support for linguistic diversity in recent decades, and Koorie languages still have few language rights either in education or the wider society. This is true also for other human rights of the Aboriginal peoples in Australia.

*Annamalai* (2.11) goes into detail in stipulating how language rights are connected to socio-political goals and the rights of the individual and group, and how these are determined in legislation and court cases. He describes how language policy issues have evolved within the south Indian state of Tamil Nadu as a result of conflict with policies of the central Indian government (the strengthening of Hindi as a pan-Indian language), local pressures for English-medium education in competition with a consolidation of Tamil-medium education throughout schooling and in higher education, and the rights of speakers of other languages. He reports on the important role of judicial courts at lower and higher levels in deciding what the law is. Annamalai also points out the weaknesses of this key High Court judgement, which ignores relevant pedagogical evidence, and thereby strengthens the market forces behind English.

The Kannada case details how the Supreme Court of India determined a wide range of language issues, definitions of mother tongue, and the right to education in a particular language by reference to the Indian constitution. Annamalai points out that seeing education as an 'occupation' and a 'business' deprives the state, at the all-Indian and the state levels, of the right to decide on language policy in education and in effect gives carte blanche to market forces and market 'freedoms'. He concludes with a set of pedagogical principles that the court decision failed to respect, including fundamental principles of the human right to language, natural justice, and the duty of the state to maintain cultural and linguistic diversity in its territory.

*Rabindranath Tagore* (2.6), a contemporary of Gandhi, who has been considered as of comparable stature to Shakespeare and Goethe (Sen 2015, chapter 11) was also

fully aware of the importance of education having a firm foundation in the language and cultural universe of the child's origin a century ago. He bewails a misguided over-emphasis on the alien language English, while affirming the importance of familiarity in depth with more than one language and culture, which his own brilliance in both Bangla/Bengali and English exemplifies.

Belgium became a colonial power later than many European countries. Language policy for the Belgian Congo, when its status as a colony was established in 1908, dealt exclusively with the two languages of Belgian colonial residents, Dutch and French (*Michael Meeuwis*, 2.7). The process of deciding on every word of the six sentences in the Article dealing with language and experience in the Congo over 50 years reflected the language conflicts in Belgium itself (conflicts that trigger political instability to this day). 'Free' use of two languages was promulgated, corresponding to overt permission, and, in official decrees and regulations, overt promotion of French and Dutch. Congolese languages, by contrast, were ignored, amounting to covert prohibition. In the Belgian Parliament any reference to a Congolese language or its speakers was considered ludicrous and ridiculed as irrelevant. This was the situation until Congolese independence in 1960. Meeuwis makes two points about LHRs. Support for the more marginal Belgian language, Dutch, in a seemingly 'democratic' process, can lead to other languages being impacted negatively. In postcolonial times, top-down language policy needs to be replaced by grassroots language mobilisation as one element of political and socio-economic participation.

*Alexei Leontiev* (2.8) is interested in converting declarations and laws on LHRs into practice. Educational language policy has to address three main issues: (a) choice of the language of instruction, (b) teaching non-mother tongues, and (c) teaching the mother tongue. He offers a very short description of the situation of educational language rights in Russia (in 1994). Asking if LHRs are a theoretical idea only, or also a practical tool, he elaborates both in relation to a trio, namely the person, the ethnos, and the state, that he sees as 'subjects for' LHRs. He suggests a hierarchical order, relating to the sovereignty of each of them. He reflectively discusses various challenges and solutions. He presents principled linguistic proposals for an educational policy, mentioning for each principle how they are guaranteed and what the relevant rights can be constrained by. He also lists the linguistic duties of each party (the individual, the ethnos, the state), and states clearly that there has to be parity in what is offered, regardless of the language concerned. The situation in Russia is in his view 'more complicated than is the case in any other European country' (p. 70). Finally, he asks who will pursue this policy. Unfortunately, present-day Russia has not done so (see, e.g. Zamyatin 2014).

*Tiina Saaresranta* (2.9) starts with an overview of the assumption that formal education is seen both as a human right and as a resource enabling development and leading to the enjoyment of other human rights. This is then related to Indigenous peoples. Education has been seen from the government point of view, and often linguistic and cultural aspects have disappeared. Quoting Rodolfo Stavenhagen, Linda Tuhivai Smith, and others, she states that formal education 'has served to accelerate the transformation and ultimate disappearance of indigenous cultures, and over time a great many indigenous languages have continued to vanish' (p. 355). The school system 'in fact educates indigenous children and youth away from their families and cultures' (p. 356). Her description of the situation and education of Indigenous peoples in Bolivia – which has some of the best laws accepting and even supporting Indigenous peoples and their education – is, despite the laws, as grim as similar descriptions from many other countries without formal positive laws. As is well

known, LHRs on paper are but a first step and mean little if proper implementation is not forthcoming. Indigenous organisations have seen education as one road towards access to land rights and political participation. Parents see education as a way out of poverty, and parents often make considerable sacrifices to gain access to schooling for their children. The legislative normative basis for Indigenous education is presented, and implementation discussed. Various models are presented, none of them suitable, since education ‘continues producing adverse effects to the linguistic and cultural reproduction of indigeneness’ (p. 371).

Sweden has been deeply concerned about language issues for several decades, triggered by demands for rights by the indigenous Saami, by autochthonous Meänkieli, Yiddish, and Romani speakers, and the Deaf, and by immigrant minorities, Finnish-speakers as the largest of them. During the last two decades there has also been a concern about whether English was a threat to the status and use of Swedish. *Béatrice Cabau* (2.10) reports on a succession of reports that led to legislation to declare five national minority languages as ‘official’ (details of each of these are described, including where the right to use them applies), and Swedish as the ‘principal’ language of the country, which public authorities have a duty to use so as to maintain its full status and use. Higher education in Sweden, as in much of Europe, has experienced an increase in the presence of English. Cases investigated by the Ombud for Justice have assessed how far it is legally in order for universities to require that research applications have to be in English. Many relevant considerations reveal imprecision in the formulation of the law. There are similar problems with language rights in the public service, whereas the business sector has a freer hand to opt for English. Cabau reports on major dissatisfaction in the linguistic minority communities. The central government expresses concern, but local administration is seldom effective. The minorities state that their language rights are frequently not respected. Reports by minority organisations to the UN Human Rights Council<sup>15</sup> and to the Council of Europe’s Advisory Committee of the Framework Convention and the Expert Committee of the European Charter<sup>16</sup> have resulted in serious and continuing criticism of Sweden by these bodies. There has been little implementation of the Declaration on a Nordic Language Policy (3.2.5).

*Ahmed Kabel* (2.12) supplements his comprehensive survey of the sociolinguistic complexity of Morocco (with a wealth of detail about types of Arabic and the indigenous Amazigh/Berber and many aspects of social policy) by an update that describes the impact of the ‘Arab spring’. He describes the hierarchical categorisations of Arabic and Amazigh in a new Constitution, and the differing rights that the formulations confer, implicitly, since there is no specific reference to rights. The Constitution in fact serves to entrench top-down management of diversity under tight political and ideological control. It also blocks the emergence of territorially-based language rights for Amazigh speakers. Current education policy is framed in liberal-sounding but sociolinguistically uninformed terms. It aims at developing proficiency in Arabic, French and English, and ignores Amazigh, even as a subject. In

<sup>15</sup> See *Human Rights Challenges in Sweden 2014. Joint Submission for Sweden’s Second Universal Periodic Review Submitted by Church of Sweden, The Sweden Finnish Delegation, Swedish Finn Youth Organization, National Association of Swedish Tornedalians, Tornedalian Youth Organization, Sami Youth Organization, The Swedish Federation for Yiddish. June 2014* at <https://www.svenskakyrkan.se/default.aspx?id=1144869>.

<sup>16</sup> *Continued Lack of Initiatives in the Implementation of Minority Rights in Sweden*, at [http://www.sverigefinne.nu/julkaisut/206507\\_SvK.pdf](http://www.sverigefinne.nu/julkaisut/206507_SvK.pdf).

effect the policy aims at creating a linguistic hierarchy with English ultimately supreme, above French and Arabic, and at the dispossession of Amazigh through not according it any rights and a status that is purely symbolic.

Text 2.19, by *Phillipson and Skutnabb-Kangas*, was written for the journal *Applied Linguistics*, which in 1995 was published on behalf of the British and American Associations of Applied Linguistics, and which now proclaims that it publishes research on language ‘with relevance to real-world problems’. At the time, most research in the journal was on micro-level aspects of language learning, primarily in education. Our aim was to raise the awareness of scholars and professional associations about the macro-level issue of the language rights of individuals and groups or their absence, and to present what was probably an entirely unfamiliar topic. The article therefore surveys issues at the universal, European, and national levels, explodes some political myths (e.g. that ethnic differences cause conflict) and presents a case for strengthening LHRs and facilitating their implementation whenever applied linguists can use their influence constructively.

### **Sign language rights denied and demanded**

Articles 2.13 to 2.18 are all about Sign languages and the LHRs of the Deaf and/or Sign language users. For some readers it may be confusing that most of the articles use ‘Sign language’ to denote the natural languages that Deaf people themselves have developed all over the world, whereas *Wilcox et al.* (2.16) use ‘signed languages’ for them. ‘Signed languages’ are, on the other hand, used by the *other* authors in this section to denote artificially created languages that replicate and mimic the features of spoken languages. These figure in *Wilcox et al.*’s article under ‘Total communication’, as ‘signed communication... surrogate signing systems designed to convey direct visual information about the morphemes and grammatical structure of spoken languages, including such systems as Signed English, Signing Exact English, Seeing Essential English, and Texas Preferred Signs in the United States, as well as similar signed systems in other countries, such as *Lautsprachbegleitende Gebärden* in Germany and Austria’ (p. 4). Unification of terminology is one of the international challenges in this area.

*Jan Branson*’s and *Don Miller*’s article (2.14) presents the historical development of Sign language policies, especially in education, the lack of language rights for Deaf people, and the difficult worldwide struggle of Deaf people to have Sign languages accepted as not only fully-fledged languages on a par with spoken languages, but also as official indigenous languages. The political battle has been and is still ‘between signing and oralism (oralism referring to the position taken by those who believe that all deaf people should learn to speak, lip-read and "hear" [through the use of aids such as hearing aids or cochlear implants] in the dominant language to the exclusion of sign language), and on the other between the use of sign language and the use of manually coded versions of the dominant spoken language’ (p. 152). They also discuss the reduction of Sign languages to only one national Sign language, at the cost of all local community-based Sign languages, in the few cases where Sign languages have gained official status (see also the World Federation of the Deaf on related issues, 3.2.10 and 3.2.11). The article includes what had been achieved in terms of LHRs of the Deaf by 2008 and discusses the challenges ahead.

*Sherman Wilcox*, *Verena Krausneker* and *David Armstrong* (2.16) start with going through partially similar territory to Branson and Miller, but with different details. Then they present the policies of Gallaudet University in Washington, D.C., the USA, and attempts at unification of Arab Sign languages. A long section is devoted to

several international organisations (the UN, the Council of Europe, and the European Union) and their policies and treaties on Sign languages.

*Miklós Kontra* (2.18) first describes oralism, principles for Sign language medium teaching, and Deaf education in Hungary. Then he gives an example of how British Council aid for Hungarian Deaf education advocated an oralist approach up to 2009, through their appointed in-service trainer of Hungarian teachers for the Deaf and hard-of-hearing, Ms. Morag Clark, who had visited Budapest several times before the incident described. BC gave much-needed picture books to the Training College for Teachers of the Handicapped, in connection with an in-service training course. ‘The Hungarian teachers in order to participate in her course were required to promise that they would ... isolate their pupils from their signing fellow pupils by scheduling breaks between classes such that their pupils could not meet signing pupils’ (p.65). Ms. Clark urges both Deaf and hard-of-hearing children not to use Sign language ‘because it limits their communication’. István Muzsnai (see also Muzsnai 1999) gave Kontra more information on the negative consequences of this BC policy in Hungary. Kontra discusses the BC policy from a LHRs point of view. In his Update he states that Hungarian Sign language was recognised as a natural language and its users as a linguistic minority in a new 2009 law, stopping this kind of misuse of aid to the detriment of LHRs.

*H-Dirksen Bauman* and *Joseph Murray* (213) introduce their edited book *Deaf Gain. Raising the Stakes for Human Diversity* (2014) with a discussion of normalcy, and place the Deaf within it. The concept of normalcy as a way of understanding humans emerged only between 1840 and 1860, with the emergence of statistics to measure large populations. Those distributed in the middle of the bell curve (which was seen as a ‘natural’ way of seeing human beings) were pronounced normal. Those at the lowest end were no longer seen as just ‘different’; a public policy goal became to try to lift them to what was considered normalcy. Bauman and Murray cite a Deaf person who ‘began to lose his hearing at the age of seven. Having spent the rest of his childhood in visits to audiologists, he now wonders: “Why had all the doctors told me that I was losing my hearing, and not a single one told me that I was gaining my deafness?” ... Common sense tells us that deaf is defined by loss of hearing’ (Bauman & Murray 2014: xv). Being deaf is for many Deaf people not a “loss”, but “a distinct way of being in the world, one that opens up perceptions, perspectives, and insights that are less common to the majority of hearing people” (ibid.). *Deaf Gain* defines a whole revolutionary new paradigm of diversifying difference. The book is divided into sections on philosophical gains, language gains, language gains in action, sensory gains, social gains, and creative gains.

*Laura-Ann Petitto* (2.17) presents three kinds of revolution that new research into Deafness has led to. In discussions after her lectures her generally well-informed audience of medical doctors freely admitted that Sign languages were real languages and a Deaf culture existed (i.e. they accepted Petitto’s first two ‘revolutions’), after which came the *but*. ‘But, after all, speech is better’, her audiences claimed. In her article she sums up her life-long studies in which she has tested the evidence for the ‘speech is better’ hypothesis, comparing spoken languages and Sign languages and their development. Taken together, three-fold evidence does not support the hypothesis. The biological evidence “has demonstrated that signed and spoken languages are biological equivalent – not to mention the fact that aspects of visual processing and higher cognition in early sign-exposed deaf individuals are advantaged and enhanced as compared with the same aspects in hearing peers” (p. 67). After presenting these three revolutions in detail, Petitto discusses the profound

consequences of the findings, not only for our general knowledge of what language is, and what may be lost with the rapid extinction of many of the world's Sign languages, but also for general linguistics theory, including Chomsky's universal grammar hypothesis. This also means "doing justice to the creativity and resourcefulness of the people who create and use them [i.e. Sign languages, not signed languages that replicate and mimic the features of spoken languages], rather than simply attributing them to a genetically induced language organ" (p. 91).

A third article from the *Deaf Gain* book by Skutnabb-Kangas (2.15) describes the lack of LHRs of Deaf people, showing some of the rethinking that Deafness leads to in relation to how mother tongues in general can be defined. Definitions that respect the human rights of hearing people do not fit Deaf people, because most deaf children are born to hearing parents. These parents do not at least initially know the only language that Deaf people can fully express themselves in, namely a Sign language. Therefore a definition by origin (the mother tongue is the language that one has learned first) is not an acceptable definition for Deaf signing children. Some of the criteria for genocide also function differently for Deaf children. But still, most deaf education today (which represents oralism, trying to teach Deaf children through speech, not through Sign languages) can still be characterised educationally as linguistic genocide.

*Audism*, a belief that 'speech is better', hierarchising people on the basis of which means of communication they use, is part of linguisticism and akin to racism, sexism, ageism, etc. It is being thoroughly dismantled and shown to build on myths in these texts, which are a profound contribution towards the LHRs of the Deaf.

### **Comparing arguments and strategies in denying language rights in education: Sign languages and oral languages**

It is interesting to note how similar the arguments and strategies have been (and still are) when one compares attitudes to languages themselves (Sign languages and other ITM languages) and educational models for Deaf children and hearing ITM children. Wilcox, Krausneker and Armstrong (2.16) present, following Harlan Lane, two approaches to language policy and deaf education: *dialectization* and *replacement*. "The goal of *dialectization* is to 'lead the users of the nondominant language to believe that theirs is a substandard dialect of dominant language' (Lane 1980: 119)", Wilcox et al. write. Natural sign languages were modified into Signed English, Signed French, Signed Danish, etc., to make them reflect spoken or written dominant languages in terms of syntax, morphology, vocabulary. This is also described by Branson & Miller (2.14). This dialectization is exactly what the Turks tried to make Kurds believe (see Fernandes & Skutnabb-Kangas 2008, Beşikçi 3.1.12). Turks claimed that Kurdish was Mountain Turkish that was just a bit different from standard Turkish, because the Kurds had lived in the mountains for such a long time that they had forgotten some of their mother tongue, Turkish. In fact, the two languages belong to complete different language families and are mutually unintelligible, except for loanwords. Kurdish is an Indo-European language, Turkish is not. We (Skutnabb-Kangas & Phillipson) have in many publications since the early 1980s described the strategies employed to make users of dominated languages believe in the legitimacy of the hierarchisation of the languages through glorification of the dominant, stigmatisation of the dominated, and rationalisation of the relationship between their users.

Historically, much of early education of both the Deaf and various hearing ITM children was given in their own languages, especially by the clergy and missionaries,

even if a dominant language was taught too. The approach changed to *replacement* from around the 1860s onwards, with nation-state ideologies (one state, one nation, one language) reaching education. The mother tongues of both the Deaf and other ITMs were displaced, and then first partially and later totally replaced by the dominant languages as teaching languages. Oralism (Latin *os*, gen. *oris* = mouth) became the only method of teaching languages to Deaf children, and Sign languages were forbidden in schools. Sometimes children were made to sit on their hands during the lessons, so as to prevent them from moving and signing. In the same way, the learning of the dominant language/s was made The Goal in educating hearing ITM children, and these children were also often punished, physically and mentally if they dared to use their mother tongue. At the 1880 Milan conference that changed the teaching methods for the Deaf, from using Sign languages to only using oral languages, the deaf attendants “were denied their right to vote on the matter” (Wilcox et al., 2.16) in the same ways as Indigenous and tribal peoples were observers only, with no right to vote, when what became the UNDRIP in 1998 was originally negotiated.

Another issue where there are similarities between Sign languages and oral ITM languages is unification. Wilcox et al. use the attempts to unify all Arab Sign languages from various Arab countries into one, as an example. Both Kurds and Indigenous Saami have been divided by colonisers (and, in the case of Kurds, also by “Great Powers”, UK, France, etc.) between four countries: Iran, Iraq, Syria and Turkey (Kurds) and Finland, Norway, Sweden and Russia (Saami). The languages/dialects have grown apart, partially because of these divisions. For Kurdish, even different orthographies have been used (Arabic, Cyrillic, Latin, Persian). There have been (and are) fierce debates about suggestions to unify the languages/dialects, and of course the arguments for doing so have all praised the benefits that would accrue from having just one Kurdish or one Saami language. There are even some similarities with the false arguments about English as The World Language (Phillipson 1992, chapter 9). If everybody spoke English, everybody would understand each other, peace would descend and conflicts disappear... Linguistic human rights are one necessary but not sufficient precondition for conflict avoidance.

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