Linguistic human rights, past and present

Tove Skutnabb-Kangas---Robert Phillipson

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Introduction

We will provisionally regard linguistic human rights in relation to the *mother tongue(s*) (Note 1) as consisting of the right to identify with it/them, and to education and public services through the medium of it/them. Mother tongues are here defined as "the language(s) one has learned first and identifies with" (see Skutnabb-Kangas 1984a, chapter 2). In relation to *other languages* we will regard linguistic human rights as consisting of the right to learn an official language in the country of residence, in its standard form.

It is extremely common, in virtually all parts of the world, for people to be deprived of such basic linguistic human rights. The speakers of most minority languages are discriminated against on the grounds of language (see note 2 for definitions of minorities). Some groups are not allowed to identify with their mother tongues (e.g. Kurds in Turkey, see Skutnabb-Kangas---Bucak, this volume). Speakers of more than 6000 languages are not entitled to education, nor to the administration of justice or public services through the medium of their mother tongue. This is true of most *indigenous* minorities and almost universally of *migrant/immigrant* and *refugee* minorities. By contrast, some well established *"national"* or *"regional"* minorities (e.g. in Belgium, Canada, Finland, India, Switzerland, and, until recently, the Soviet Union and Yugoslavia) are empowered to exercise most or at least some of their linguistic human rights (see Appendix and e.g. Annamalai 1986a, 1986b; McRae 1983, 1986).

Ethnolinguistic minority children, indigenous and immigrant, often attend pre-schools and schools where no teachers understand their language and where it is not used, either as a subject or as a medium of education. The school has been and still is the key instrument, on all continents, for imposing assimilation (forced inclusion) into both the dominant language and the dominant culture (see e.g. Cahn-Hearne 1969; Jordan 1988; Wong Fillmore 1991; there are also hundreds of novels and collections of short stories in many languages describing this). As much analysis shows, much of the recent focus on multiculturalism in education has in fact excluded multilingualism (e.g. Clyne 1986, 1991; Cummins-Danesi 1990; Mullard 1984; Pattanayak 1988, 1992; Skutnabb-Kangas 1990a, b; Smolicz 1979; de Vreede 1991) and thus excluded and separated language from culture. Linguistic human rights can thus well be violated within a purportedly multicultural framework.

While this is generally the somewhat grim reality for minority groups at the present day, many of them are energetically pressing for recognition of their rights (including rights for *sign language users*, see Appendix). Substantial efforts are currently under way in many supranational fora to produce declarations, conventions and charters which can promote respect for the rights of minority language speakers. This paper will report on and analyse these, but begins by surveying some aspects of the history of linguistic human rights. A framework is presented for analysing the extent to which constitutional texts in national and international law provide support for minority languages, especially in education. We also describe current moves towards drafting covenants to

protect linguistic human rights. The issue of what is and what is not a linguistic human right is exemplified in relation to the learning of foreign languages. Finally we suggest that depriving individuals or groups of linguistic human rights reflects a sophisticated contemporary form of racism, namely linguicism.

A historical overview of linguistic rights

We shall now briefly assess the historical development of linguistic rights for minorities, especially educational rights. The narrowing of focus from linguistic human rights in general to educational linguistic human rights for minorities acknowledges the fact that linguistic rights are more urgently needed for minorities than for majorities, and that formal education, where it exists, plays a decisive role in the maintenance and development of languages - or in their demise. Many minority children are still punished for speaking their mother tongue, both physically (as Kurds in Turkey) and psychologically and economically (see Skutnabb-Kangas 1984a, chapter 12, Violence and minority education; Skutnabb-Kangas &cPhillipson 1989a). In fact, formal education through the medium of majority languages has extremely often *forced* minority children to assimilate and change identity. We are reminded of the definition of genocide, where one of the acts counting as genocide is "forced transfer of children to another community or group" (which in such Criminal Codes as Portugal's "shall be punishable by imprisonment for 10 to 25 years" (Art. 189d), UN 1991 May, 145). This transfer can, of course, be either physical or psychological or both.

Prior to this century international law was restricted to the Law of Nations, i.e. relations between nation states (on this highly controversial concept, see e.g. Riggs 1985, 1986; Stavenhagen 1990). No state had any legal right to be concerned about the internal affairs of another sovereign state. The charters of human rights formulated after the American and French Revolutions are forerunners of the post-1945 conventions on human rights, but they made no claim to universal validity and could in no sense be regarded as part of international law. These charters did not contain clauses on the rights of minorities, and they certainly did not guarantee minorities any linguistic rights (for America, see Hernández-Chávez, in this volume; for France, see Brunot 1967).

"The principles of international law" were invoked at the Berlin Conference of 1884 -1885 in order to condemn slavery (the primary purpose of the conference being to share Africa out between the European imperialist powers and impose colonialism on African peoples). The League of Nations implemented the first international human rights treaty, the Slavery Convention, in 1926.

Human Rights universal declarations have progressed through various phases.$(3) The *first generation* related to personal freedoms, civil and political rights. These were extended in the decolonisation phase from the rights of individuals to the right of oppressed peoples to self-determination. The *second generation* related to economic, social and cultural rights. The *third generation* covers "solidarity" rights (peace, development, an unspoilt environment). Even if specific covenants focus on particular sets of rights, an underlying principle is that all human rights essentially form a coherent whole and presuppose each other (Alfredsson 1991; Stavenhagen 1990).

Human rights are currently being linked to North-South "aid" and the worldwide promotion of "democracy". Their observance is being required as a precondition for aid or investment, and for membership of the Council of Europe, where ironically a higher standard of minority protection is being required of Eastern European states than exists in many existing member states (Skutnabb-Kangas 1993b). At root there is considerable conceptual confusion and fuzziness in the way "democracy" and "human rights" are understood, marketed and used as a lever vis-a-vis governments in Eastern Europe (Tomaševski 1993a) and "developing" countries (Tomaševski 1993b). The role of the United Nations and its various organs in the promotion and monitoring of human rights (Eide in particular on minority rights) is comprehensively reviewed in Alston 1992.

The formulation of linguistic human rights in international legal texts can be regarded as falling roughly into *5 periods*, reflecting differences in the scope of the rights (state level, bilateral,

regional/multilateral, international) and the interest in specific rights for linguistic (as opposed to other) minorities, individuals as opposed to groups, and, of course, fluctuations in the extent to which rights were granted. We will briefly characterise the periods, provide a few examples from each, and summarize implications for future work.

The FIRST PHASE is pre-1815. Language rights were not covered in any international treaty, other than in *bilateral agreements*. Rights concerning minorities were primarily to be found in agreements covering *religious but not linguistic minorities* (Capotorti 1979).

The notion of imposing a single language on all the groups living within the borders of the state was first proposed as an instrument of government policy in Spain in the late fifteenth century, the time when the expansive modern European states began to take shape (Illich 1981). The dominant language was seen as a means of securing conformity internally and expansion externally (on language policy in Mexico from this period on, see Heath 1972). A monolingual doctrine and adherence to the principle of "one state, one nation, one language" have been exported worldwide. In colonial empires, the promotion of the language of the colonizer generally resulted in local languages being deprived of most rights.

In France less than half the population had French as their mother tongue at the time of the French Revolution (Calvet 1974), but civil liberties were extended to all through the exclusive medium of French. In both Britain and France the structural favouring of the dominant language was accompanied by an ideology of *glorification* of this language and vilification of marginalised languages, which were *stigmatised* as "dialects" or "patois" of limited value and potential. Such beliefs about the languages of others can be traced back at least to the Greek categorization of the world as consisting of the Greeks themselves and of Barbarians, the term originally meaning speakers of meaningless noises, a non-language.$(4)

The SECOND period begins with the Final Act of the Congress of Vienna 1815. It was "the first important *international* instrument to contain clauses safeguarding *national minorities*, and not only religious minorities" (Capotorti 1979: 2). Most national minorities are simultaneously linguistic minorities. The Congress concluded the age of Napoleonic expansion and was signed by seven European major powers. Poles in Poznan were granted the right to use Polish for official business, jointly with German. However, most nineteenth century multilateral treaties, which involved a large number of European powers, accorded no rights to linguistic minorities.

During the 19th century, several national constitutions and some multilateral instruments safeguarded national linguistic minorities.

An early example of the recognition of linguistic rights in a national constitution is the Austrian Constitutional Law of 1867, which contrasts strongly with the monolingualism which other powers were attempting to impose at the same time. Article 19 states that

> All the ethnic minorities of the States shall enjoy the same rights and, in particular, have an absolute right to maintain and develop their nationality and their language. All the languages used in the provinces are recognized by the State as having equal rights with regard to education, administration and public life. In provinces inhabited by several ethnic groups, the public educational institutions shall be organized in such a way as to enable all the ethnic groups to acquire the education they need in their own language, without being obliged to learn another language of the province. (quoted in Capotorti 1979; 3).

During the THIRD period, between the two World Wars, the Peace Treaties and *major multilateral and international conventions* worked out under the auspices of the League of Nations contained clauses protecting minorities, and many *national constitutions* stipulated the rights of linguistic minorities.

The Peace Treaties that concluded the First World War attempted to safeguard the rights of linguistic minorities in central and eastern Europe (roughly 20% of the population of the 13 countries affected). A substantial number of international instruments emanated from the Paris treaties (listed in the League of Nations Official Journal, special supplement no. 73 of June 13th 1929), embracing multinational agreements and the national constitutions of many European states (essentially those in the Baltic and south-east and central Europe). The essential points are summarized on page 47:

> As regards the use of the minority language, States which have signed the treaties have undertaken to place no restriction in the way of the free use by any national of the country of any language, in private intercourse, in commerce, in religion, in the Press or in publications of any kind, or at public meetings. Those states have also agreed to grant adequate facilities to enable their nationals whose mother tongue is not the official language to use their own language, either orally or in writing, before the Courts. They have further agreed, in towns and districts where a considerable proportion of nationals of the country whose mother tongue is not the official language of the country are resident, to make provision for adequate facilities for ensuring that, in the primary schools (the Czechoslovak Treaty refers to 'instruction' in general), instruction shall be given to the children of such nationals through the medium of their own language, it being understood that this provision does not prevent the teaching of the official language being made obligatory in those schools.

Such rights were supposed to prevail in countries like Hungary, Rumania and Yugoslavia (for an analysis of the fragility of the states which were formed in Europe post 1919, and similarities between these states and post-colonial African states, see Davidson 1992). Similar principles guided the treaties relating to Turkey and the minorities within its territory. Britain, France and the United States were signatories to the minorities' treaties, but did *not* offer equivalent rights to their own minority group citizens.

The treaties provided for the right of complaint to the League of Nations (which had a Minorities Secretariat), and the International Court of Justice. This right of appeal proved to be of limited value: whereas 204 complaints were filed in 1930-31, only 4 were in 1938-39 (Boudoin-Masse 1973: 19).

Very few, if any, countries were willing to press for minority protection at the highest international level. Latvia (1922), Lithuania (1925) and Poland (1932, 1933, 1934) proposed universal protection within the framework of the League of Nations, but the Supreme Council rejected all the drafts (Andrýsek 1989: 20). A token gesture was made in a League of Nations' Assembly recommendation in 1922:

> The Committee expresses the hope that the States which are not bound by any legal obligations to the League with respect to minorities will nevertheless observe in the treatment of their own racial, religious or linguistic minorities at least as high a standard of justice and toleration as is required by any of the Treaties and by the regular action of the Council. (from Protection of Linguistic, Racial or Religious Minorities by the League of Nations, 2nd edition, Document C.8.M.5 I.B.1, Minorities, Geneva, 1931, quoted in Andrýsek 1989: 20).

The FOURTH period, from 1945 to the 1970s, saw a wish on the part of the victors of the Second World War to prevent the abuses against human rights perpetrated by fascist regimes. Within the framework of the United Nations a major effort to legislate internationally for the

protection of human rights was undertaken. "Universal" declarations have been elaborated and codified, with the aim of establishing minimal conditions necessary for a just and humane social order. The primary goal of all declarations of human rights, whether national or international, has been to protect the individual against arbitrary or unjust treatment.

However, the thrust of promoting the full gamut of human rights resulted in the *relative neglect of the protection of minorities*, with the exception of broad formulations outlawing discrimination. It was thought that human rights instruments in general provided enough protection for *everybody* and that specific rights for minorities were thus unnecessary. There was therefore, relatively speaking, a lack of attention to minority rights during this phase. This is admitted by the UN itself too. The recent *Human Rights Fact Sheet on Minorities* (No 18, March 1992: 1) states that

> the setting of standards which would create additional rights and make special arrangements for persons belonging to minorities and for the minorities as *groups* - although a stated goal of the United Nations for more than 40 years---has made slow progress.

The United Nations Charter does not mention minorities at all.

> A draft treaty for the protection of minorities submitted by Hungary to the 1946 Peace Conference in London was not accepted. Proposals to include a provision on minorities in the Universal Declaration of Human Rights did not succeed. (*Human Rights Fact Sheet* 18, 1992: 3--4).

The FIFTH period saw a *renewed interest in the rights of minorities*, including linguistic rights, and work began on the formulation of several multilateral declarations. This new focus of interest can be seen in the Capotorti report (commissioned by the UN in 1971 and published in 1979), a major survey of juridical and conceptual aspects of the protection of minorities. Information on how minorities are treated de jure and de facto was solicited for the report from governments worldwide. Capotorti proposed, among other matters, the drafting of a declaration on the rights of members of minority groups.

The overall pattern in the phases above also reflects the extent to which linguistic human rights are explicitly proclaimed in different instruments. The *strongest* degree of protection for some minorities is discernible in the types of texts which were the first to guarantee linguistic rights to minorities, namely in *national constitutions* and relevant legislation. There is *less support* in the *multilateral* but still geographically restricted human rights instruments (e.g. "European" or "African" instruments, mostly covering one continent or parts thereof), and *still less* in *"universal"* ones. The more general human rights instruments usually mention language only in passing. Language rights are often somewhat more specifically elaborated in instruments which are restricted to certain themes or apply to numerically small groups only, such as instruments relating to education or genocide, or to minorities or indigenous peoples.

We shall look later in more depth into a variety of UN universal covenants, and here merely make some provisional generalisations about linguistic human rights in the UN framework thus far.

1. It is recognized (for instance in the Capotorti report) that most minorities, not least linguistic ones, are in need of much more substantial protection. Some of the very recent recognition given to linguistic rights in declarations of intent or other texts with no legal force is laudable (e.g. *UN Human Rights Fact Sheet* 18 (1992: 4) on Minorities:

> Only when minorities are able to use their own languages, run their own schools ... can they begin to achieve the status which majorities take for granted.

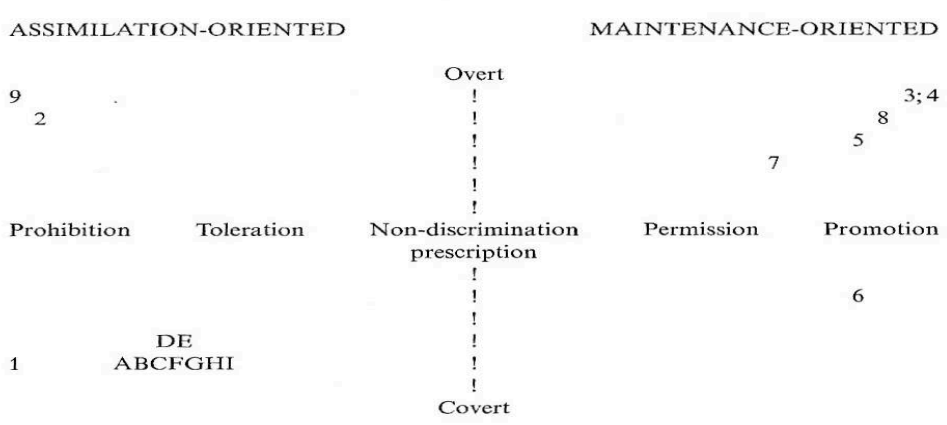
2. The coverage of educational linguistic human rights in existing international instruments reflects the relative neglect of minority rights during the 30-year period after the Second World War.$(5)
3. Language has not figured prominently as a concern.$(6) It has been thought until very recently that the cultural characteristics of minorities, including language, were adequately covered by general references to "ethnic, religious and linguistic minorities".
4. Immigrant minorities were deliberately excluded from consideration in the Capotorti Report, hence from the main thrust of UN efforts to end discrimination against minorities. Migrant workers, refugees, stateless persons and other non-nationals are still "not true minorities" (*UN Human Rights Fact Sheet* 18, 1992: 9).

The analysis of international covenants covering linguistic rights, especially in education

Our earlier study of a range of relevant international covenants and national constitutions (Skutnabb-Kangas & Phillipson 1986a, 1989a), drawing on distinctions made by Kloss (1971, 1977) and Cobarrubias (1983), attempted to gauge to what extent these legal measures provide support for dominated languages. To do so, a grid on which some of the important dimensions of language rights can be captured was devised. The first dimension used, and represented in our grid on the vertical axis, is *degree of overtness*, on which one can mark the extent to which laws or covenants are explicit in relation to the rights of minority languages in education. The second dimension, represented on the horizontal axis, is *degree of promotion*, on which the extent to which a language is *prohibited, tolerated or actively promoted* can be plotted (see Figure 1). We see both dimensions as continua.

The promotion continuum starts with *prohibition* of a language, the goal of which is clearly to force the linguistic minority group to assimilate to the dominant language. It continues via *toleration* of the language, a situation where the language is not forbidden (explicitly or implicitly), to *non-discrimination prescription*, where discrimination of people on the basis of language is forbidden, either overtly (discrimination is made illegal in a way which is explicit enough not to cause difficulties of legal interpretation and/or where there may be sanctions of some kind) or covertly (as part of general legislation on countering discrimination). The next point on the continuum would be *permission* to use the minority language. At the other end of the continuum we have *promotion* of the minority language. This is obviously oriented toward maintaining it.

In the earlier study we plotted on to the grid a range of national constitutions: *Finland*, for both the *Sámi* (No 5 on the grid) and the *Swedish* (No 4) languages); the then *Yugoslavia* (No 3); *India* (No 6)); proposals for constitutional change: *English Language Amendments* to the *USA* Constitution (Huddleston No 1, Hayakawa No 2; see Marshall 1986: 36); *The Freedom Charter of the African National Congress (ANC) and others, South Africa* (No 7); the *Basque Normalization Law* (No 8). The paper on the Kurds in *Turkey* in this volume shows how Turkish legislation can be placed on the grid (No 9), and it would be possible to do the same for many of the other country studies in this volume. As stated above, many national constitutions provide more protection to minority languages in education than the international covenants. Conversely, none of the international covenants overtly prohibits the use of minority languages, as some national constitutions do.



Numbers refer to countries, *letters* to covenants (see text)

1. English Language Amendments to the USA Constitution, senator Huddleston
2. as above, senator Hayakawa
3. ex-Yugoslavia
4. Finland, Swedish-speakers
5. Finland, Sámi
6. India
7. The Freedom Charter of ANC and others, South Africa
8. the Basque Normalization Law
9. Kurds in Turkey

A: The Charter of the United Nations, 1945;
B: The Universal Declaration of Human Rights, 1948;
C: International Covenant on Economic, Social and Cultural Rights, 1966;
D: International Covenant on Civil and Political Rights, 1966;
E: The UN Convention on the Rights of the Child, 1989;
F: The Council of Europe Convention for The Protection of Human Rights and Fundamental Freedoms, 1950;
G. The African Charter on Human and Peoples' Rights, 1981;
H. American Declaration of the Rights and Duties of Man, 1948;
I. American Convention on Human Rights „Pact of San Jose, Costa Rica", 1969.

Figure 1. Language rights in selected countries and covenants

We have also placed on the grid some of the results of our review of clauses on *language rights in education* (i.e. *not* the general clauses) in some international and European conventions and decrees (see figure 1). As can be seen from the grid, many natioßnal constitutions provide more protection to minority languages in education than the international covenants. Conversely, none of the international covenants overtly prohibits the use of minority languages, as some national constitutions do. The covenants are:

A*: The Charter of the United Nations*, 1945;
B: *The Universal Declaration of Human Rights*, 1948;
C*: International Covenant on Economic, Social and Cultural Rights*, 1966;
D: *International Covenant on Civil and Political Rights, 1966; E: The UN Convention on the Rights of the Child*, 1989;
F: *The Council of Europe Convention for The Protection of Human Rights and Fundamental Freedoms*, 1950.
G. *The African Charter on Human and Peoples' Rights*, 1981
H. *American Declaration of the Rights and Duties of Man*, 1948
I. *American Convention on Human Rights "Pact of San Jose, Costa Rica",* 1969

Most of the articles referring to language in these texts are in the Appendix.

Example A. THE CHARTER OF THE UNITED NATIONS (1945) commits its member nations in its *general* articles to promoting

> universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion (paragraph 6.11, 55).

This can be understood as *overt non-discrimination prescription*. It has no specific article on *education* and thus nothing on language in education, implying only *covert toleration*.

The *general* articles in all the following covenants (B--I) can also be characterised as *overt non-discrimination prescription*. For instance, the UNIVERSAL DECLARATION OF HUMAN RIGHTS declares in paragraph 2:

> Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Example B. THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (1948), in its paragraph on *education* (26), does not refer to language. The main thrust of the paragraph is to ensure free universal education. There are references to the "full development of the human personality" and the right of parents to "choose the kind of education that shall be given to their children". This can be considered *covert toleration*.

Example C. The INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, adopted in 1966 and in force since 1976, having mentioned language on a par with race, colour, sex, religion etc in its *general* article (2.2) again omits any reference to language in the *educational* article (13). There is an inconsistency here, because the covenant *does* explicitly refer to "racial, ethnic or religious groups" in the education article, though not "linguistic" ones. This also represents *covert toleration*.

> 13.(1) ... education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

Example D. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (1966) does not have any *educational* clauses (i.e. there is *covert toleration*).

But Article 27 states:

> 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.

This represents *overt non-discrimination prescription*, tending towards permission, but does not include educational institutions.

This article has been one of the most important international articles for the protection of linguistic minorities, as both Capotorti (1979) and more recent UN reports (Eide 1990, 1991; Palley 1984) confirm. Both the UN Conventions on the Rights of the Child (1959 and 1989), and several Council of Europe and CSCE documents have approximately the same formulation.

Example E. The UN CONVENTION ON THE RIGHTS OF THE CHILD, 1989, stresses the

maintenance of identity, including "nationality" and "name" (Art 7 and 8; see also Jernudd's article, this volume). It does not mention language in its general article on *education* (28; i.e. there is *covert toleration*), though it mentions

> development of respect for the child's parents, his or her own cultural identity, language and values (Art. 29.c),
>
> encourages "the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous" (Art. 17.d)
>
> and decrees that "due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background" (Art. 20.3)

- but only when a child is temporarily or permanently deprived of the family environment. The clause obviously does not refer to daily childcare or school. Article 30 is substantially the same as Art. 27 on minorities quoted above in Example D ("persons of indigenous origin" have been added, and "their" has been replaced by "his or her"). This *overt non-discrimination prescription* implicitly restricts use of the minority language to private minority community use. (This has been extended in the preamble of the European Charter for Regional or Minority Languages (see below), which, with reference to art. 27 (see D above) considers

> that the right to use a regional or minority language in private and public life is an inalienable right (our emphasis)).

In sum, the absence of any overt mention of language under the education clauses of these covenants is in contrast with the general clauses on non-discrimination, which relate to the exercise of all human rights. This means that the five UN conventions (A, B, C, D and E) have *general* provisions which are apparently an *overt non-discrimination prescription* (A, B, C) or even *overt permission*, mentioning language specifically (D, E). But the *education* clauses are no stronger than *covert assimilation-oriented toleration*. Minorities are allowed to use their languages in private, but not in schools. The same is also true of the following examples, from regional covenants.

Example F. THE COUNCIL OF EUROPE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, adopted in 1950 and in force since 1953, in its *education* section (first protocol, 2) represents *covert toleration* (see the European Court's interpretation in the Belgian linguistic case, below).

Example G. THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS, adopted in 1981, in force since 1986 and signed by 50 African States (as at 31 January 1990), also has a *general overt non-discrimination prescription* in its preamble and in Art. 2. The *education* clause (Art. 17.1) only confirms that "every individual shall have the right to education". Language is not mentioned, i.e. there is *covert toleration*. The Charter includes not only rights but also duties. This approach where rights are inseparable from duties, is "old" in Africa (and in the Americas---see example G - and Asia; the same Sanskrit word which means "right" also means "duty"), but the UN claims that it is "new in international instruments" (in its Introduction to The African Charter, UN 1990). One could, maybe, envisage that the promotion, protection, preservation and strengthening of everybody's mother tongue could come in under the duties of the State and the individual, since

> the promotion and protection of morals and traditional values recognized by the community shall be the duty of the State. (Art 17.3)

and since the individual has the duty

> to preserve the harmonious development of the family and to work for the cohesion and respect of the family; to respect his parents at all times ... (Art 29.1)

and "to preserve and strengthen positive African cultural values in his relations with other members of the society ..." (Art. 29.7).

Example H. AMERICAN DECLARATION OF THE RIGHTS AND DUTIES OF MAN, 1948 states, in addition to the usual *general* non-discrimination prescription (Art. II) and right to education (Art. XII, where language is not mentioned, i.e. there is *covert toleration*), in its Article on freedom of investigation, opinion, expression and dissemination (Art. IV) that this can be done "by any medium whatsoever". Likewise the article on the right to the benefits of culture (Art. XIII) stresses the right to

> participate in the benefits that result from intellectual progress, especially scientific discoveries,

something that may be difficult unless these results are available in a language one knows. Such formulations are common in many national constitutions (see UN 1991 May, HR/PUB/90/8) and in several of the international covenants.

It is also

> the duty of every person to acquire at least an elementary education (Art. XXXI),

which again can be difficult if the child does not understand the language of instruction (see the Lau v. Nichols case below and Hernández-Chávez, this volume).

Example I. AMERICAN CONVENTION ON HUMAN RIGHTS "PACT OF SAN JOSE, COSTA RICA", adopted 1969, in force 1978, also has language in its *general* part (Art. 1.1) and does not have anything on *education* (i.e. *non-discrimination prescription* and *covert toleration*, respectively). It promises in its Art. 8.2.a on the right to a fair trial

> the right of the accused to be assisted without charge by a translator or interpreter, if he does not understand or does not speak the language of the tribunal or court

(c.f. Magga and Kāretu, in this volume; this is also guaranteed for instance in the Covenant on Civil and Political Rights, Art. 14.2.a and f, Example D above, and, for children, in Art. 40.vi in the Convention on the Rights of the Child, Example E above). The Article on freedom of thought and expression (Art. 13.3) guarantees that this

> may not be restricted by indirect methods or means" or "any other means tending to impede the communication and circulation of ideas and opinions.

Not understanding a language might be interpreted as this type of restriction.

The European, African and American conventions are thus similar to the UN conventions in being silent on languages in the education clauses. As we will see, some of the new (draft) declarations go further.

Litigation for language rights

That the rights are of limited value in supporting language maintenance via education can be seen from litigation in relation to similar rights. The Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms (Example F above) declares in its first protocol, 2:

> No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

This has been interpreted by the European Court of Human Rights as only meaning that subjects have the right to avail themselves of the means of instruction available at a given time, and not to have any particular type of education established. Although the clause cited does not specify the language in which education must be conducted, in order that the right to education should be respected, the European Court observed that

> this right would be meaningless if it did not imply ... the right to be educated in the national language, or in one of the national languages, as the case may be. (Sieghart 1983: 249, reporting the "Belgian Linguistic Case").

This appears to give the state the right to decide what languages education should be offered in, hence which languages should be maintained and which should not, irrespective of minority wishes (and the European Charter for Regional or Minority Languages does not go further than this, because the state decides which languages the provisions should apply to, see below; for an alternative solution see Leontiev, in this volume). The European Court added that for the right to education to be effective,

> it is also necessary that the individual who is the beneficiary should have the possibility of drawing profit from the education received (Sieghard 1983: 249).

This is specified as meaning "the right to obtain ... official recognition of the studies ... completed", ie the right to credentials. It would be important to clarify by litigation whether this can be interpreted as meaning that a child does *not* have any right to *understand* the instruction, i.e. the language in which the education is given (which could also be seen as a prerequisite for "drawing profit from the education received").

The European Court ruling has affinities with the American Supreme Court case of **Lau** v. **Nichols**, in which students of Chinese ancestry claimed that the San Francisco Unified School District failed in its obligation to provide adequate education for them. The Supreme Court ruled that

> Under these state-imposed standards there is no equality of treatment merely by providing students with the same facilities, textbooks, teachers and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education. (quoted in Center for Applied Linguistics 1977: 7).

The court's finding was that the school board failed in its obligation to provide the Chinese group with equality of benefits from education, and that this was in defiance of Title VI of the Civil Rights Act of 1964. The court avoided pronouncing on whether there was also an offence against the Equal Protection Clause of the 14th Amendment to the Constitution.

The significance of this and many similar court cases on bilingual education issues in the USA (see Hernández-Chávez 1988, 1990, this volume) and on issues of linguistic varieties and accents, for instance Black English or Hawai'ian English (see Labov 1972; Matsuda 1991; Sato 1991 and in press; Smitherman 1992) is that it is possible for individual rights, guaranteed by the state, to be enforced at the appropriate level. Indeed a review of legal aspects of bilingual education in the USA concludes that in that country "litigation has served, and will continue to serve, as a necessary strategy for educational reform" (Center for Applied Linguistics 1977: 40), though it is unlikely that there would be as optimistic a view of litigation substantially assisting minorities in the 1990's (see Sato 1991 and in press). Several cases have been brought on the enforcement of an "English Only" policy in the US (see summary in Crandall 1992), in particular on the right to ban the use of languages other than English at the workplace. The indications are that there is considerable confusion as to what constitutional rights to language are guaranteed, and that there is little understanding of bilingualism on the bench.

There are several dimensions to the issue of language rights in court. O'Barr (1982, 1990) is concerned with the question of legal access associated with the dialect, register, discourse and other sociolinguistic features of litigants and the legal system professionals. Is justice being done if a litigant is unable to function adequately in the type of language that characterizes law courts (c.f. Appendix, where several instruments require that the charge be delivered "in a language he understands" - apparently only males are charged). Are the individual's linguistic human rights being infringed if the discourse rules discriminate against certain litigants? These questions relate to access to the standard code and to specialized discourse, and to the role of the education system in equipping citizens to function in given ways. There can be no doubt that the individual is not receiving a fair hearing if court proceedings take place in a different language and interpreters are not provided. Here there is prima facie a violation of a human right (see Appendix; but see also Magga, this volume, about only getting fundamental rights by pleading helplesness), with language as the crucial factor. However, the situation with linguistic variation is not so clear. It is common for judges in criminal cases to be familiar with what they call underworld slang, but this does not guarantee that a litigant can communicate effectively in legal discourse. It would be important for the borders of linguistic human rights to be tested by more consideration of insights from forensic linguistics.

The litigation route may not be navigable in countries such as Great Britain, in the absence of relevant legislation, and where it would be difficult to build a case on a violation of a fundamental freedom. However, the new British Lord Chief Justice appointed in 1992 is on record as approving of the principle of the incorporation of relevant covenants into British law. Some countries, such as Norway, incorporate international covenants that the state ratifies into national legislation.

As the description of the Belgian Linguistic Case indicated, there is also the possibility for citizens of the European countries which are signatories to certain conventions to appeal to an international tribunal in order to enforce their human rights. Such petitions can only be heard once all remedies in the national courts have been exhausted. There are at least two Scandinavian cases pending, where linguistic rights are involved.$(7)

In addition, UNESCO has had since 1978 a procedure for considering violations of human rights within UNESCO's field of competence. However, the procedure is confidential, a complainant does not have any opportunity of seeing, or commenting on, a respondent government's reply, and only the respondent government, and not the complainant, can appear before the UNESCO committee when it considers a complaint either as to admissibility or on the merits. UNESCO does not publish any details of complaints or action taken as a result (Sieghart 1983: 436). In view of our analysis of the education clauses of UN covenants, there appears to be a serious risk that complaints about linguistic assimilation policies would fail, as they probably would at the European Court of Human Rights. (UNESCO is very active in accumulating and

disseminating documentation on human rights, see UNESCO 1991, as is the UN through its Centre for Human Rights in Geneva).

We can end this survey of litigation and the legally binding international/universal declarations by concluding that *none of these are mother tongue maintenance-oriented*. None of them represents in their general clauses more than *overt non-discrimination prescription*. In fact, most of them in their educational clauses only require *covert toleration of minority mother tongues.*

Not even overt maintenance-oriented permission is enough for minority (or powerless majority) mother tongues to be maintained, developed and handed down from parents to children over several generations, which according to Fishman (1991) is the most vital link in the chain of reversing language shift. What they require is overt maintenance-oriented promotion (which necessarily includes the allocation of the economic means for supporting mother tongue medium schools$(8)---one of the crucial deficiencies in UNESCO's own Convention against Discrimination in Education). No international covenants guarantee this to any minority groups, nor to any individuals (regardless of whether the individuals come from a linguistic minority or majority).

The existing international or "universal" declarations are therefore in no way adequate to provide support for dominated, threatened languages. The evidence unmistakably shows that while individuals and groups are supposed to enjoy "cultural" and "social" rights, linguistic human rights are neither guaranteed nor protected.

In order to avoid institutional discrimination, in education and elsewhere, against minority language children, there is a need for legislation which explicitly promotes minority languages within a maintenance-oriented framework. Most existing declarations tend to be too vague and conceptually confused, and both the right of redress and the economic prerequisites for using the rights have been deficient. In the next section we will report on some of the ongoing work to remedy this.

Ongoing international efforts to codify language rights for minorities

We shall now consider current efforts to codify language rights for minorities within the UN and UNESCO, the Council of Europe and the European Parliament (whose work in this field often merges) and the CSCE.

On the initiative of the *European Parliament*, the *"European Bureau for Lesser Used Languages"* was established in 1982 with the task of promoting the languages and cultures of autochthonous minority groups of the member countries of the European Community (which they estimate at close to 50 million of the 320 million citizens of the EC). Immigrant minorities are not a concern of the Bureau.

The *European Parliament* has passed two important resolutions on language rights, *Arfe* (1981) and *Kuijpers* (1987). The Arfe resolution of 16 October 1981 urged national and regional authorities to promote the use of minority languages in three main areas, education, mass communications, and public life and social affairs. Specifically in the domain of education, they are urged

> - to promote and take steps to ensure that the teaching of regional languages and cultures is included in official curricula right through from nursery school to university;
> - to provide, in response to needs expressed by the population, for teaching in schools of all levels and grades to be carried out in regional languages, with particular emphasis being placed on nursery school teaching so as to ensure that the child is able to speak its mother tongue;
> - to allow teaching of the literature and history of the communities concerned to be included in all curricula. (excerpted from the resolution, reproduced in the bulletin of the European Bureau for Lesser Used Languages, *Contact*, 1, November 1983: 2).

The Arfe resolution was couched in terms of "urging" and "inviting" a course of action. It was followed by the Kuijpers resolution, adopted by the European Parliament in October 1987. It recommends that member states actively promote minority languages in education, local administration, and the mass media (*Contact*, 4/3, 1987-1988: 1). These two resolutions have been instrumental in paving the way for the *European Parliament* to consider a EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES, which was finally approved by the Committee of Ministers on 22 June 1992. This is a comprehensive document on the use of language in education, public services, media, cultural, economic and social life (for the earlier forms, see Resolution 192, 1988, followed by CAHLR\DELA91.1, Strasbourg, 24 June 1991; for a description of its genesis, see Woehrling 1992; for the text, see the Appendix).

The preamble

> considers "that the right to use a regional or minority language in private and public life is an inalienable right",
> stresses "the value of interculturalism and multilingualism"
> and considers "that the protection and encouragement of regional or minority languages should not be to the detriment of the official languages and the need to learn them" but rather "an important contribution to the building of a Europe based on principles of democracy and cultural diversity within the framework of national sovereignty and territorial integrity.

Each state which ratifies the European Charter can specify which minority languages it wants to apply the Charter to (Art.3.1) (and the languages of migrants are explicitly excluded in the section on definitions, Art. 1a). A state can choose which paragraphs or subparagraphs it wants to apply (a minimum of 35 is required). The formulations 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" (our emphasis).

While the Charter demonstrates how difficult it is to write binding formulations which are sensitive to local conditions, it permits 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, at their own cost.*

The European Parliament has also adopted a RESOLUTION ON THE USE OF LANGUAGES IN THE COMMUNITY (*Official Journal of the European Communities*, April 13 1984, no C 127/139). The resolution aims at strengthening the teaching of foreign languages throughout the community and improving the quality of teaching, translating and interpreting. It

> 1. Reaffirms the principle that all languages and the cultures which they express have an intrinsic value;
> 2. Reaffirms the right of each individual to express himself freely in his own language or in the language of his choice;
> 3. Stresses the importance of combating illiteracy;
> 4. Asks for all measures at Community and Member State level aimed at promoting the use of Community languages to be encouraged.

The resolution is formulated in general terms, which express *overt maintenance-oriented*

permission. Logically this should apply to all minority languages. However it is the official state and European Community languages which were the main concern of the preparatory studies prior to the adoption of the resolution (just as it is speakers of these languages which are the beneficiaries of the LINGUA and ERASMUS programmes which permit European Community nationals to study abroad). A primary motive was to limit the dominance of English and to encourage multilingualism and parity between the official languages of the community (*European Parliament Working Document* 1-83/84/B; see also Fishman, this volume).

In the same Resolution the *European Parliament* also

> 10. Emphasizes once again the importance of the existing Directive on the education of the children of migrant workers; asks the Commission to use all the resources at its command to ensure that the Directive is applied in full and in all the Member States.

The Directive, referred to above (77/466/EEC of 25.7.77), is fraught with difficulties of interpretation and implementation (see the description of the origins of the Directive and discussion in Tosi 1984: 14; see also Reid---Reich 1992). It is unclear whether the EEC intends the directive as

> an embryonic "enriching" model for the promotion of EEC languages in the modern languages curricula of member states, or as a compensatory measure for the underprivileged.

and its effects will remain unclear until

> governments make a definite pronouncement on their interpretation and define their policies for its implementation" (Tosi 1984: 17).

The same uncertainty holds for the European Parliament Resolution in question, which does not clarify the Directive.

> According to the report presented on 3 January 1989 on the implementation of this Directive by the Member States ... the results are on the whole quite unsatisfactory as only the Federal Republic of Germany and especially the Netherlands$(9) have made adequate provisions for the teaching of the languages and cultures of origin of the children of migrant workers. In other member States, this Directive was either ignored or given very little attention,

says the European Parliament's *Report drawn up on behalf of the Committee of Inquiry into RACISM and XENOPHOBIA* (A3-195/90, PE 141.205/FIN, 111). One of the Member States, Denmark (which in 1992 decided to make it optional for local authorities to offer the teaching of migrant children's mother tongues as subjects, in violation of the Directive), was instrumental in preventing the Committee from including more about migrant languages in education in the Report, according to Glyn Ford, the European Parliament official Rapporteur (at a hearing on the report on 2.12.1991 in Copenhagen and again 18.6.1993 at an Alternative Summit in Copenhagen).

The Racism and Xenophobia Report (see above) contains endless accounts of initiatives, plans, suggestions, resolutions etc on migrant rights with "no follow-up", "none of them ever saw the light of day", "never went beyond issue no 1", "nothing more was said or done", "has not been able to go further", "no further initiatives were taken", "did not take place" (all these just from a few pages, 104-107). (Racial discrimination against migrant workers was also a concern of the UN seminar on Political, historical, economic, social and cultural factors contributing to racism, racial

discrimination and apartheid, organised in Geneva 10-14 December 1990 - see UN 1991 November). The many instances of non-compliance with the limited language rights of migrants thus seem to place the *implementation* of the Directive close to *covert prohibition*, despite the European Parliament Resolution's points 1--4 and 10 above.

While one should not underestimate the potential of the European Parliament (or the Council of Europe, see below) to influence member countries, the catch is that its resolutions are not legally binding on governments.

Another important international forum which is committed to the cause of human rights is the *Council of Europe*. One of its bodies, the European Commission for Democracy through Law, has drafted a *"Proposal for a European Convention for the Protection of Minorities"* (CDL 91-7, which is accompanied by a substantial Explanatory Report (CDL 91-8). The Convention stipulates that minorities, including linguistic minorities, shall have the right

> to "respect, safeguard and development of their ethnical, religious, or linguistic identity" (Art. 3.2),
> to "freely preserve, express and develop their cultural identity in all its aspects, free of any attempts at assimilation against their will" (Art. 6.1),
> the individual has the right to "use his language freely, in public as well as in private" (Art. 7).
> The Convention "does not permit any activity which is contrary to the fundamental principles ... of sovereignty, territorial integrity and political independence of States" (Art. 1.2).

Escape clauses figure prominently in the more detailed provisions for language, especially in education. Article 8 reads:

> Whenever a minority reaches a *substantia*l percentage of the population of a region or of the total population, its members shall have the right, *as far as possible*, to speak and write in their own language to the political, administrative and judicial authorities of this region or, *where appropriate*, of the State. These authorities shall have a corresponding obligation. (our emphasis; compare this with the mandatory provisions already in force for speakers of Māori and Sámi, see the articles by Kāretu and Magga, in this volume; c.f. also Canada and Finland, see Turi and Grin, this volume).

Article 9 restricts the operation of educational language rights to members of large minority groups only:

> Whenever the condition of Article 8 are fulfilled, in State schools, obligatory schooling shall include, for pupils belonging to the minority, study of their mother tongue. *As far as possible*, all *or* part of the schooling shall be given in the mother tongue of pupils belonging to the minority. However, *should the State not be in a position to provide such schooling*, it must permit children to attend private schools. In such a case, the State shall have the right to prescribe that the official language or languages also be taught in such schools (our emphasis).

Even when the Council of Europe draft says nothing about the State's duty to maintain the private schools financially, the State has the right to prescribe that the official language is taught, whereas the minority of course does not have a corresponding right to prescribe that its own language is taught in state schools. The educational rights could be compared with those in Finland (with a combination of territoriality and personality principles, see Grin in this volume), where the

presence of 13 children of obligatory school age in a local authority is enough to make it mandatory for the authority to have a school where the minority children's mother tongue, if Swedish or Finnish, is the medium of education during the first nine years of obligatory schooling (see e.g. CERI/ECALP/83.03, 15). Under Polish legislation in 1992, 7 kindergarten or primary school pupils or 14 post-primary pupils have the right to teaching through the medium of an ethnic minority language (*Council of Europe Education Newsletter* 3/1992, 28--29).

The Conference on Security and Cooperation in Europe (CSCE) became from the late 1980s a major forum for East-West links and for specifying what human rights should obtain in the member countries.$(10) THE DOCUMENT OF THE COPENHAGEN MEETING OF THE CONFERENCE ON THE HUMAN DIMENSION OF THE CSCE (1990) states unambiguously that national minorities should have the right to maintain their ethnic, cultural, linguistic or religious identity, the right to seek voluntary and public assistance to do so in educational institutions, and should not be subjected to assimilation against their will (CSCE 1990a: 40; see the Appendix). Several later meetings (held in Paris, Moscow, Helsinki) have also made pronouncements on minorities, and, predictably, run into difficulties in defining them. As developments in ex-Yugoslavia and the former Soviet Union have shown, the need to strengthen international measures for conflict resolution and peace-keeping remains. Media coverage has tended to label such conflicts as "ethnic", which is very misleading as shorthand for conflicts which more fundamentally have to do with economic problems, lack of social justice, a political vacuum after the demise of "communist" regimes, a gulf between the state and groups which do not identify with it, and failure to grant equal rights to minorities (see e.g. Hettne 1987, 1990; Stavenhagen 1990; Davidson 1992).

The Copenhagen Document goes further than any of the international covenants presented earlier in specifying how national minorities should be protected. It represents a major step forward for the participating countries if "minority" is defined in the same way as in the Council of Europe draft proposal discussed above (see note 2), if it becomes legally binding, if there is a procedure for monitoring progress (which the European Charter for Minority or Regional Languages contains), if the individuals and communities concerned (the rights are explicitly invested in both, page 41) have effective legal recourse in the event of their rights not being respected and if the funds necessary for implementation are forthcoming. In relation to migrant workers the Document only reaffirms earlier international agreements, but expresses a

> readiness to examine, at future CSCE meetings, the relevant aspects of the further promotion of the rights of migrant workers and their families" (page 36).

The *UN*'s DECLARATION ON THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES was adopted by the General Assembly on 18 December 1992. It considers

> that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live. (Preamble)

This contests the popular but mistaken belief that the existence of minorities is divisive for nation states, as do several of the (draft) instruments in their preambles.

Article 1.1 decrees that the 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.

Art. 1.2 states that the states

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

The Declaration goes somewhat further than the important Article 27 above, in its Article 2.1, by replacing "shall not be denied" by "have the right" and by adding that these rights apply "in private and in public, freely and without any form of discrimination" and in Articles 4.1 and, especially, 4.2, which prompt the states to actively promote enjoyment of the rights:

> Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination. (Article 2.1)
> States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national and contrary to international standards. (Article 4.2).

Most of the articles use the formulation "shall" and have few let-out modifications or alternatives---except where linguistic rights in education (Art. 4.3) are concerned. Here again, just as in the European Charter (see above), the alternatives permit a reluctant state to provide minimalist protection:

> 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. (our emphasis)

Clearly such a formulation raises many questions. What constitute "appopriate 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?

The recent UN *Draft Universal Declaration on Indigenous Rights* (as contained in document E/CN.4/Sub.2/1988/25; quoted from First Revised Text, in *IWGIA Yearbook 1989*, 1990: 156--158) establishes as fundamental human rights that indigenous peoples have

> 9. The right to develop and promote their own languages, including an own literary language, and to use them for administrative, juridical, cultural and other purposes.
> 10. The right to all forms of education, including in particular the right of children to have access to education in their own languages, and to establish, structure, conduct and control their own educational systems and institutions.
> 23. The (collective) right to autonomy in matters relating to their own internal and local affairs, including education, information, culture, religion, health, housing, social welfare, traditional and other economic activities, land and resources administration and the environment, as well as internal taxation for financing these autonomous functions.

This is the only one of the (draft) declarations discussed here that clearly represents the *overt maintenance-oriented promotion of minority mother tongues*. It stands in striking contrast to the UN

CONVENTION ON MIGRANT WORKERS AND THEIR FAMILIES, which accords minimal rights to the mother tongues and is *assimilation-oriented* (see Hasenau 1990).

In the final section of this article we shall discuss some of the structures and ideologies which lie behind the reluctance of states to accord such rights to minorities, but we shall first report on current work directed towards formulating specifically *linguistic* human rights for a universal declaration.

Towards the formulation of a universal declaration of linguistic human rights

The international community seems to appreciate, at least in principle (as expressed in Preambles), that the linguistic human rights of "indigenous peoples" and "national" or "regional" minorities should be promoted, possibly also those of migrants and refugees. This could indicate that there is appreciation of the need to draft at least a Universal Declaration of Linguistic Human Rights and later, possibly, a legally binding Charter or Covenant. The initial steps towards formulating such a Declaration have in fact already been taken. Researchers are confronted with a considerable challenge in clarifying the nature and scope of linguistic human rights.

At an international seminar on Human Rights and Cultural Rights held in October 1987 in Recife, Brazil, organised by AIMAV (the International Association for Cross-cultural Communication) and UNESCO, a Declaration of Recife was adopted. It ends as follows:

> Hence, conscious of the need to provide explicit legal guarantees for linguistic rights to individuals and groups by the appropriate bodies of the member states of the United Nations,
> *recommends* that steps be taken by the United Nations to adopt and implement a *universal declaration of linguistic rights* which would require a reformulation of national, regional, and international language policies.$(11)

A preliminary Declaration ("Resolution on linguistic rights"/ "Resolução sobre direitos linguísticos)" was also adopted by the Seminar. It is based a provisional declaration first proposed by Tove Skutnabb-Kangas in 1983 (Skutnabb-Kangas 1984b). It is important to note that these points only list what type of rights should be linguistic human rights. The original 1983 formulation had "mother tongue" (defined by origin and internal identification - see Skutnabb-Kangas & Bucak, this volume) rather than "language (of his/her group)" in the first 3 points:

> 1. Every social group has the right to positively identify with one or more languages and to have such identification accepted and respected by others.$(12)
> 2. Every child has the right to learn the language(s) of his/her group fully.$(13)
> 3. Every person has the right to use the language(s) of his/her group in any official situation.
> 4. Every person has the right to learn fully at least one of the official languages in the country where s/he is resident, according to her/his own choice.$(14)

There have been follow-up gatherings at UNESCO in Paris in 1989, Frankfurt 1990 and Pécs, Hungary in August 1991, organized by FIPLV, the Fédération Internationale des Professeurs de Langues Vivantes. A *FIPLV draft "Universal Declaration of Language Rights*" has been circulated to a substantial number of professional associations and researchers (see Appendix). As various responses to FIPLV drafts have shown, it is extremely difficult to reach agreement on the content or wording of such a document before a substantial number of issues have been clarified (see Leontiev's remarks on the draft, this volume). The issues were discussed at the Pécs workshop, including the compilation of a research agenda, after which a detailed report was produced and

issued by UNESCO (see the report for UNESCO from the Pécs Workshop, rapporteur Tove Skutnabb-Kangas). The draft circulated by FIPLV after the Pécs workshop (and later refined within FIPLV, see FIPLV 1993) attempts comprehensive coverage of LHRs. It can, among other things, be criticized for

- ambiguity (mother tongue in Article 1, but a language which young persons or their family identify with in Article 6);
- ambivalence (official languages are to be taught, Article 7, but rights in relation to the mother tongue are unclear);
- impracticability and redundancy ("all persons have the right to learn languages of their own choosing").

Our feeling is that it is admirable that a language teachers' association has taken the initiative in highlighting the cause of LHRs, but that promulgating a declaration which is so manifestly inadequate is premature and ethically and professionally ill-considered. The professional platform of FIPLV is foreign language teaching; it is an association not so much of scholars as of teachers of foreign languages (*langues vivantes*, FIPLV is in translation the World Federation of Modern Language Associations). The issue of foreign language learning and linguistic rights is explored below.

The FIPLV document does not define the terms used. One of the points on the necessary research agenda is confusion in the use of terminology and concepts. These are often vague and imprecise, and the same concepts seem to be interpreted in widely divergent ways. There is a need to clarify such central concepts as *mother tongue, bilingual, official language, national language, learn a language fully, efficient communication*, etc. Most of these concepts can be defined in several different ways.$(15) In any declaration the definitions used have to be stated, and reasons given for why these specific definitions have been chosen rather than others. There are definitions of some of the concepts used in some declarations---for example both the EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES and the *Proposal for a European Convention for the Protection of Minorities* (see above) define what they mean by "minority". The definitions used may have far-reaching implications. We shall use the CSCE COPENHAGEN DOCUMENT (see above) as an example.

All the rights in section IV (pages 40--42) apply to "persons belonging to national minorities", and "to belong to a national minority is a matter of a person's individual choice" (page 40), i.e. the same formulation as in the *Proposal for a European Convention for the Protection of Minorities*. The important question then is whether the state has to accept or confirm the existence of a national minority, before individuals can claim that they belong to one (see note 2). People who have come to a country as immigrants or refugees, and whose children may have been born in the new country and be its citizens, may feel ready to integrate. They may wish to change the status of their group from that of immigrants/refugees to that of a national ethnic minority group. The question then is whether they can claim that they belong to a national minority, and obtain all the rights accorded to a national minority, among them linguistic rights (for a case study of a state refusing this, see Skutnabb-Kangas 1991c). According to the definition of a minority used in the EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES it is *not* possible. If the definitions used in the *Proposal for a European Convention for the Protection of Minorities* and in the CSCE COPENHAGEN DOCUMENT, are *combined*, it *is* possible.

The scope of language rights---is learning foreign languages a human right?

Some researchers and organisations have voiced the view that the learning of foreign languages in school is a human right (e.g. Candelier 1990 in connection with the FIPLV proposed declaration, Gomes de Matos 1984). The mission of TESOL (Teachers Of English to Speakers of Other Languages), according to its Presidents's message, *TESOL Matters*, June/July 1993)

> is to strengthen the effective teaching and learning of English around the world while respecting individuals' language rights.

If such pronouncements are to be anything more than pious rhetoric or partisan lobbying by professional interest groups, the rights in question need to be specified and publicised so that individuals and groups know what they are. In this section we will consider whether there is a conflict of interest between the promotion of foreign languages as part of "internationalisation" on the one hand, and the need of minority languages to have support so as to ensure their survival and development on the other.

There are considerable pressures afoot in Europe at present to coordinate language policy (Coulmas 1991) and to ensure that all European children learn two foreign languages at school. A range of European Community programmes, including LINGUA, and indirectly ERASMUS, are designed to boost such a policy. The disagreement between Britain and its European partners (Britain has refused to agree on a policy of two foreign languages in schools) reflects a major difference in perception of the issues. The British insularly assume that the dominant position of English internationally is in their interest. Continental European countries wish to ensure that their children learn at least English and one other foreign language - French/German/Spanish/etc, i.e. they should learn the dominant languages of two neighbouring European countries. This reflects the wish of Europeans to provide a counterweight to the pervasive influence of English and to bolster the official languages of other European countries.

In fact many European educational systems already offer a wide choice of foreign languages. For instance, in Scandinavian state schooling it is possible, even for those not specialising in languages, to learn 3-4 foreign languages (unlike North America, or Australia - see Smolicz, this volume).

There is a significant difference, however, between the needs of speakers of dominated minority languages, in order to ensure that such languages are accorded basic justice and the chance to survive on the one hand, and the urge to promote European (or any other) unity through multilingualism for "international understanding" on the other (see Fishman, Grin and Turi, in this volume). It should undoubtedly be a human right to learn one's mother tongue, a right that speakers of the dominant language take for granted for themselves. The preamble to the EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES states that

> the right to use a regional or minority language in private and public life is an inalienable right.

There is also widespread agreement on an inalienable right to learn one of the official languages of the country of residence. Is it though, in the contemporary world, a human right to learn several languages in school (see Leontiev, this volume), and to choose which one(s) one wants to learn (as FIPLV advocates)?

One way of approaching ths issue would be to differentiate between *necessary* linguistic rights and *enrichment-oriented* linguistic rights. Necessary rights have to do with the learning and use of one's mother tongue, and the learning of a/the official language in the country of residence, i.e. they have to do with the learning and use of *mother tongues* and *second languages*. Enrichment-oriented rights are concerned with the right to learn and use *foreign languages*. We think that only the necessary rights should be considered inalienable, fundamental *linguistic* **HUMAN** rights. In our view the enrichment-oriented rights are important *LINGUISTIC rights* (in the sense that they relate to language), but not inalienable linguistic *human* rights.

We also appreciate that the terminology is far from ideal here. Also, there is a problem in that,

as we indicated in our general introduction, human rights are generally regarded as being equal and not hierarchical. They do however evolve over time. Applied linguistic perceptions of which languages are more important than others (from L1 to L2 to Lx) in individual development are relevant and should inform debate about the nature of linguistic human rights.

When learning the languages guaranteed by "necessary rights" (the mother tongue and a second language) a child builds up a linguistic repertoire which is necessary for basic social and psychological survival and economic and political participation. These rights are necessary both to *prevent **subtractive** language learning situations* (where the mother tongue risks being forcibly replaced by official, majority languages or not being learned fully) and to *promote **additive** language learning situations* (where other languages are added to a person's linguistic repertoire, without any risk to mother tongues, which are allowed to develop fully; for these distinctions see Lambert 1975).

When learning languages guaranteed by "enrichment-oriented rights" (foreign languages), the mother tongue of the child is at no risk of being replaced or of not being learned fully. Here the child adds to her repertoire (which for a monolingual majority child consists of her mother tongue, which is an official language in the country) other languages which are not necessary for individual or group survival but can be important for personal and professional purposes and for international understanding. This is usually the situation for dominant majority language speakers, learning foreign (or even second) languages in school, regardless of how this learning is organised, in foreign language classes, in immersion programmes, in two-way programmes etc (for these, see Baetens Beardsmore 1990, 1993; Baetens Beardsmore &Kohls 1988; Baetens Beardsmore & Swain 1985; Cummins 1987; Cummins & Swain 1986; Dolson & Lindholm 1993; Duff 1991; Genesee 1985, 1987; Lambert & Tucker 1972; Lindholm 1992; Skutnabb-Kangas 1984a, 1990a, 1993a; Swain- & apkin 1982; see also Swain, Lapkin, Rowen & Hart 1990 about minority children learning foreign languages).

If the two types of linguistic rights are merged, so that the right to mother tongues, to official languages and to foreign languages are treated as equivalent rights in a declaration, one risk that we fear is that the entire exercise may be seen as unrealistic, resulting in neither kind of rights being achieved. This would be unfortunate in relation to enrichment-oriented rights, which are laudable. It would be disastrous in relation to necessary linguistic rights for minorities.

Hence we think that an International Declaration should be formulated in a way which involves a maximalist position for minorities, so that they obtain those rights which majorities take for granted for themselves (the necessary rights above), and a minimalist position for majorities, so as to promote foreign language learning in a realistic way which does not have any restrictive effect on the necessary rights of minorities.

From racism to ethnicism and linguicism

In this final section we shall briefly consider what sorts of processes and ideologies it is that limit the enjoyment of LHRs and that tend to result in an unjust allocation of resources to speakers of different languages. Language appears to be playing an increasingly important role in the stratification of society. Earlier forms of biologically argued RACISM grouped together carefully chosen, purportedly biological "characteristics", visible (skin colour) or less visible (blood groups, skull form etc.), to function as defining criteria for "races". Various psychological "characteristics" were then linked with or attributed to the resulting "races". These were then hierarchized on the basis of an evaluation of "their" (first "alterable", later on "unalterable", "inherited") psychological characteristics. Some "races" were seen as fitter to rule than others. "Races" and "their" characteristics were thus socially constructed, the result of ascription and signification processes, and these ideological constructions were used to legitimate the unequal division of power and resources between the resulting "races". The ideology of biologically argued racism legitimated the

control and exploitation by the "white" "race" of other "races" (Miles 1989).

When, for various reasons, biologically argued racism became untenable, it was necessary to find other criteria which could continue to legitimate the unequal division of power and resources. In most countries, biologically argued racism is in the process of being replaced by more sophisticated forms of racism, *ethnicism* (Mullard 1988) and *linguicism* (Skutnabb-Kangas 1988a). These use the ethnicities, cultures and languages of different groups as defining criteria and as the basis for hierarchization. It is no longer being claimed (at least not openly---except in populistic right wing anti-immigrant discourse) that certain "races" are fitter to rule than others. Now it is certain ethnic groups, cultures and languages which are claimed to be fitter to rule, expand, and be emulated by others. In a new social darwinist dress the argument is that the ethnoses, cultures and languages which are to survive and expand will do so because they are more adapted to modern technological life, to market economies and democratic forms of government, more developed or useful, or have more potential than others. The hegemony of the dominant group then ensures that the other ethnoses, cultures and languages are deprived of resources and a fair chance to survive. Central in this process are institutionally controllable measures such as education. Somehow it always turns out to be majority languages and cultures which are the fittest survivors. This empirical fact tends then to be used as proof of their being the fittest.

It is obvious that linguicism may also be a useful concept in analysing the role of language in schooling in relation to "monolingual" majorities. Similar processes of structurally favouring middle-class language and the "standard" code, and marginalising dialectal and sociolectal varieties, are at work in most national education systems, and still generate heated controversy, as seen in the recent debate on a "national" curriculum, with focus on the "national" language, in Britain and elsewhere.

While monolingualism (plus a selective learning of foreign languages in schools) is a central ideological pillar of the nation state, there is a similar hierarchisation internationally. English has become the dominant language in much scientific discourse, international politics and business, the media, etc. The progressive spread of this language internationally has implications nationally for the role assigned to English in education systems and for an increasing number of domestic functions (Phillipson 1992). If English is used as the medium of higher education (as it is in countries formerly under British colonial rule, and increasingly in Western countries such as Denmark), does this involve a downgrading and displacement of the national language? If proficiency in English is essential for success in the education system and the job market, does this mean that learning English is a human right in the contemporary world? (We suggest possible answers to such questions in the previous section, in our article on language rights in post-colonial Africa in this volume and in Haberland, Henriksen, Phillipson & Skutnabb-Kangas 1991).

Racism, ethnicism and *linguicism* are here defined as

> ideologies, structures and practices which are used to legitimate, effectuate and reproduce an unequal division of power and resources (both material and non-material) between groups which are defined on the basis of 'race', ethnicity/culture, or language" (Skutnabb-Kangas 1988a: 13).$(16)

It is important to note that we define racism, ethnicism and linguicism as BOTH ideological and structural (cf. Miles 1989). Racism is *not* just a question of people being ill-willed, ignorant or misinformed. Ethnicism is *not only* people's attitudes or prejudices towards other individuals or groups. Linguicism *is not only* an information problem (that all languages are of equal worth, and if this is understood and respected, problems of discrimination will disappear or at least diminish). In addition to the ideological dimension, racism, ethnicism and linguicism all involve structures and

practices which result in unequal access to power and resources. Thus even well-intentioned administrators (see Cummins, this volume) and bureaucrats (see our analyses of the draft conventions above) could, unintentionally, reinforce linguicist structures.

Ethnicism and linguicism socially construct the resources of powerless groups so that they become invisible or are seen as handicaps. In this way minority resources, among them their languages and cultures, become non-resources, hence cannot be converted to other resources or to positions of structural power. At the same time the resources of the dominant groups, among them their languages and cultures, are socially constructed so that they are seen as resources and can thus be converted into other resources or to positions of structural power.

Linguicism is a major factor in determining whether speakers of particular languages are allowed to enjoy their linguistic human rights. Lack of these rights, for instance their absence from school time-tables, makes minority languages invisible. Alternatively, minority languages are seen as handicaps which prevent minority children from acquiring the valued resource (= the majority language), so minority children should get rid of them in their own interest. At the same time, many minorities, especially children, are in fact prevented from fully acquiring majority resources, especially the majority languages, by disabling educational structures, when their instruction is organised through the medium of the majority languages in ways which contradict most scientific evidence (see Cummins, in this volume; Skutnabb-Kangas 1984a, 1990a; Skutnabb-Kangas & Cummins (eds) 1988).

Strategies through which racism is reproduced (see e.g. Preiswerk 1980) can be analysed in terms of images which the dominant majority groups create of themselves, of those whom they dominate, in this case minorities, and of the relationship between them. The first strategy is the *glorification* of the majority, its traditions, norms, life-styles, institutions, laws, level of development, culture - and language. The second involves a *stigmatisation* of the minorities, their traditions, norms, life-styles, institutions, laws, level of development, cultures - *and languages* (see Skutnabb-Kangas & Phillipson 1986b, 1989a and Phillipson 1992 for analysis of how illegitimate arguments are used to promote English worldwide).

The third strategy, false *rationalisations* of the relationship between majority and minority, always presents the majority favourably, as "doing good", with the minority as beneficiaries. The majorities "help", "support", "modernize", "civilize", "aid" and "integrate" the minorities - and work hard to accord them rights.

In view of the efforts of majorities, represented by state power, to "accord minorities linguistic rights", the relatively meagre results might suggest that the image created by different states of their own efforts to guarantee these rights needs further analysis. This is particularly so in education, where not even the newest, most progressive drafts of international charters guarantee minorities those most basic linguistic human rights which the majority populations take for granted for themselves. Linguicism may be at work...

Notes

1. Since it is possible to have at least two mother tongues, all the rights formulated should cover this eventuality. Hence any reference in the text to "mother tongue" should be read as "mother tongue or mother tongues". See Skutnabb-Kangas & Bucak, this volume, for details and definitions of mother tongue. See also Skutnabb-Kangas & Phillipson 1989b).
2. The definitions of both *minority* and different types of minorities (*indigenous, national, regional, territorial, immigrant* etc) are notoriously difficult (see e.g. Capotorti 1979; Andr⌠sek 1989; see also *UN Human Rights Fact Sheet* No 18, Minority Rights, 1992: 8--10). Most definitions use
   A. *Numbers* as a defining characteristics.
   B. *Dominance* is used in some but not others ("in an inferior and non-dominant position",

Andr⌠sek 1989: 60; "in a non-dominant position", Capotorti 1979: 96).
C. The group has to possess ethnic or religious or linguistic *traits, features or characteristics or cultural bonds and ties* which are (markedly) *different* from those of the rest of the population, according to most definitions.
D. A will/wish (if only implicit) to *safeguard* or *preserve* or *strengthen* the patterns of life and behavior or culture or traditions or religion or language of the group is specifically mentioned in most definitions (e.g. Capotorti 1979: 96). Language is not included in all of them (e.g. not in Andrýsek's definition 1989: 60).
E. Most definitions in charters and covenants require *nationality* in the state concerned as part of the definition, i.e. minorities are defined so as to give national or regional minorities more rights than to immigrants and refugees (who, by definition, are considered non-national and non-regional). In contrast, academic definitions for research purposes often make no mention of nationality as a criterion (cf. Riggs 1985: 155, 102).

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

> A group which is smaller in number than the rest of the population of a State, whose members have ethnical, religious or linguistic features different from those of the rest of the population, and are guided, if only implicitly, by the will to safeguard their culture, traditions, religion or language.
> Any group coming within the terms of this definition shall be treated as an ethnic, religious or linguistic minority.
> To belong to a minority shall be a matter of individual choice.

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

If an individual claims that she belongs to a national minority, and the State claims that there are no national minorities in that State (e.g. Kurds in Turkey or Finns in Sweden), there is a conflict, and the State may refuse to grant the minority person/group rights which it has accorded to granting to national minorities. In most definitions of minority, minority rights thus become conditional on the acceptance by the State of the existence of a minority in the first place, i.e. only exo-definitions (definitions by outsiders, not by the individual/group concerned) of minorities are accepted. According to our definition, minority status does NOT depend on the acceptance of the State, but is either "objectively" ("coming within the terms of this definition") or subjectively ("a matter of individual choice") verifiable. Many of the definitions of indigenous minorities have this combination of "objective" characteristics and self-identification (e.g. the definitions of Sámi for the purposes of voting rights to the Sámi Parliaments in Finland and Norway, see Magga, this volume). The trend seems to be towards self-identification only, for numerically small groups. Minority definitions can be compared to definitions of ethnic groups - see the discussions in Stavenhagen 1987; Skutnabb-Kangas 1987, 1991c; Riggs 1985.

3. Renteln reports that theorists of human rights have traditionally drawn on four sources: "(1) divine authority, (2) natural law, (3) intuition (that human rights are self-evident), and (4)

ratification of international instruments", all of which criteria are suspect (Renteln 1988: 9). She advocates empirical validation of the existence of human rights in different cultures, and has undertaken a study of retribution (*lex talionis*, an eye for an eye) worldwide. Her claim is that "where it is possible to demonstrate acceptance of a moral principle or value by all cultures it will be feasible to erect human rights standards" (Renteln 1988: 30), and that, in the light of her study of retribution, this applies to genocide, summary execution and indiscriminate killing, the right to seek redress of grievance and proportionate punishment for those responsible.

4. Racism (which has from ancient times gone hand in hand with sexism) is clearly formulated as linguicism in the famous remark attributed by Diogenes Laertius to Socrates, who thanked fate for three things: "firstly, because I was born as a human being and not as an animal, secondly as a man and not a woman, and thirdly as a Greek and not a Barbarian".
5. Despite the General Assembly of the UN stating (resolution 532B (IV), 4 February 1952) that the prevention of discrimination and the protection of minorities were two of the most important branches of the work undertaken by the Commission on Human Rights and the Subcommission on Prevention of Discrimination and Protection of Minorities of the United Nations (Capotorti 1979: 28), the question of minorities was not dealt with in depth. The Subcommission's efforts between 1947 and 1954 to define the notion of minority and to specify measures "yielded no tangible results" (Capotorti 1979: 28). The Subcommission concentrated between 1955 and 1971 mainly on discrimination, and it was only after 1971 when the decision to undertake the Capotorti study was made that the question of minorities was included among the important subjects in the Subcommission's work.
6. In 1948 the UN General Assembly rejected a proposal ("... National minorities shall be guaranteed the right to use their native language and to possess their own national schools, libraries, museums and other cultural and educational institutions.") which the Soviet Union wished to have included in the Universal Declaration of Human Rights (Capotorti 1979: 27).

   "Cultural" genocide was included in article III of the draft Convention on the Prevention and Punishment of the Crime of Genocide (E/794) but this article was not accepted. Language figured prominently in the proposed definition of cultural genocide:

   (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 (quoted from Capotorti 1979: 37).
7. Johan Mathis Mikkelsen Gáuppi has sued the Norwegian State for not providing him with the basic education that he as a Norwegian citizen was entitled to. He spoke only Sámi when he started school and his teachers spoke only Norwegian (see Skutnabb-Kangas & Phillipson 1989a, chapter 11, for details of the court case). Kari Aro has accused Sweden of failing to follow the Nordic Cultural Convention in not offering education through the medium of Finnish to Finnish children in Sweden and breaking Swedish educational regulations in not negotiating with the Finnish minority parents about changes in the medium of education. Both have filed a complaint with the European Court of Human Rights in Strasbourg.
8. It is vital that minorities are entitled to education through the medium of their own languages, rather than in their own languages, i.e. merely studying them as a subject. Many studies show that when minority mother tongues are taught as subjects only, language shift generally ensues (e.g. Boyd 1985; Skutnabb-Kangas & Toukomaa 1976; Smolicz, this volume; Toukomaa & Skutnabb-Kangas 1977; see also Wong Fillmore 1991). Such teaching does not serve to maintain language proficiency at the same level as when the child started school, let alone develop it. Teaching a minority mother tongue for a few hours a week in a school where a majority language is the medium of education may be psychologically beneficial, but represents therapeutic and cosmetic support rather than a basis for language maintenance and

development.

9. There are alternative views on the adequacy of these provision in Germany and the Netherlands; see e.g. *Muttersprachlicher Unterricht in der Bundesrepublik Deutschland* 1985; Apple 1988; Appel & Muysken 1987; Reid & Reich 1992; Verhoeven 1991).
10. The 35 participating States at the first Helsinki meeting in 1975 were Albania, Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, USSR, United Kingdom, USA and Yugoslavia. At the Helsinki meeting (July 1992) there were 51 states.
11. The seminar was organized by Francisco Gomes de Matos, who has campaigned energetically for linguistic rights, language learners' rights and peace education (see contributions to FIPLV Newsletter).
12. There are many studies of ethnic identity which try to clarify the relationship between internal and external identification and the verbal expression of these (endoethnonyms and exoethnonyms). There are also studies of the role of language in ethnic identification, language as a central cultural core value, and the verbal expression of linguistic identification (endolinguonyms and exolinguonyms). Having the right to both identify with a language and have that identification accepted and respected by others guarantees that the endolinguonym and the exolinguonym can merge. There are situations where insisting on the validity of one's endoethnonym and endolinguonym (for instance insisting that one identifies as a Kurd and a speaker of the Kurdish language in Turkey) can lead not only to the state insisting on the validity of an exoethnonym ("you are a mountain Turk") and an exolinguonym ("you speak a dialect of Turkish which has developed into an almost non-intelligible dialect because of the isolation in the mountains; the Kurdish language does not exist") but also to imprisonment and torture. Both rights are needed in order to counteract this type of situation.
13. This implies an inalienable right to education through the medium of of the mother tongue, at least during the first 6 years of primary education, and study of the mother tongue as a subject throughout the whole of schooling.
14. This implies studying the official language as a second language (as opposed to as a mother tongue), taught by bilingual teachers, throughout the whole of schooling.
15. For a demonstration aimed at clarifying some key concepts, see Skutnabb-Kangas---Bucak, in this volume, about the Kurdish language.
16. Many official definitions of racism, racial groups, etc, already recognize that *ethnicity* is involved and has partly replaced "race" (e.g. the British Race Relations Act 1976, Section 3. "Racial group" means a group of persons defined by reference to colour, race, nationality or ethnic or national origins ..." (UN 1991 May, 169), while *language* is not yet often mentioned.