**Language Rights of Linguistic Minorities**

**A Practical Guide for Implementation**

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**PURPOSE AND SCOPE OF THIS GUIDE**

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

The purpose of this Guide is to further assist policy makers and rights holders in understanding and implementing the linguistic human rights of linguistic minorities. This touches upon the necessary balance between a state’s official language (or languages) and its obligations to use or respect the language preferences of linguistic minorities. These language rights can also contribute towards preserving the world’s linguistic diversity. The Guide aims to:

● clarify what are the various human rights of linguistic minorities relevant to language use and preferences;

● clarify the obligations of state authorities towards linguistic minorities;

● support the development and continuous improvement of effective and cost-efficient approaches and practices for these linguistic human rights; and

● promote consistent approaches to the participation and inclusion of minorities and implementation of their language rights.

**Section 1**

**What are language rights?**

“Language rights” and “linguistic human rights” are human rights which have an incidence on language preferences of or use by state authorities, individuals and other entities. Language rights are usually considered broader than linguistic human rights and this guide will use both terms as it discusses both necessary minimal and possible extra measures that can be taken to effectively implement the rights of linguistic minorities. As language is central to human nature and culture, and is an expression of identity, issues surrounding language are particularly important to linguistic minority communities seeking to maintain their distinct group and cultural identity, sometimes under conditions of marginalization, exclusion and discrimination.

Linguistic human rights can be described as a series of obligations on state authorities to either use certain languages in a number of contexts, not interfere with the linguistic choices and expressions of private parties, and may extend to an obligation to recognise or support the use of languages of minorities or indigenous peoples. Human rights involving language are a combination of legal requirements based on human rights treaties and guidelines to state authorities on how to address languages or minority issues, and potential impacts associated with linguistic diversity within a state. Language rights are to be found in various human rights and freedoms provisions, such as the prohibition of discrimination, freedom of expression, the right to private life, the right to education, and the right of linguistic minorities to use their own language with others in their group. They are also elaborated upon in a variety of external guideline documents, such as in the UN *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, UNESCO’s *Principles of Language and Education*, the various *Recommendations of the UN Forum on Minority Issues on Implementing the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, the Council of Europe’s *Thematic Commentary No. 3 on the Language Rights of Persons Belonging to National Minorities under the Framework Convention*, and the OSCE’s *Oslo Recommendations regarding the Linguistic Rights of National Minorities*. Despite some differences, all of these describe similar basic approaches for state authorities to meet their human rights obligations involving language according to which they must:

* respect the integral place of language rights as human rights;
* recognise and promote tolerance, cultural and linguistic diversity and mutual respect, understanding and cooperation among all segments of society;
* have in place legislation and policies that address linguistic human rights and prescribe a clear framework of standards and conduct;
* implement their human rights obligations by generally following the *proportionality principle* in the use of or support for different languages by state authorities, and the *principle of linguistic freedom* for private parties;
* integrate the concept of *active offer* as an integral part of public services to acknowledge a state’s obligation to respect and provide for language rights, so that those using minority languages do not have to specifically request such services but can imminently use them when needs arise;
* have in place effective complaint mechanisms before judicial, administrative and executive bodies to address and redress linguistic human rights issues.

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

The core language rights from these treaties, jurisprudence, and guideline documents operate at the level of three main foci:

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

Linguistic human rights issues: (i) should be considered in any activity which involves state authorities and their language preferences; (ii) are closely associated with issues of national, collective, and individual identity; (iii) impact on the participation and inclusion of minorities; (iv) lead to sentiments of alienation or marginalisation and potential instability or conflict if not properly addressed in a balanced, reasonable way; and (v) occur in extremely diverse circumstances and conditions so there is no ‘one-size-fits-all’ approach to implementing language rights in all of the world’s hugely diverse national contexts.

This Guide addresses these unique attributes of linguistic human rights and provides a framework for operating within the foci of dignity, liberty, equality and identity in language matters, and how to apply and implement the basic human rights approaches to language so that a state may effectively comply with its international obligations.

**Section II**

**Why the implementation of linguistic human rights are particularly important?**

The importance of language rights is straightforward: in addition to the obligation of respecting human rights, there are numerous impacts associated with language use that go to the core of inclusion and participation in society of minorities.

**1) It improves access to and quality of education of minority children**

32% higher pass rates for children taught in their own language (blue line) compared to those taught in official language (French) only, Mali.



Minority children around the world are much more likely to receive little or no formal education. According to the World Bank (2000): “Fifty percent of the world’s out of school children live in communities where the language of the schooling is rarely, if ever, used at home. This underscores the biggest challenge to achieving Education for All: a legacy of non-productive practices that lead to low levels of learning and high levels of dropout and repetition.” When mother tongue is used as medium of instruction for at least 6-8 years, the results are impressively positive: enhanced self-confidence, self-esteem and classroom participation of minority children,[[1]](#footnote-1) lower dropout rates, higher levels of academic achievement,[[2]](#footnote-2) longer periods in school, better performance in tests and greater fluency and literacy abilities for minority (and indigenous) children in both the mother tongue and official or dominant language.[[3]](#footnote-3)

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

Minority women are among the most marginalised individuals in the world. They also may have had less access to school or opportunities to learn a majority or official language because of gender or ethnic based discrimination. Research show they perform particularly well when taught in their own language, thus increasing the likelihood of pursuing further studies or of breaking out of the cycle of isolation and poverty. Communication with and public services in vital areas such as health for minority women often improve effective with the use of their language. Various initiatives show that the use of minority languages to reach women is particularly effective to increase their participation and empowerment.

**3. It enhances better use of resources**

The use of minority languages in public education and other areas is financially more efficient and cost-effective. Official language-only educational programmes can “cost about 8% less per year than mother-tongue schooling, but the total cost of educating a student through the six-year primary cycle is about 27% more, largely because of the difference in repetition and dropout rates.”[[4]](#footnote-4) It is also neither efficient nor cost-effective to only spend money and resources on public information campaigns or public broadcasting if it is in a language not well understood by the whole population. The use of minority languages in these cases is a better use of resources in reaching all segments of society.

**4. It improves communication and public services**

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

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

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

Minority Rights: The Key to Conflict Prevention

Ethnic tensions and conflicts within a state are more likely to be avoided where language rights are in place to address causes of alienation, marginalisation and exclusion. Since the use of minority languages helps increase the level of participation of minorities, as well as their presence and visibility within a state – and even their employment opportunities – this is likely to contribute positively to unity and stability. Conversely, where the use of only one official language discriminates dramatically against minorities, violence is more likely to occur. This is one of the reasons the OSCE developed the *Oslo Recommendations regarding the Linguistic Rights of National Minorities* as a conflict prevention tool.

**6) It promotes diversity**

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

**Section III**

**Understanding and implementing a human rights approach to language issues**

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

*Source: Language Matters for the Millennium Development Goals, UNESCO*

A human rights approach to language can be framed as a ‘recognise-implement-improve’ method of ensuring state authorities effectively comply with their obligations: laws, policies and processes must recognise language rights within a human rights framework; authorities must integrate these in their conduct and activities; and mechanisms must be in place to effectively address failures and improve compliance.

This is a practical approach to implementing language rights for the following reasons:

* It builds on existing instruments, mechanisms and monitoring and enforcement structures already addressing human rights internationally, regionally, and in many if not most countries. To portray language rights as an exceptional, special or unusual regime could lead to misunderstanding, resistance or rejection. By acknowledging and highlighting their position within the human rights paradigm, there are greater opportunities to respond effectively to language issues by working within human rights, constitutional and legal systems, and building upon and strengthening them.
* It provides human rights processes and expertise that help elaborate and clarify how various language issues must be understood and acted upon. In this way, there are invaluable sources of experience and knowledge which can contribute to building ongoing support and establishing examples of good practices among states. This assists to translate language rights issues and other external human rights guidance into practical legislation, policies, and processes.
* It can help to identify and minimize inefficient language policies which could lead to the exclusion or marginalisation of significant segments of a state’s population – and even conflicts. A regularly practiced, systematic human rights approach to language issues helps identifying potential issues and impacts, as well as providing the ways and means to respond and correct to these.

There are four core areas in a human rights approach to language:

*Dignity*

Article 1 of the Universal Declaration of Human Rights declared that all human beings are born free and equal in dignity and rights which is a fundamental principle and rule of international law. The commentary of the UN Declaration on Minorities states that good governance includes legal, administrative and territorial arrangements which allow for peaceful and constructive group accommodation based on equality in dignity and rights for all and which allows for the necessary pluralism to enable the persons belonging to the different groups to preserve and develop their identity. Meeting the aspirations of minorities and ensuring their rights acknowledges the dignity and equality of all individuals, fosters participatory development, and contributes to the lessening of tensions both within and among States[[5]](#footnote-5).

*Liberty*

One of the most significant areas of language rights involves the private sphere where individual freedoms and other rights in international human rights operate to guarantee linguistic freedom in private matters. They clearly include private commercial and information activities,[[6]](#footnote-6) civil society and private organisations,[[7]](#footnote-7) staging a private theatre play in a minority language, private political and participatory actions or events, private publications, and even the linguistic form of a person’s own name.[[8]](#footnote-8) The language used in all private activities, including the medium of instruction in private educational activities or for broadcasting, are included in this area of language rights. Generally speaking, the freedom to use the language of one’s choice cannot be prohibited, unless necessary on a strictly limited series of grounds such as for the protection of public order, of public health or morals, or to prevent hate speech. Linguistic minorities must also be free from persecution and threats: as such authorities must protect them against hate crimes and other forms of prohibited intolerance, including especially in social media.

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

* Freedom of expression, association or religion
* Right to private life
* Right of individuals to use their own language with other members of their minority community
* Prohibition of discrimination

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

A state’s human rights legislation, policies and mechanisms should recognise these facets of language rights in their human rights approach and processes.

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

*Equality and non-discrimination*

Everyone is entitled to equal and effective protection against discrimination on grounds such as language. This means that language preferences which unreasonable or arbitrarily disadvantages or excludes individuals would be a form of prohibited discrimination. This applies to differences of treatment as between any language, including official languages,[[9]](#footnote-9) or between and an official and a minority language.[[10]](#footnote-10) Any area of state activity or service, authorities must respect and implement the right to equality and the prohibition of discrimination in language matters, including the language for the delivery of administrative services,[[11]](#footnote-11) access to the judiciary,[[12]](#footnote-12) regulation of banking services by authorities,[[13]](#footnote-13) public education,[[14]](#footnote-14) and even citizenship acquisition.[[15]](#footnote-15)

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

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

Issues of disadvantage, exclusion and reasonableness are central to the basis of a proportional approach in the use of minority languages in a state’s public services and other activities. Using a minority language results for public authorities in better, more efficient and more inclusive communication and exchange of information. Employment and economic opportunities also increase by making a minority language a language of public service to a fair, proportionate degree, and service delivery including in critical areas such as public health reaches individuals more directly and effectively in their own language, individuals understand better information provided to them in their language by public media. In public education the consequences of the use of minority languages are even more far reaching. Studies from the World Bank,[[16]](#footnote-16) UNESCO,[[17]](#footnote-17) UNICEF,[[18]](#footnote-18) and in different parts of the world[[19]](#footnote-19) confirm that the proportionate use of the language of minorities in education, combined with quality teaching of the official language:

1. Is more cost effective in the long term.
2. Reduces drop-out and repetition rates.[[20]](#footnote-20)
3. Leads to noticeably better academic results, particularly for girls.[[21]](#footnote-21)
4. Improves levels of literacy and fluency in both mother tongue and official or majority language.[[22]](#footnote-22)
5. Leads to greater family and community involvement and support.

The use of minority languages in the state’s administrative and other public activities thus involves fundamental issues of inclusiveness, participation, access, quality and effectiveness.

*Identity*

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

Authorities should accept and use an individual’s own name in his or her language,[[23]](#footnote-23) in addition to allowing it to be used in private contexts. A non-discriminatory, inclusive and effective approach to language issues would also mean the use of topographical and street names in minority languages where they are concentrated or have been historically significant. Recognition and celebrations of national identity should include an acknowledgment of the contributions of all components of society, including those of minorities and their languages.

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

Respecting language rights in general is of course conducive to the maintenance of identity, but the issue of name is often even more intimately connected to identity and dignity. The names of individuals, but also of communities and territory, is a link to traditions, culture, history and belonging which can be deeply significant.

**2. IMPLEMENTATION OF SPECIFIC LINGUISTIC RIGHTS**

This section aims to assist policy-makers, state authorities and others on what kind of measures are needed to implement international human rights standards for linguistic minorities, to adopt relevant and efficient legislation and policies, and accommodate the needs and interests of various linguistic communities so as to ensure their integration in society. This is done by briefly describing for each area of application of linguistic rights:

* What should be done?
* Why should it be done?
* On what legal (and non-legal) basis?
* Good practices

**2.1 Public Education**

***What should be done?***

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

***Why should it be done?***

The rights of linguistic minorities are human rights which must be respected, including in relation to the appropriate degree of use of minority languages. Education deals with what is perhaps the central linguistic rights for minorities, as well as fundamental for the maintenance of linguistic diversity: a language which is not taught is a language which ultimately will vanish. Various studies from the World Bank,[[24]](#footnote-24) UNESCO,[[25]](#footnote-25) and in many countries in different parts of the world[[26]](#footnote-26) confirm that the proportionate use of the language of minorities in education, combined with quality teaching of the official language: is more cost effective in the long term; reduces drop-out and repetition rates; leads to noticeably better academic results, particularly for girls[[27]](#footnote-27); and improves level of literacy and fluency in both mother tongue and official or majority language.

These benefits of education through the mother language are now fairly well established scientifically through studies in different parts of the world with minority children.[[28]](#footnote-28)



South Africa: Grade 6 language achievement by province: where the home language is the same as the language of learning and teaching (LOLT); and where the home language is different from the LOLT. The blue line indicates the much better academic performance of children taught in their own language in the first years of education, as opposed to those taught in a language not their own (black line).

The issue of cost-effectiveness of education in a minority language is far less often considered, yet just as important: education is a minority language is more cost-effective, even if it has some initial slightly higher costs in terms of teaching materials or training, because it produces more graduates than a cheaper official language-only education. The cost of public education per successful graduate student has been shown in the few studies looking at this directly to be actually lower than in other public schools because of the higher success rate in minority schools. Schools which also use minority languages to communicate with the parents have been shown to increase their involvement and improve their understanding of their children’s education.[[29]](#footnote-29)

For example, for Guatemala, the long-term cost saving as a result of first language-based education for all children not speaking the official language was estimated to equal the cost of primary education for 100,000 students, or a potential saving of over 31 million quetzals (US$5 million).[[30]](#footnote-30) Another study in Mali suggests that education in the mother tongue of minorities, which includes teaching of the official language, is 19% less expensive than education exclusively in the official language because of lower drop-out and repetition rates.[[31]](#footnote-31)

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

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

***How should it be done?***

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

1. The principle of *proportionality*, based largely though not exclusively on a number of practical factors: the number and concentration of speakers of the language, the level of demand, prior use of language as medium of instruction and therefore availability of resources, etc.
2. The principle of *active offer*, where public education in minority languages is accessible and actively encouraged.
3. The principle of *inclusiveness*, by which all students are given an opportunity to learn the official language and inter-cultural understanding.

Quality public education in the mother tongue should ‘be extended to as late a stage in education as possible’ [[32]](#footnote-32), up to and including public university education where practicable.[[33]](#footnote-33) Ideally, the medium of instruction in the mother tongue should be for a minimum six to eight years. If demand, concentration of speakers or other factors make this not feasible, as far as practicable state authorities should at least provide for the teaching of the minority language. Using one language as medium of instruction for only a few years at the primary level, and then switching over completely to another language as medium should be avoided: this may lead to high dropout or failure levels, or even low literacy in both minority and official language.

If a minority language is only used as medium of instruction for a few years in the initial years of education, a gradual increase in the amount of teaching in later years in the non-minority language leads to better pedagogical results where this is practicable.[[34]](#footnote-34) Where a minority language is used as main medium of instruction throughout education in public schools, the final exams must also be in that language.

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

Languages differences must not be an excuse to segregate students along ethnic or racial lines in education.[[35]](#footnote-35) When open to all who share the same language, regardless of ethnicity or race, the use of minority languages as medium of instruction is neither discriminatory nor impermissible segregation.[[36]](#footnote-36)

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

Funding for all public educational activities, including for those in minority languages, must be accessible and disbursed in compliance with the prohibitions of non-discrimination, including on the ground of language. Public education in minority languages must additionally seek to achieve bilingualism: students should be provided with sufficient opportunities to achieve fluency in the official language – though not at the expense of education in their own. Even when the number of children who speak a minority language may be quite small, flexibility in the implementation of a proportional approach should be adopted: transportation can be provided for example to bring students from surrounding areas to a more centrally located school teaching in a minority language.

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

***Good practices***

* In the Philippines, awareness-raising helped minority parents understand the value of education in their language, and dispel fears their children would not learn the “language of power” as quickly as possible.
* In Bolivia, the government recently set up three public indigenous universities, *Universidades Indígenas Bolivianas Comunitarias Interculturales Productivas*, for the three largest indigenous minorities (Aymara, Quechua, and Guaraní), and to develop and use these languages for tertiary education.
* In Senegal, students taught in mother language achieved a pass rate of 65 %, compared to national average of 50.9 % for those taught in official language.[[37]](#footnote-37)
* In Guatemala, long-term cost saving in using mother language of minorities as language of instruction estimated to equal the cost of primary education for 100,000 students, or a potential saving of over US $5 million.[[38]](#footnote-38)
* In Mali, education in the mother tongue of minorities is 19% less expensive than education exclusively in the official language because of lower dropout and repetition rates.[[39]](#footnote-39)
* In Burkina Faso, the Democratic Republic of Congo, and Eritrea, use of a child’s own language as main language of instruction for at least the first 6-8 years led to reduced repetition and dropout rates, improved learning results, and other benefits.[[40]](#footnote-40)
* In the United States, schools which use minority languages to communicate with the parents have been shown to engage them more, increase their involvement, and improve their understanding of their children’s education.[[41]](#footnote-41)
* India illustrates the proportionality principle in public education with more than 30 minority languages used as medium of instruction in public schools with (usually) Hindi and English gradually introduced in later years of schooling.
* Tanzania in 2015 moved to using Swazili as main medium of instruction to all levels of primary and secondary education in recognition of the overall positive effects of education in the mother-tongue of most of its children.
* In Italy, the German- and Ladin-speaking minorities only a very small percentage of the population, but concentrated in one single region. Their concentration allows for the use of both languages as medium of instruction in public schools, including at the tertiary level in the case of the larger German-speaking group in a trilingual public university.
* In the Seychelles, all students are initially taught in Creole (the mother tongue of almost the entire population) in the first six years of education, with English used as a teaching language for a few subjects after the third year, and French additionally introduced from the sixth.
* In Canada and Finland, when students who speak a minority language (French or Swedish) are dispersed, public transportation can bring students from surrounding areas to a public school teaching in their language.
* In Australia for some Aboriginal languages mainly used orally, or where there are no professionally trained teachers or little printed teaching material in a particular language, teaching assistants from the local community and modest translation programmes are used.
* In Cambodia, a Highland Children’s Education Project included the recruiting and training of local teachers who speak minority languages in remote communities.

**2.2 Private Education**

***What should be done?***

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

***Why should it be done?***

It is long recognised in international law that because of their vulnerability, linguistic minorities should always be entitled to their own schools where they are taught in their own language, regardless of the general educational policies of a state.[[42]](#footnote-42) This is at times connected with the right of members belonging to a linguistic minority to use their own language with other members of their community. Linguistic minorities are often pressured, sometimes inadvertently but also at times forcefully, to assimilate or otherwise abandon their own language. To ensure linguistic minorities are not isolated form the rest of the population, this also includes the right to be taught the official language.

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

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

***How should it be done?***

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

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

While strictly speaking there is no obligation on state authorities to fund private schools,[[43]](#footnote-43) the protecting and promoting linguistic diversity as well as the particular vulnerability of many minorities strongly support such measures. Some governments support private minority schools by assisting in the production and printing of teaching material in minority languages for private minority schools, or facilitate the import and use of such material from other countries or the hiring of teachers to these schools.

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

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

***Good practices***

* Japan recognises the qualifications of those who graduated from private Korean schools for admission to tertiary education.
* Private high schools using Mandarin as the medium of instruction have been in place in Malaysia since the 1960s. Public primary schools also teach in this minority language.
* In Kazakhstan and Lithuania, bilateral agreements with other governments allow foreign state universities to operate and provide tertiary education in minority languages. Białystok University – a Polish state university – maintains a campus in Lithuania, with its courses in Polish providing university-level education in the language of the country’s largest minority.

The Result of Teaching in the Mother Tongue (Malay) in Southern Thailand

After three years:

* primary grade 1 (age 6-7) children taught in their own language (Malay) scored an average of 40% better in reading, mathematics, social studies, and Thai language skills than children in the Thai-only public schools.
* Malay minority boys were 123% more likely to pass the reading evaluation.
* Malay minority girls were 155% more likely to pass the mathematics exam.

**2.3 Administrative, Health and Other Public Services**

***What should be done?***

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

***Why should it be done?***

Where state authorities can easily use a particular minority language in a specific territory and in the absence of any reasonable basis to exclude such use of a minority language, it would be discriminatory in international law to forbid the use of a minority language and only impose the use of the official language in administrative and other public services.[[44]](#footnote-44) A state’s resources must be spent judiciously – and effectively – whether it is in public health care, social services, public broadcasting, etc. However, for public authorities to use only one language may in fact be much more wasteful than using for official purposes minority languages in a country. Only using a dominant language can be a prominent deterrent for seeking care for members of minority communities, particularly women.[[45]](#footnote-45)

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

1. Inclusiveness requires use of minority languages where appropriate – the best way for authorities to reach, communicate with, and engage individuals is to use where possible their language.

2. Not using minority languages where reasonable and justified is ineffective (they may not understand or be comfortable in the official language) and wasteful (resources not spent on most effective form of communication).

3. Using minority languages reduces their exclusion from political and public participation – it also increased the presence of members of these minorities in the institutions of the state which use these languages.

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

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

***How should it be done?***

For health, social, administrative and other public services, the use of minority languages also involves issues of access, quality and equality[[46]](#footnote-46):

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

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

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

***Good practices***

* Iceland authorities use seven other languages in addition to Icelandic (English, Polish, Serbian/Croatian, Thai, Spanish, Lithuanian and Russian) to communicate and provide more effective access for social or public information services through a Multicultural and Information Centre, and telephone information services.
* With the current Ebola crisis in Western Africa, the health departments of Sierra Leone, Guinea and Liberia have worked with UNICEF and other international organisations to communicate more effectively in local minority languages through means such as radio dramas, print materials, television shows, and posters to reach as many people as quickly and effectively as possible to save lives.
* In Ireland, information for public housing services such as the tenant welcome pack in languages other than Irish and English (either through translation or interpretation) where appropriate and feasible, particularly if there is a large minority ethnic community in a local authority.
* In bilingual Botswana, officials in contact with the general public for information and service provision usually communicate in Setswana, the language understood by most of the country’s population (about 78%) or English. Efficient and cost-effective service delivery in that country also leads local public administration where larger linguistic minorities are concentrated results in the use of languages such as Yeyi in the northwest, etc.
* In Australia, the use of computer-animated movies employing three-dimensional Aboriginal characters using indigenous languages of patients have been described as having “revolutionised” the delivery of important health information.
* In the United Kingdom, legislation imposes on public healthcare providers an obligation to ensure that those who are not fluent in English can access their services in order ‘to fulfill equality of access and informed communication duties’. Local public healthcare providers will therefore have in place as much as is practical
	+ bilingual medical staff
	+ face-to-face interpreters
	+ over-the-phone interpreting
	+ printed translated medical information
	+ website information, including documents and/or videos.
* The Mexican *Secretaría de Salud* (Ministry of Health) has set up in recent years an Office for the coordination of indigenous health with amongst others the objective of providing healthcare in local languages, thus recognising the need to include indigenous languages within the public health systems in order to provide effective and appropriate care. Along the same positive measures was the establishment of the Hospital de las Culturas in 2010 in San Cristobal, Chiapas.
* In Ethiopia, authorities use the country’s main languages (Somali, Tigrigna, Oromifa, and Harari) where speakers are concentrated for services provided in by regional governments and institutions.
* For India with 1.2 billion inhabitants and more than 400 languages, a proportional approach has resulted in addition to the use of English and Hindi at the national level to the use of about 30 others in regional (state and territorial) governments. There is also the use of even more, smaller minority languages as medium of instruction or municipal and other local services where there are sufficient concentrations.
* Under United States federal equality legislation, “practicality” for the use of minority languages such as Spanish, Chinese, Farsi or Vietnamese in federal service areas is determined to be 10,000 people or 5% of the population in a census district.
* Proportionality in Finland for a large variety of public services in Swedish is guaranteed in municipalities with at least 8% of the population or at least 3,000 persons of the linguistic minority; for historical reasons both Swedish and Finnish are official languages at the national level. For the smaller indigenous Sami, (about 7,500 Sami in the country), public health and other social services and information are provided for in the traditional area where most live (the *Sámiid ruovttuguovlu*).
* In Canada, what is reasonable or practicable for either official language to be used for access to federal public services (French and English) is generally deemed to be at least 5% (or 5,000 individuals in large cities) or more of the population in a census division, etc. Other public services are provided where there are sufficient concentrations of indigenous peoples (Cree, Inuktitut, Micmac, etc. or immigrants (Chinese, Vietnamese, Italian, Urdu, amongst others).
* A growing number of municipalities in Brazil use, in addition to Portuguese, indigenous or immigrant languages where these languages are spoken by a significant proportion of the municipality. In São Gabriel da Cachoeira, this means municipal authorities must use four languages (Portuguese, Nheengatu, Tukano, and Baniwa) in the provision of basic services, public information and publicity campaigns and their use in media.

**2.4 Minority Languages and Identity**

***What should be done?***

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

***Why should it be done?***

Central to the rights of minorities are the promotion and protection of their identity. It is also deeply significant in relation to one’s private life, identity and dignity. For many individuals, one of the most important markers of their identity is their own name in their own language. As language is central to human nature, culture, and social identity, respect for the linguistic form of a person’s name must therefore not only tolerated, but protected and respected.[[47]](#footnote-47) Respect for identity – and the obligation to protect and respect it – goes beyond the individual and may extend to the areas where minorities live.

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

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

***How should it be done?***

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

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

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

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

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

PRACTICAL IMPLEMENTATION OF LINGUISTIC LIGHTS: THE NAMES OF MINORITIES

• 1983, Japan: Legislative and administrative changes allow all individuals who become Japanese citizens to retain their original names, though these must be transcribed in hiragana and katakana characters, kanji characters, or Chinese characters commonly in use.

• 1989, Bulgaria: Members of the Turkish minority allowed to restore their names in their own language.

• 1993, France: Legislative amendment adopted on 8 January allow for freedom of choice for first names.

• 1995, Taiwan: A ban on using aboriginal names is lifted.

• 1996, Iceland: The country’s law on names is changed and drops completely the demand that new citizens adopt an Icelandic name. This affects minorities in particular.

• 2004, Albania: legislative changes allow individuals, and especially certain minorities, to revert to the traditional linguistic and cultural forms of their names.

• 2010, Morocco: A new directive from the Ministry of Interior in October defines names in the Amazigh language as being ‘Moroccan in nature’. This means that Amazigh first names are acceptable for official registration and use by authorities.

***Good practices***

* In Bulgaria, members of the Turkish minority can restore their names to their original linguistic form.
* Iceland recently removed requirement that new citizens adopt an Icelandic language name.
* Morocco (2010), individual names in the Amazigh language are defined as being ‘Moroccan in nature’, meaning that first names in this language are acceptable for official registration and use by authorities.
* Legislation in Albania allows individuals to revert to the traditional linguistic and cultural forms of their names.
* In Russia, street signs and topographical designations are often bilingual or trilingual: in addition to Russian, these are also usually in the official language(s) of the constituent republics, *oblasts*, or *krais*.
* In China, topographical and street signs are usually bilingual or trilingual where minorities are concentrated (Mongolian, Uyghur, Tibetan, etc.). Trilingual signs and topographical indications can be found in Algeria, Singapore, Sri Lanka, Switzerland, and many others.

**2.5 Minority Languages in the Area of Justice**

***What should be done?***

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

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

***Why should it be done?***

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

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

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

***How should it be done?***

For the use of minority languages in the judicial field, the principle of proportionality as well as that of a fair trial (and the concept of “equality of arms”) result in a series of language rights.

Because the serious consequences of not using a language understood by individuals and safeguard the fairness of proceedings, free interpretation in criminal proceedings if an accused does not understand the language of proceedings, as well as free translation of essential court documents necessary for his or her defence, preferably in own language or a language well understood.

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

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

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

* Information pamphlets, posters or other visible means in all courtrooms and police stations in the most widely used languages in the district to inform any accused or suspect of his or her rights to free translation or interpretation;
* Setting up a register of translators and interpreters who are appropriately qualified;[[48]](#footnote-48)
* Using communication technology such as videoconferencing, telephone or the Internet as long as this does not result in unfair proceedings;
* Legally obliging the presiding judge or other court official to verify the linguistic abilities of an accused or suspect if it appears there may be comprehension issues;
* Providing for a right to challenge a decision finding that there is no need for the translation, or when a translation has been provided, the possibility to complain that the quality of the translation is not sufficient to safeguard the fairness of the proceedings.

***Good practices and recommendations***

* Among good practices recommended for all European Union countries are having information pamphlets, posters or other visible means in all courtrooms and police stations in the most widely used languages in a district to inform any accused or suspect of his or her rights to free translation or interpretation, as well as setting up a register of translators and interpreters who are appropriately qualified;[[49]](#footnote-49)
* In South Africa, the Department of Justice in collaboration with four universities established a University Diploma in Legal Translation and Interpreting to improve the quality of service offered.
* New communication technology in India such as videoconferencing has been used in recent years linking interpreters to court proceedings.
* In application of the proportionality principle, where it is practicable due to the concentration or number of speakers of a minority language, a number of states provide legally for the use of a minority language in court proceedings, at least at lower levels, including the right to be heard and understood by a judge who understands the language.
* Court proceedings in their entirety in Italy’s province of Bolzano/Bozen are held either in Italian or in German.
* In Slovenia, in municipalities where minorities are sufficiently numerous and concentrated, the Italian or the Hungarian language can be used in court procedures;
* In Canada, a circuit court handling criminal and some social service matters conducts hearings entirely or partially in the indigenous Cree language in Saskatchewan. Proceedings must also be in other languages such as Inuktitut and French in different areas because of the size of these linguistic communities.

**2.6 Media and Minority Languages**

***What should be done?***

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

For public media, the language of minorities must be provided with sufficient and proportionate space and usage. Their presence must be visible and auditable, to members of their community as well as those of the majority, as much as is reasonably possible and practicable.

***Why should it be done?***

All governments should serve the needs and interests of the whole population, including minorities, “to access the media and impart and receive information, including in their own language” in line with “principles of pluralism, tolerance and broadmindedness.”[[50]](#footnote-50) In relation to private media and in accordance with fundamental human rights such as freedom of expression, this means minorities must be free communicate among themselves in private media without obstacles to the use of their own language. Equality and non-discrimination results in the media field in the need to apply the proportionality principle in public media in ways that are flexible, generous and appropriate, and that any financial or other support for private media be allocated on a non-discriminatory manner, including in relation to those using minority languages. The role of public media in minority languages is particularly significant in terms of promoting not only tolerance but also acceptance, and of creating a sense of integration among minorities when their own needs and interests are fairly reflected and communicated.

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

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

***How should it be done?***

State involvement in **public media**, when it occurs, must reflect its cultural and linguistic diversity. This includes the use of minority languages by public broadcasters in areas and to a degree which reflects the numbers and concentration of speakers of these languages. This also takes into account and addresses as much as possible the needs and interests of smaller linguistic minorities.

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

Where a country’s population is largely bilingual, public radio or television broadcasting can be simultaneous, with both languages used interchangeably.

Multilingual and multicultural public broadcasting can mainstream the presence and participation of minorities, and celebrate a state’s diversity rather than segregate it from the majority.

Minorities must be involved directly in the development of broadcasts in their languages.

Using minority languages in public media plays a significant role in preserving minority languages, cultures and identity.

Ultimately, access to public media in their own language is a communication, information and integration tool between state authorities and minorities: it gives governments a tool to avoid the isolation of minorities from public life, establishes a direct communication and information link between the state and minorities, and provides a particularly effective tool to ensure their inclusion while promoting tolerance, cultural diversity, and mutual respect, understanding and co-operation.

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

The principle of proportionality in public media remains the general practice in many states which have adopted practical and appropriate measures for the implementation of linguistic rights in public media. While there may be different approaches, legal basis, and explanations for providing minority language public media, all involve more or less directly the need to “take into account the numerical size, concentration and distribution as well as needs and interests” of linguistic minorities in order to implement effective equality of access.[[51]](#footnote-51)

Freedom of expression includes the ability for minorities to be able to express themselves and communicate freely with members of their communities and others in their own language through **private media** (broadcast, print and electronic).[[52]](#footnote-52)

Official language quotas should be avoided for such media, particularly since they may impose burdens such as limiting broadcasting time or increasing costs that are either impermissible under freedom of expression or potentially discriminatory.[[53]](#footnote-53)

The allocation of broadcast frequencies or permits, and any state financial or other support for private media must be allocated on a non-discriminatory manner, including in relation to those using minority languages. A proportional approach is generally speaking a good starting point in this regard. The change towards digitalisation of the media must not result in changes to terrestrial or other frequencies that do not take into account the needs and interests of minority communities, and in particular restricts access to media in their languages.

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

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

***Good practices and recommendations***

* In Mexico, the *Comisión Nacional para el Desarrollo de los Pueblos Indígenas* provides favourable funding which permits broadcasting in some 30 minority languages by 20 private community radio stations.
* Authorities in Kosovo established a Minority Media Fund to provide financial and other assistance to electronic and printed minority language media.
* Canadian legislation requires that the broadcasting system must ‘reflect the linguistic duality and multicultural of Canadian society, and the special place of Aboriginal peoples’. This has resulted in favourable licensing and frequency allocations to a large number of community minority and indigenous language radio stations and funding to support their operations.
* In Spain, authorities in Catalonia provide funding and tax concessions to strengthen the presence of the Catalan language in private publishing, radio and television.
* In Russia, the country’s state broadcaster, VGTRK and its affiliates broadly follow the proportionality principle. This results in radio and television productions in the regions where speakers of the Tatar language are concentrated in and outside Tatarstan (including in Perm and Tyumen), with smaller minorities generally receiving less airwave time in proportion to their size and concentration.
* Australia and Hungary, with widely dispersed or much smaller minority languages, have dedicated one national, multicultural and multilingual public television or radio which broadcasts in the whole country (SBS in Australia, MR4 in Hungary), on air and online. MR4 broadcasts daily two-hour programmes basis in the more numerous Croatian, German, Romanian, Serbian, and Slovak languages, as well as shorter 30-minute programmes on a weekly basis for the seven, smaller linguistic minorities, and a one hour programme five days a week for the Roma. These programmes in all 13 languages are also accessible online.
* Where a country’s population is largely bilingual, public radio or television broadcasting can be simultaneous, with both languages used interchangeably in the same programme as is done occasionally in Cameroon, Seychelles or Mauritius.

**2.7 Linguistic Rights in Private Activities**

***What should be done?***

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

***Why should it be done?***

Individual liberty in the private sphere, including in terms of the language used, is a basic characteristic of free and democratic societies. It follows that barring exceptional, strictly limited, circumstances, the use of minority languages in private activities must be guaranteed.

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

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

***How should it be done?***

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

The use of a minority language in private cultural[[54]](#footnote-54) or electoral events[[55]](#footnote-55) must be respected within the sphere of linguistic freedom.

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

The promotion or protection of official languages is a legitimate objective but must not be interpreted as to prevent the use of minority languages in private matters.[[56]](#footnote-56)

The use of an official language in conjunction with other languages must not be disproportionate, onerous or otherwise an impermissible constraint.

***Good practices***

* In Canada, Québec authorities have adopted legislation which respects the private individuals’ language of choice in their own private affairs by not restricting use of one’s language of preference in private signs, though still requiring that these also include the official language in a predominant position. This shows how a state can effectively combine the legitimate goal of promoting and protection an official language, while not preventing an individual’s human right to use the language of his or her choice in private matters, including with signs visible to the general public.
* In the United States, clear guidelines were adopted about when it is permissible to require the exclusive use of an official language in the work environment, and when it is not permissible to prevent an employee or other person from using their own language, including particularly a minority language, have been adopted in some countries.[[57]](#footnote-57)

**2.8 The Effective Participation of Minorities in Public Life and Language**

***What should be done?***

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

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

***Why should it be done?***

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

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

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

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

***How should it be done?***

In areas where speakers of a minority language are concentrated or in significant numbers, ballots, information documents pertaining to elections, consultations and other processes involving decision-making in public life should be available in their language to a reasonable degree.[[58]](#footnote-58) This is likely to result in better informed individuals, increased participation, and greater inclusion and integration of minorities.

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

State authorities should also have in place public service television and radio programmes devoted to election campaigns and other consultative processes in minority languages to the appropriate degree and areas. This contributes to more effective communication between authorities and minorities, and eventually their participation in public life.

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

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

Denial of citizenship through language requirements can be an insurmountable obstacle to participation in the public life of a state. If it is arbitrary or unreasonable, a language preference could be considered discriminatory in the case of minorities.[[59]](#footnote-59) Minority women tend to be more vulnerable to the denial of citizenship.

 ***Good practices***

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

**Appendix 1**

**Further tools and resources: Legal, guidelines and related official documents**

1. UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UN) <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Minorities.aspx>
2. Recommendations of the UN Forum on Minority Issues on Implementing the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UN) <http://www.ohchr.org/EN/HRBodies/HRC/Minority/Pages/ForumIndex.aspx>
3. Promoting and Protecting Minority Rights: A Guide for Advocates (UN)

<http://www.ohchr.org/Documents/Publications/HR-PUB-12-07_en.pdf>

1. Minority Rights: International Standards and Guidance for Implementation (UN)

<http://www.ohchr.org/Documents/Publications/MinorityRights_en.pdf>

1. Marginalised Minorities in Development Programming: A UNDP Resource Guide and Toolkit (UNDP)

<http://www.ohchr.org/Documents/Issues/Minorities/UNDPMarginalisedMinorities.pdf>

1. Advocacy Kit for Promoting Multilingual Education: Including the Excluded (UNESCO)

<http://unesdoc.unesco.org/images/0015/001521/152198e.pdf>

1. Guidelines on Language and Education (UNESCO)

<http://unesdoc.unesco.org/images/0012/001297/129728e.pdf>

1. Why language matters for the Millennium Development Goals (UNESCO)

<http://unesdoc.unesco.org/images/0021/002152/215296E.pdf>

1. Thematic Commentary No. 3 on the Language Rights of Persons Belonging to National Minorities under the Framework Convention (Council of Europe)

<http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_CommentaryLanguage_en.pdf>

1. Oslo Recommendations regarding the Linguistic Rights of National Minorities (OSCE)

<http://www.osce.org/hcnm/67531>

1. The Hague Recommendations Regarding the Educational Rights of National Minorities (OSCE)

<http://www.osce.org/fr/hcnm/32184>

1. Guidelines on the use of Minority Languages in the Broadcast Media (OSCE)

<http://www.osce.org/hcnm/32310?download=true>

1. Guidelines to Assist National Minority Participation in the Electoral Process (OSCE)

<http://www.osce.org/odihr/elections/17569?download=true>

Other resources

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