The role of languages and culture in the protection and promotion of the rights and identity of indigenous peoples

Answer to the UN Expert Mechanism on the Rights of Indigenous Peoples call for submissions

Indigenous peoples have, globally and during Centuries, been negatively judged by the dominant groups of societies. Many reasons can be given, but the main one is without doubt because of their way of life and their willingness to stay close to nature and out of the consumerism that predominate in the Western countries and lately even in the entire World.1

Because rights are elaborated by the dominant groups of society, the fact that a group is badly considered directly affects the rights of its components. At the same time, the identity is a feeling everyone/every group has about him-/her-/itself and that is a consequence of the image one perceives of him-/her-/itself through the eyes of someone else. Here again, the consequence of a global depreciation by society cannot bring anything but a negative image of indigenous peoples and therefore a reject of their ethnic and cultural roots by indigenous individual themselves.

Because of the difficulties to have the rights of Indigenous Peoples recognized and respected and because of the necessity to underline once more that all human-beings are equal in value, it is hardly time to stop the spiral of discrimination from which indigenous peoples are suffering.

How, on teaching languages and cultures of indigenous peoples, can we achieve this double aim: having their rights recognized and having them valuing again what is part of themselves, i.e. their ethincal and cultural roots, their identity?

We will give an answer to this question by presenting first that the teaching of languages and cultures not only helps communication between the different groups of society, but is also a very performing tool to fight discrimination (Chapter 1). Secondly, we will

1 « Ainsi que l’a montré M.-J. Jolivet (1990) [l’identité collective « guyanaise »] a longtemps été portée par les seuls créoles –démographiquement largement majoritaires et politiquement dominants- et nourrie du modèle et des valeurs de l’ « assimilation » à la société et à la culture françaises métropolitaines ; cette manière de penser l’identité guyanaise instaurait une hiérarchie distinguant les créoles des autres groupes présents de lingue date dans l’espace guyanais –Amérindiens et Bushinenges, considérés comme « primitifs » parce que restés en marge du processus d’assimilation. ».
underline the existing links between the acceptation of one’s culture by the dominant society and the effect this has on both the rights of the formerly discriminated ones and the way those persons then better accept and even reinvindicate their identity (Chapter 2).

Chapter 1: The teaching of languages and cultures as a non-discrimination policy

Since the end of World War II, the need to protect from racial discrimination has been recognized both at regional and international levels. Since then, numerous international treaties have been adopted in this domain (and the related ones) and several mention specifically the promotion of intercultural dialogue as a way to fight intolerance and segregation (Paragraph 1). Practical examples of the application of these treaties clearly show the positive consequences of the teaching of language and culture (Paragraph 2) and underline that this teaching should be applied to indigenous peoples languages and cultures as well (Paragraph 3).

Paragraph 1: The integration of the cultural dialogue in educational programmes: an international law requirement

At the international level, Article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination already mentioned in 1965 the need to take particular measures in the field of education in order to “combat[…] prejudices which lead to racial discrimination and to promot[e] understanding, tolerance and friendship among nations and racial or ethnical groups”. This idea was mentioned again in the United Nation Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Article 4(4) of this treaty stipulates that “States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole”. Following the same idea, the United Nations Declaration on the Rights of Indigenous Peoples mentions at its Article 15 that the cultures, traditions, history and aspirations of indigenous peoples “shall be appropriately reflected in education and public information” and that States shall take effective measures “to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society”. Finally, and as far as children are concerned, Article 29(1)(d) of the Convention on the Rights of the Child mentions that education shall be directed to “the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin”.

In Europe, two main instruments protect minorities or their linguistic specificities. The first one (which we are going to present in details as it is the only international treaty dedicated exclusively to languages), is the European Charter for Regional of Minority
Languages. This instrument is dedicated to the protection and promotion of regional and minority languages and clearly promotes closer relation between persons belonging to different groups. Article 7.3 of the European Charter stipulates that one of the objectives and principles, that constitute the necessary framework for the preservation of regional or minority languages, is the promotion of mutual understanding between all the linguistic groups of the country and in particular the inclusion of respect, understanding and tolerance in relation to regional or minority languages among the objectives of education and training provided within their countries and encouragement of the mass media to pursue the same objective. In fact, and according to paragraph 74 of the Explanatory Report of the European Charter, “respect for regional or minority languages and the development of a spirit of tolerance towards them are part of a general concern to develop understanding for a situation of language plurality within a state”. The Committee of Expert of the European Charter (organ that is in charge with the monitoring of the implementation of the European Charter) underlines that “the experience proves that the extent to which a minority language is protected or promoted is linked to how it is received or perceived by majority language speakers […]. As a result, awareness-raising with the majorities is of utmost importance”.

The Framework Convention for the Protection of National Minorities is the second European instrument. It identifies education as an area of specific importance with regard to the necessity of spirit of tolerance and intercultural dialogue. Article 6.1 therefore stipulates that “the Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media”. This article has to be linked with Article 12 that adds that “the Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority” and inter alia “facilitate contacts among students and teachers of different communities”. The aim is, by promoting knowledge of the specificities of the different groups, to underline their wealth, to improve understanding about national minorities and to contribute to a climate of interethnic tolerance and dialogue. The Advisory Committee of the Framework Convention (organ that is in charge with the monitoring of the implementation of the Framework Convention) considers that education in regards to persons belonging to a minority group cannot be reduced to the right for this person to have access to education. It “underlines the importance of information about national minorities being available to persons belonging to the majority”.

**Paragraph 2: Practical examples and good practices that can be followed**

According to J-M Woehrling (author of the Analytical Commentary of the European Charter for Regional or Minority Languages), including knowledge of and respect for minority languages among the objectives of a country’s education and training systems

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“requires that a curriculum includes instruction about the existence of regional and minority languages, their nature, origins and cultural context, why they are important, what they have to contribute, and why an open and positive attitude is needed to efforts to promote them⁴. Good practices in this respect can be found in the Armenian measures to implement the European Charter. In fact, the Armenian National Academy of Science, in collaboration with an NGO, published a two volumes work entitled “National Minorities of Armenia” dedicated to the history and culture of the eleven national minorities of the Republic. In addition, school textbooks on the history for secondary level include material on the role and contribution of national minorities to Armenian society⁵. Moreover can be mentioned that the Czech Republic identified some of the school disciplines needing specific attention, and in its first State Report in the implementation of the Framework Convention, it indicates the need to educate the majority population about culture, history, language and religions of national minorities⁶. The minority aspects on those disciplines should find their place in revised texts books and school curriculum and an important aspect is that those measures should not be limited to the geographical areas where national minorities live, but be extended to the whole territory of the country⁷.

However, not only the content of the education should be, as far as possible, multicultural, but the form of the study as well. The Advisory Committee of the Framework Convention mentions the necessity to establish a dialogue between the different groups living on the national territory. As only through intercultural dialogue can the minorities really integrate the wider society and can social cohesion exist⁸. But “such a dialogue is hardly possible if persons belonging to different groups never meet even when they live in the same city, village or region. Nor can tolerance be promoted if majorities and minorities know nothing about the everyday experiences and about the elements of identities of each other”⁹. A good example of such a dialogue is taking place in a Cyprus school, where half of the pupils that attend the school are Turkish Cypriot and Turkish-speaking Roma pupils. In this school, two of the seven daily classes dedicated to language, culture and history are taught to the Turkish-Cypriot in Turkish; moreover children from both the majority and the minorities create together a bilingual newspaper and songs. The Committee of Expert of the European Charter was impressed by the achievements of this school in promoting mutual understanding between Greek-speakers and Turkish-speakers¹⁰. Following the same idea, the separated, or even segregated, methods of education should, according to the Advisory Committee of the

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Framework convention, be abandoned.\(^{(11)}\) The Advisory Committee considers, for example, that the specific classes for Roma that have been established by some Swedish municipalities “risk placing the children concerned at a disadvantage and harming the implementation of Article 12 and the principle of intercultural dialogue contained in Article 6 of the Framework Convention”, “even when such initiatives are designed as a way to provide additional support for the pupils concerned”\(^{(12)}\). Multicultural contacts does not, in all the cases, requires all pupils to be taught in the same school, but some discussions should take place together with the parents of the pupils, the teachers and the authorities to find the solutions that are best adapted to each situation.

**Paragraph 3: The application of those examples to indigenous peoples**

Although the upper developments and practical examples correspond to minorities in general and not to indigenous groups specifically, there is no reason why the good practices mentioned cannot be applied to indigenous peoples. Some concrete examples even show the absolute necessity to work on the recognition of the indigenous linguistic and culture wealth.

In the French Guyana, the peoples living in the coast (the ones that are in everyday contact with non-indigenous) tend to consider that keeping exercising their cultural and subsistence activities means being poor.\(^{(13)}\) And as far as children are concerned, pupils are more and more ashamed of being indigenous and at the same time do not study well at school, whereas they could keep their culture alive while learning the majority one as both are complementary.\(^{(14)}\)

The use of languages at school is considered by the traditional chiefs of some French Guyana peoples to be one of the main issues for the blooming of local cultures.\(^{(15)}\) The teaching indigenous languages experiences that took place might not have had the positive

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consequences that were expected in term of school results, but it, at least, contributed to the blooming of pupils, permitting them to accept their identity\textsuperscript{16}.

« L’âme amérindienne a été bien fragilisée et elle continue encore aujourd’hui de souffrir de sa rencontre avec l’occident. Il y a encore beaucoup de réponses, de désespoir et peu d’aide face à cela... Il faut toutefois continuer à espérer et à se battre afin que la fierté revienne chez chaque enfant amérindien... fierté de son nom, de sa culture et fierté de soi... »\textsuperscript{17}.

In New Caledonia, the situation is similar to some extent as an inferiority complex is also be present in the Kanak community, which might be the origin of some paradoxical behaviors of reject and submission\textsuperscript{18}. According to Nidoîsh Naisseline, Chief of a Kanak indigenous tribe, the Kanak people, and overall the youth, lives in the doubt. The people is in a vicious circle: suicide, failure in school, abandon the subsistence crop, failure of the development projects taking place inside to tribe territories, multiplication of violence within and out of families, etc. All those points are, according to Nidoîsh, the expression of their feeling of internal insecurity\textsuperscript{19}.

The Innu of Canada are suffering from the same wrongs. Napes Ashini, a representative of the Innu people, states that they cannot stand anymore their life style as many difficulties rose together with their forced settlement: alcoholism, drugs, suicide, obesity, diabetes, etc… Napes even say that “if you do not even have one thing to do in life, if

\textsuperscript{16} « Quelles que soient les répercussions sur le plan strictement scolaire, ces initiatives pédagogiques [i.e. l’utilisation de la langue autochtone dans l’enseignement, en plus de la langue officielle] ont au moins le mérite, nous semble-t-il, de contribuer à l’épanouissement de l’élève en lui permettant d’assumer pleinement son identité. […] Quelles que soient les méthodes d’enseignement […] pratiquées dans les écoles situées en territoires amérindien, il faut bien se rendre à l’évidence que les résultats en terme de performances scolaires sont plutôt maigres jusqu’à ce jour ». Laurent PUREN (doctorant en dialectologie des langues et cultures à Paris III), « Enseignement et bilinguisme dans les écoles du Haut Maroni », Guyane : le renouveau amérindien, Ethnicies, droits de l’homme et peuples autochtones, vol. 18 n°31-32, printemps 2005, pp. 88-100, p. 98.


you do not know who you are, what you represent, if you do not have any work, you disappear”. And this is what is happening with the young generation of Innu. Many such examples can be cited.

The direct consequence of ethnic discrimination is the reject of one’s identity and roots. Therefore, by building up tolerance and respect (through inter alia the culture and language teaching), there can only be positive consequences to indigenous peoples’ identity. Moreover, as there are clear links between the acceptance of one’s identity and the rights of this person/group, by teaching languages and cultures, the rights of indigenous peoples are also positively affected.

Chapter 2: The links between the rights of indigenous peoples and the acceptance of their identity

The links between the rights of a group and the ones of persons that compose it, and the identity of those groups and persons, are going both ways: the auto-identification is the corner stone of the application of indigenous rights (Paragraph 1); and, at the same time, one person or one group is more likely to accept his/her/its identity if he/she/it can benefit from it (Paragraph 2). Thanks to the teaching of languages and cultures, one enters in a virtuous circle of two interdependent elements that reinforces one another: identity and rights.

Paragraph 1: The need to self-determinate oneself as indigenous to benefit from the internationally recognized rights

Indigenous peoples benefit from divers treaties protecting human rights as well as from non-discrimination treaties. Those texts apply to every human being for the simple fact that he/she is a human person (children included). There is therefore no particular requirement of the person to auto-identify him-/herself as being indigenous to benefit from these rights.

However, there also exist some international norms that are specifically dedicated to minority groups. The persons belonging to indigenous peoples can also benefit from the rights that these texts recognize and that corresponds to human rights applied to the necessities of

small groups. In order to benefit from these minority rights, the persons have to belong to a
minority. In that sense, the United Nation Declaration on the Rights of Persons Belonging to
National or Ethnic, Religious and Linguistic Minorities stipulates at its article 3.1 that
“[p]ersons belonging to minorities may exercise their rights, including those set forth in the
present Declaration, individually as well as in community with other members of their group,
without any discrimination”. Therefore, only persons who have auto-identified as belonging
to a minority can benefit from those particular minority rights. The second paragraph of the
same article 3 adds that “[n]o disadvantage shall result for any person belonging to a minority
as the consequence of the exercise or non-exercise of the rights set forth in the present
Declaration”. This means that nobody should be discriminated as a result of his/her auto-
identification as belonging to a minority or of his/her non-auto-identification. However it
should be underlined that by non-auto-identifying oneself, there might be a de facto difference
of treatment as the person considered will not benefit from rights another person of the same
minority who have auto-identified will benefit from.

Following the same ideas, the Council of Europe Framework Convention for the
Protection of National Minorities stipulates that “Every person belonging to a national
minority shall have the right freely to choose to be treated or not to be treated as such and no
disadvantage shall result from this choice or from the exercise of the rights which are
connected to that choice” (art 3.1). It also adds that “Persons belonging to national minorities
may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the
present framework Convention individually as well as in community with others” (art 3.2).

Now, the only texts that recognize the very specificities of indigenous peoples, and
over all the possibility for their peoples to be subject of collective rights -or at least collective
enjoyment of their lands-, are the international treaties dedicated specifically to them. According to the No. 169 ILO Convention, “Self-identification as indigenous or tribal shall be
regarded as a fundamental criterion for determining the groups to which the provisions of this
Convention apply” (art 1.2). The objective of this sub-article is to protect persons and peoples
and leave them free to decide whether they would like the Convention to apply to them or not.
It is in fact not up to the States to state who and which group, on its territory, is indigenous or
not. However a consequence of it is that out of a positive auto-identification, the rights
recognized by this treaty do not apply to persons belonging to indigenous peoples.

The UN Declaration on the Rights of Indigenous Peoples also only applies to
indigenous peoples and persons belonging to indigenous peoples. Both the peoples and the
persons that compose them should therefore auto-identify as such to be entitled the rights
recognized by this Declaration. The Declaration moreover mentions at its article 9 a very
interesting aspect concerning the indigenous identity: “Indigenous peoples and individuals
have the right to belong to an indigenous community or nation, in accordance with the
traditions and customs of the community or nation concerned”. As a consequence, although
there are some attempts to internationally define the term “indigenous peoples” and
consequently the indigenous individuals, the peoples and the persons are the only ones to be
entitled the right to decide whether or not they are indigenous. The Declaration adds that “No
discrimination of any kind may arise from the exercise of such a right” (art. 9).
The Draft Declaration on the Rights of Indigenous Peoples of the Organization of American States seems to follow the UN Declaration on this point and article 8 as proposed by the Indigenous Peoples Caucus on November 30, 2009, states that “Indigenous persons and communities have the right to belong to one or more indigenous peoples, in accordance with the identity, traditions, customs, and systems of belonging of each person”.

The underlined necessity to leave indigenous peoples and individuals free to determine themselves their belonging to an indigenous group and their identity as indigenous is central. On this aspect, Alexis Tiouka, a French Guyana indigenous people representative, states that racial discrimination has taken and still takes divers forms and that indigenous peoples are directly affected by it (dispossessions of lands and natural resources, language disappearance, negation of cultures, illegality of spiritual practices, marginalization and exclusion). But according to him, the first source of discrimination is the unjust denial of the legal status of indigenous that is the starting point of the respect of indigenous fundamental rights. It is therefore of utmost importance that indigenous peoples and individual auto-identify themselves as indigenous. They would then benefit from the above-mentioned protection of international law which will force the State they are part of to recognize their identity and rights.

**Paragraph 2: The facilitation of the auto-identification, once the indigenousness enjoys some positive recognition**

There is no doubt that in countries where there are some repressive laws against indigenous peoples, people tend not to auto-identify as such. A consequence of it is the increase of the number of auto-identified indigenous when such laws are being abolished. Interesting examples are to be found in Chile and in Argentina where the last national censuses underlined a huge raise of the number of indigenous individuals in comparison with the last censuses. According to José Zanardini, Paraguayan specialist of indigenous peoples issues, this augmentation is not only due to births but also to the auto-identification of indigenous individuals, how were first ashamed to auto-identify.


22 « Resulta que en el último censo de Chile y de Argentina aumentaron enormemente los pueblos indígenas con respecto al anterior, pero el aumento se debió, no solo a los nacimientos, sino a los reconocimientos de seres indígenas. Estos grupos grandes, antes, se avergonzaban de decir “somos indígenas” porque había leyes represivas, porque no había Constitución, porque no había organizaciones. Pasando el tiempo y pasando los
The example of Paraguay lets us to go one step further in the comment to link the auto-identification not with the disappearing of the repressive laws, but with the elaboration of a positive environment toward the indigenousness. In fact, from 1981 to 2002, the indigenous population passes from 38,703 to 85,674 persons (increase that cannot be explained with births)\textsuperscript{23}. We consider that this growth is linked with the international recognition of the Aché genocide that took place in 1978 when the Interamerican Commission of Human Rights asked the Instituto Paraguyano del Indígena to send a representation to a hearing\textsuperscript{24}.

The fact that many Paraguayan indigenous are still not agreeing with the numbers of indigenous individuals (they consider that they are between 100,000 and 120,000\textsuperscript{25} underlines the link between the way those persons and peoples are accepted by society and their auto-identification. The everyday life of the Paraguayan indigenous individuals is still very difficult, as their rights, although theoretically recognized, are not respected (see the multiple cases in which the Inter American Court of Human Rights recognized the violation of their rights, the recent judgment on the execution of those decisions –which underlined mainly difficulties in the executions-, as well as the pending case). In this context some Paraguayan specialist on indigenous issues underlined that there is a lack of knowledge of the rights of indigenous peoples in both the States organs and the Paraguayan population as a whole\textsuperscript{26}. And some indigenous representative asked for the Ministry of Education and Culture to take the necessary measures to include in the curriculum references to the indigenous rights\textsuperscript{27}.
Conclusion

As presented, languages and cultures, through teaching, have a communication building role. We mean here communication in the wide sense, meaning that the different groups of society learn to understand each other and to accept to have different point of views. This type of communication is the base of society building that should exist in any open and tolerant State.

Sharing a citizenship has a particular meaning to those persons who received minority languages and cultures teaching. Those people do not only consider their identity, but the identity of their State as a whole. This State identity is no longer the simple image of the majority, but it includes smaller groups and, inter alia, the indigenous peoples.

Working for the recognition of languages and cultures and their teaching, therefore not only has positive impact on the identity of indigenous peoples themselves but on the identity of the State as a whole. As a consequence, the national laws and rules democratically established will no longer be protecting only the majorities, but also the other groups that form the national society. That way, Indigenous Peoples will benefit not only from an International support to their rights, but from bottom-up strategies coming from themselves as persons confident in what they are, but also coming from their co-citizens knowing indigenous peoples are part of themselves as “brothers” of a same State.