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THE LEGACY OF COLONIALISM ON LINGUISTIC MINORITY RIGHTS:

POSTCOLONIAL STATE PRACTICES FROM THE PERSPECTIVE OF INTERNATIONAL LAW

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Dedication and Acknowledgments

This dissertation is dedicated to the memory of my beloved aunt, Maria.

There are a number of people that I feel the need to acknowledge for their contribution and their efforts. I would like to thank, first of all, my parents who have supported and helped me immensely during the process of drafting this dissertation, as they have always done in every educational endeavour, recognizing and emphasizing the value of education. This dissertation would have never been completed without their contribution. I do also want to thank my friends, both in Greece and around Europe, who have provided me with much-needed support and encouragement during this process.

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Abstract

Minority populations, around the globe, have been historically marginalized, in many cases, due to the detrimental effects of colonialism in their communities. Facing discrimination and oppression since the formation of colonial empires, minority and indigenous minority groups in post-colonial societies continue to live in precarious socio-economic conditions, disadvantaged compared to majority populations, with their communities' interests and needs often neglected. In this framework, minority -and particularly indigenous- languages face an existential threat, in the 21st century, with the majority of them being categorized as endangered ones.

National governments of post-colonial states have in most cases inherited the issue of minority linguistic rights' lack of protection from the colonial past, failing to accommodate the individual language rights of persons belonging to minority groups, neglecting to safeguard the rights of the minority communities to learn their mother languages or to provide the necessary responses to the intensifying issue of language loss and endangerment. It has, therefore, been an issue of international law to provide the necessary framework for the protection of minority linguistic rights and for the assistance of minority linguistic communities to use, maintain and revitalize their languages. Since the era of decolonization, in the mid-20th century, various international law texts -both binding conventions and soft law provisions- have been drafted with the aim to promote individual linguistic human rights, collective minority cultural and language rights and the protection of endangered languages, while in the post-colonial states, the significant amelioration of the accommodation of minority linguistic groups' rights, largely remains the exception, rather than the rule.

This study aims to present the situation of minority language rights in post-colonial societies, examine the various provisions of International Law that relate to minority groups' linguistic rights, as well as, briefly analyse their extent and implementation, critically reviewing state practices in three specific cases studies of post-colonial states – in South Africa, Australia and New Zealand, while, taking into account the latest developments on the international agenda on linguistic rights.

Keywords: Linguistic Minorities, Language Rights, Colonial legacy, Post-colonial Language Policy

List of Key Terms, Abbreviations and Acronyms

Colonialism – Colonialism has been defined as "a project of territorial expansion by powerful states that typically involves resettlement into the newly claimed lands of the colonizing state's people and the displacement, if not eradication, of the people who had previously lived there" (Nicholls, 2011). Small notes that "[c]olonialism and international law have always been closely related" and that "[h]istorically, colonialism took on an array of forms. The terminology varies and includes terms such as, 'colony', 'protectorate', 'sphere of influence' 'overseas department' and 'dominions'. […] The extent of colonialism in these territories varied but usually self-determination was removed from the colony and decision-making was relocated to the colonising power" (Small, 2019)

Endangered Languages – Languages become endangered when their users begin to teach and speak a more dominant language to their children. Due to their nature, endangered languages often have few speakers left and are in danger of being lost.

Indigenous - naturally existing in a place or country rather than arriving from another place; having always lived in a place; native.

Indigenous minority - a population group which is associated with a specific geographical area and which constitutes a numerical and political minority within the state(s) that they reside, as a result of colonization and the subsequent movement of settlers within that state. Also termed as Aboriginal in Australia, Native American in the U.S., Scheduled Tribes in India, First Nations in Canada and Australia. The ILO convention (No 169) concerning Indigenous and Tribal Peoples in Independent countries provides the following definition: "People in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions." (International Organization for Migration, 2019)

Language policy - Language policy refers to the formal or informal decision-making process used to determine who will learn which languages and for what objectives.

Language/Linguistic Rights – all rights related to the learning and use of languages.

Linguistic Human Rights (LHRs) – those language rights that are so basic that every human being is entitled to them because of being human.

Language shift – the abandonment of the use of one language in favour of using another, often leading to language loss, when a language is left without any active users.

Minority – The former Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities Francesco Capotorti, in the Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities provides a widely recognized, yet not legally binding definition of minority as [a] "group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members -being nationals of the State- possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language" (Capotorti, 1979)

Post-colonial – the period after the process of decolonization or independence for the states that emerged from former colonial territories

State Practice – the term refers to both the domestic legislation of a state but also the initiatives, policies, reports and strategies drafted on the policy field of linguistic rights that specifically relate to linguistic minorities

COE – Council of Europe

ICCPR - International Covenant on Civil and Political Rights

ILO – International Labour Organization

OAS – Organization of American States

UN – The United Nations Organization

UNDRIP - United Nations Declaration on the Rights of Indigenous Peoples

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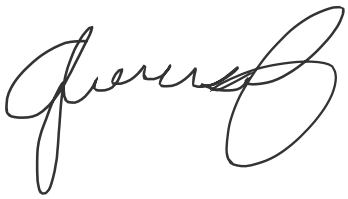
Declaration of Authenticity

The undersigned hereby declares that this thesis is entirely my own work and it has been submitted to the Department of International and European Studies in partial fulfilment of the requirements for the degree of Master of Arts in International Public Administration. I declare that I respected the Academic Integrity and Research Ethics and I avoided any action that constitutes plagiarism. I know that plagiarism can be punished with revocation of my master's degree.



Chapter 1 - Colonialism, Minorities and Language: Introduction and Scope of Research

Introducing the concept of minority rights and linguistic minority rights

According to Smith, the recognition of human rights on an international level is frequently prompted by tragic events occurring around the world, resulting from the strong political willingness, that usually emanates from events causing human suffering and distress, which is absolutely essential in order for these rights to not only gain recognition through their inclusion in international law provisions but also -crucially- enforcement and monitoring.

The primary sources of contemporary international law -and consequently international human rights law- are treaties, which are described as "the closest thing to recognizable (in the national sense) law in international law." (Smith, 2016) States are bound by treaties after they sign and ratify them. The human rights framework, developed under the aegis of the United Nations includes nine main international human rights treaties and/or covenants, the provisions of which are binding upon their parties. The relatively low number of such treaties could be explained by the laborious, multi-year processes that are needed not only for their drafting but also for their sustainable enforcement.

Other sources include customary international law, a "term applied to a body of rules and regulations that represent accepted state practice". (Smith, 2016) Certain human rights, such as the abolition of slavery, could for instance be considered to reflect customary law, as this abolition constitutes a recognized state practice that is almost universally respected and that has stood in time.

Human rights are also included in soft law provisions, with this term signifying its contrast with "hard law", such as treaties, which are binding upon the states that have ratified them. In contrast, soft law provisions do not include any legally binding obligations but they rather reflect principles, values and non-binding provisions that can greatly influence states. Soft law instruments, in many cases have been considered as a first step towards the introduction of hard law on a specific domain, in the future. (Smith, 2016)

One of the domains that human rights law is engaged with is the protection of minorities. Although, minority protection provisions can be traced back to the 19th century with the introduction of the 1878 Treaty of Berlin, which recognized a special

status for religious minorities, it was in the early 20th century, that minority rights protection and recognition emerged with an interest in securing "the peaceful coexistence of peoples within states in the wake of the First World War – hence the minority guarantee treaty regimes instigated by the League of Nations and the creation of the International Labour Organization (ILO). The former sought to ensure respect for religious or linguistic minorities who found themselves in a 'foreign' state due to the redrawing of Europe's boundaries and/or the redistribution of the overseas territories of the defeated countries." (Smith, 2016)

The atrocities committed during the course of the 2nd World War unleashed an era of intense conversation over the recognition of human rights in International Law, particularly within the newly established post-war international system, which included the introduction of a number of important international organizations and institutions, and thus, a profound expansion in both the number and the scope of human rights provisions in international law. However, in clear contrast with the previous attempts at securing minority rights during the League of Nations period, "the newly established United Nations elected to focus on universal human rights, thereby obviating (it was hoped) the need for special minority guarantees." Despite this shift in emphasis, minority groups in any state are still frequently in a weaker position than the majority groups. Nevertheless, given the focus on equality in existing international human rights, such people may be eligible for remedies for the oppression and discrimination they have experienced. (Smith, 2016)

In other words, the emphasis on human rights protection was now shifted towards individual rights, and away from the collective interpretations of rights, which includes rights accorded to groups such as minority populations. At the same time, a number of provisions have since emerged, indicating towards the protection of vulnerable population groups, either through the prohibition of unfair treatments or through certain accommodations.

Specifically for linguistic rights, Kochenov and de Varennes, state that "until the emergence of international human rights law after World War II, the philosophical position in legal theory and legal practice around the world was clearly that the treatment of a state's own citizens in relation to language was a matter that was determined by the state, and the state alone". It was the emergence of international institutions, along with the work of activists, including those from within the minority communities, that led to a change of circumstances. (Kochenov & De Varennes, 2014)

The United Nations Special Rapporteur on minority issues defines language rights as "human rights that have an impact on the language preferences or use of state authorities, individuals and other entities" and as a "series of obligations on state authorities to either use certain languages in a number of contexts, or not interfere with the linguistic choices and expressions of private parties." Language is further recognized as an important feature of human nature and culture and a central element for the formation of identify, underlining the emotional nature of linguistic issues and their critical role for the maintenance of the cultural identities of historically marginalized, oppressed or disadvantaged groups of people. Various sources of linguistic rights in international human rights law, are presently recognized, emanating from provisions "such as the prohibition of discrimination, the right to freedom of expression, the right to a private life, the right to education and the right of linguistic minorities to use their own language with others in their group." (United Nations Special Rapporteur on minority issues, 2017)

Since the proposal of the Sapir-Whorf hypothesis, which claimed that mother languages shape the understanding of the world for all humans, the central part that language signifies for human communication and cognitive development has been a matter of continued discussion and research. And, although, not strictly accepted now, the suggestion that any mother tongue has a certain impact in the way all humans formulate an understanding of the world, is fairly logical, underlining the vital nature and the central role that language plays in each and every human activity and thus explaining the significance of safeguarding language rights. (Nic Craith, 2007)

Scope of Research

This dissertation examines the nature and extent of the rights of linguistic minorities based on provisions of the International Law, as well as, critically analyses the compliance of postcolonial states with international norms regarding minority linguistic rights, taking into account historical considerations, such as the impact of colonial practices. The right of persons belonging to minorities or indigenous persons to use their languages is recognized by a number of provisions at the international level, with the degree of such recognition depending on the exact provision. This study does take into account the multiple and significant recent developments in the international

agenda, such as the declaration of the “International Decade on Indigenous Languages 2022-2032” by the United Nations. Such initiatives, although not legal ones per se, are crucial for the development of international norms and have the potential to profoundly influence states to address linguistic inequality.

The dissertation comprises of four chapters and its conclusion. The first chapter includes the introduction and an exploration of basic concepts regarding the study, the research scope and brief analyses of key topics. The second chapter explores the nature and characteristics of language rights, and outlines various categorizations that enlighten their purposes and scope. The third chapter includes a survey of provisions of International Law that relate to the protection of minority linguistic rights, which are applicable to postcolonial societies, as well as, more extended perusal on some of the most significant provisions. The fourth chapter is devoted to the three case studies of postcolonial states exploring their domestic legislation, policies, practices and initiatives, and their compatibility with international law provisions -including their international obligations- as well as the general historical and social framework that forms their responses towards linguistic diversity. The three case studies have been carefully chosen in order to reflect different responses, based on the unique characteristics of these three states: the legacy of brutal colonial oppression and racial segregation in multilingual South Africa, the handling of a significant number of indigenous languages, as well as, languages of immigrant communities in a former settler colony like Australia, and the accommodation of a single, well-established indigenous minority in addition to more recent migrant linguistic communities in another former settler colony such as New Zealand. The differences and the similarities in the responses of these three states are also contrasted and critically examined. The last chapter constitutes the conclusion, presenting the main findings of the study. This chapter does also include a number of suggestions, based on the research findings, for the effective protection of minority linguistic rights in postcolonial states, as well as, the limitations of the study and suggestions for further research.

The importance of the study is exemplified by the recent surge of interest on the field of minority rights protection, along with the growing number of legal provisions, aiming to create a framework for the protection of minority linguistic rights. The originality of the study lies on its interdisciplinary approach and the inclusion of the most recent developments in the discussion of the topic. A number of studies have been

completed on the issue of minority languages protection, either from the perspective of language planning and policy or from the standpoint of post-colonial legal and social developments. The scope of this study is to combine the manifestation of the post-colonial attitudes on the international law, with the presentation, discussion and analysis of the most recent legal and public policy developments on the international, regional and national levels, on the perusal of the issue of minority language rights protection, with a particular focus on the examination of the legacy of colonialism and post-colonial attitudes on minority language rights state practices, in conjunction with the provisions of International Law.

This study is based only on reviews of related literature and exclusively on qualitative research, not containing any kind of quantitative research. The study does not include any on-the field experience, due to its qualitative nature but also due to logistical reasons. It should also be noted, that as a direct consequence of their nature, the analysis of state practices requires even more detailed analyses, as these practices directly impact multiple aspects of the everyday life of citizens, given that language is ever-present in human activities. Such analyses that would have covered a number of policy domains, included but not limited to the broader education sector, police services, courts, public administration issues, elections and citizenship services, among others, cannot be adequately covered in any study that is not exclusively focused on them or devoted to a specific state and a specific time period. Finally, this study deliberately has not examined any provisions that are exclusively devoted to the European framework of human rights protection, such as those of the Council of Europe, given the fact that the vast majority of minority groups -including all three states examined by this study- were affected by the legacy of colonialism, outside of Europe.

The significance of linguistic minority rights

After decades of oppression and indifference, the value of indigenous and minority languages has started to gain recognition today. UNESCO on the material of the "International Year of Indigenous Languages" states that "[l]anguages play a crucial role in the daily lives of the people, not only as a tool for communication, education, social integration and development, but also as a repository for each person's unique identity, cultural history, traditions and memory. But despite their immense value languages around the world continue to disappear at an alarming rate". (UNESCO) It

is further underlined that from the around 7000 languages spoken today, 2680 are in danger. Ethnologue estimates that 2895 languages are endangered from a total of 7111 ones, about 41%. Moseley states that "[c]ountries with the greatest linguistic diversity are typically also the ones with the most endangered languages", underlining the fact that the growing use of a relatively small number of dominant languages are endangering minority languages even in the countries where these languages form part of the cultural heritage for centuries, as indigenous languages do. De Varennes provides an upsetting account on the impact of this, stating that "[t]he rate of language extinction has increased dramatically in the last few hundred years. It seems that at least one language disappears every two weeks, and that more than half of the world's languages will probably be lost within four generations". (De Varennes, 2012)

The importance of the protection of minority languages -and more specifically of endangered ones- lies to their unique cultural value, primarily for their speakers but for the whole human community, as well. Indigenous languages have also been recognized as repositories of unique cultural practices, values, traditions and spiritual beliefs, as well as, knowledge about the world and especially regarding biodiversity and the nature. Bokova emphasizes the importance of indigenous languages, stating that "[l]anguage loss entails an impoverishment of humanity in countless ways. Each language – large or small – captures and organizes reality in a distinctive manner; to lose even one closes off potential discoveries about human cognition and the mind." When a language dies, many different types of intangible cultural heritage also perish, including performing arts, social customs, religious festivals, traditional crafts, and the priceless oral traditions and expressions of the society, like poetry, jokes, proverbs, and legends. As traditional knowledge of the nature, spiritual beliefs, and cultural values expressed in indigenous languages provide time-tested mechanisms for the sustainable use of natural resources and management of ecosystems, which have become more important with the emergence of urgent new challenges brought on by climate change, the loss of indigenous languages is also harmful to biodiversity. (Bokova, 2010)

Harris further argues that the full enjoyment of a number of other rights depends on the respect of language rights, citing the examples of the right to education, healthcare, voting, access to justice and the effective contact with public administration. It is obvious that these policy areas require effective communication, which for the case of linguistic minorities, indeed necessitates the respect for the use of minority languages. Harris further acknowledges the value of safeguarding diversity, respecting non-

discrimination and the value of reconciliation over past injustices, as further reasons behind the need for the respect of linguistic minority rights, apart from respect for the freedom of expression, privacy and family life. (Harris, 2012)

Although primarily associated with linguistics, the issue of indigenous languages protection is fundamentally one of public administration and law. Skutnabb-Kangas and Phillipson note that "[i]t is extremely common, in virtually all parts of the world, for people to be deprived of […] basic linguistic human rights. The speakers of most minority languages are discriminated against on the grounds of language […]. Some groups are not allowed to identify with their mother tongues [..] Speakers of more than 6000 languages are not entitled to education, nor to the administration of justice or public services through the medium of their mother tongue. This is true of most indigenous minorities […]." Moseley and Nicholas provide a view of the situation in post-colonial societies around the world arguing that "[n]ations in which a major world language of colonial expansion is the dominant one, but which harbour small languages whose territory is shrinking, have often found it hard to come to terms with their indigenous heritage, and have not devoted sufficient attention to the field of safeguarding language. This is true not only of Australia, Canada and the United States, where English has swept all before it, but also of Lusophone Brazil and the Spanish-speaking world generally." (Moseley & Nicholas, 2010) The impact of colonialism in indigenous languages is also explored by Migge and Leglise who state that beyond the economic exploitation of indigenous communities by the Europeans, the destruction of indigenous cultures and languages, in particular, was equally serious. In colonial societies the European administrators deliberately "assigned low prestige to non-European languages and cultures" and at the same time they established "the superiority of the coloniser's language and culture", noting also that the political decolonization of certain states, with the political independence of indigenous peoples did not necessarily lead to a "cultural and linguistic decolonisation". The various practices that lead to the phenomenon that is termed as "linguicide" included the marginalization of indigenous languages or a "divide and rule" practice towards different indigenous linguistic groups as a colony's linguistic policy or even the physical elimination of indigenous peoples, in certain cases. (Migge & Leglise, 2007)

It is obvious that public administration decisions and the content of legal texts in one country are able to greatly impact the prospects of a language – they can either force it

into disappearance or they can foster its use and help its maintenance. It is equally derived also that in countries where linguistic minorities have been disregarded, with their languages facing the threat of extinction, there has been a lack of adequate legal protection or action by the public authorities in order for the rights and interests of minority linguistic communities to be safeguarded. As this issue affects a great number of states and especially post-colonial societies with linguistic minorities, often indigenous ones, international efforts for the protection of minority -and especially indigenous- languages have intensified through the drafting of numerous international legal texts and other initiatives that aim to create a framework of protection, which is often absent, if not hostile towards linguistic diversity, in the states' domestic legal and administrative. De Varennes refers to the issue of national linguistic policies, acknowledging that in a great number of countries, linguistic minorities are disadvantaged by the use and promotion of an official language that is distinct from theirs, while the international human rights framework provides for the acceptance of differences among people, regardless of their ancestry, religion, or language. De Varennes, further links linguistic rights with individual human rights and particularly non-discrimination, noting that there is a common misconception that minority rights, or language rights, form part of a new generation of rights, or necessarily have a collective nature, a perception which is both regrettable and mistaken as it tends to "consider language rights as less deserving than "real" human rights, and wrong because it fails to understand the actual sources of these rights. To put it simply, most – if not all – of what are called today language rights derive from general human rights standards, especially non-discrimination, freedom of expression, right to private life, and the right of members of a linguistic minority to use their language with other members of their community. All of these are "authentic", individual human rights as generally recognized in international law." (De Varennes, 2001)

The concept of minorities

Skutnabb-Kangas notes that there is no single definition with legal acceptance on a universal level of the meaning of minority. She proposes the following definition:

"A group which is smaller in number than the rest of the population of a State, whose members have ethnic, religious or linguistic features different from those of the rest of the population, and are guided, if only implicitly, by the will to safeguard their culture, traditions, religion or language. Any group coming within the terms of this definition

shall be treated as an ethnic, religious or linguistic minority. To belong to a minority shall be a matter of individual choice." (Skutnabb-Kangas, 2007)

The definition emphasizes the numerical inferiority of the population group in comparison with the population of the state in which the said group resides, as well as, a certain degree of shared cultural, religious or linguistic background and a willingness for the preservation of those characteristics that constitute this distinct identity. The definition does also emphasize the individual freedom of choice on whether a person wishes to be included in the minority group or not. However, in many cases, the recognition of minority groups and the determination of whether certain persons belong to a minority group or not, is a matter that is regulated by the state.

In terms of linguistic minorities, the size of the minority group is always an important consideration. In order for a group to claim rights that are related to language, Skutnabb-Kangas notes that, there has to be a certain degree of population concentration of the said group within a specific territory. Various International Law provisions mention the size of a minority group as an important criterion for the extent of the provision of linguistic rights.

May, although agreeing on the numerical factor as a consideration for defining minority languages, emphasizes the "differences in status, power, influence and entitlement among languages" as key criteria for the distinction between minority and majority languages, noting that majority languages are usually highly valued, used in the public domain and associated with social mobility, while minority languages are mostly confined to the family environment and share little of these characteristics. (May, 2018)

Indigenous minorities

Bantekas and Oette provide the following definitions of indigenous peoples: "Indigenous peoples are the original inhabitants of a territory, before this was conquered or colonised, who continue to live there", further noting that "[a] very sketchy definition is articulated in article 1(1) of ILO Convention 169 on Indigenous and Tribal Peoples. However, the most authoritative was that offered by UN Special Rapporteur Martinez Cobo, as follows: Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and

transmit to future generations their ancestral territories, and their ethnic identities, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems." (Bantekas & Oette, 2013)

In most cases, indigenous peoples constitute a minority within the territory of the state they reside, and possess a non-dominant role in the political, social and economic domain of that state, that derives from social, economic, cultural and political structures and practices that were implemented by the colonial administrations and which, to a certain extent, continue to be present in postcolonial states.

Havemann argues that "Modern law and policy constantly categorize and classify people to determine eligibility for certain rights or services. For this reason, definitions of the categories 'Indigenous people', 'minority', 'peoples' and tribal peoples are hotly contested", further explaining that "the categories overlap with respect to several salient characteristics. International law defines neither minorities nor peoples; international human rights norms accord Indigenous people a degree of autonomous development, whereas minorities are assumed to have a duty to participate actively in the larger society." It is clear, that without any actual definition provided in the complex framework of International Law, any attempt to define these terms will be rather inadequate or incomplete. However some general characteristics that are considered to be shared among indigenous populations include their distinctiveness from the majority/dominant population group, their self-identification and desire to differ from such groups, their unique connection to a specific place which is central in the development of their distinct culture and society, and the fact that their connection to their lands precedes the arrival of settlers, the creation of colonies, and the subsequent marginalization of their groups. (Havemann, 2016)

Impact of colonialism

Migge and Leglise define colonialism as "the establishment of control over a region including its inhabitants by an outside group which sometimes involved the total destruction of local governing institutions and the disempowerment of their members". Clearly, this definition covers the actions of many European nations - mainly the United Kingdom, France, Spain and Portugal - during the course of a period spanning from the 16th century until, at least, the mid of 20th century. The specific framework that colonial expansion takes, differs based on the specific chronological period of reference, but also the colonizing power, as well as, the colonized territory. For instance, the actions

of Spain in South America in the late 16th century are different from those of Britain in the islands of the Caribbean during the 19th century. Nevertheless, the concept of colonialism shares the crucial factor of dominance over an overseas territory (the colony) by an external power (the metropole), and the subsequent economic, social and cultural subjugation of the population of the former.

The impact of colonial practices, throughout the colonized world, is profound, long-standing and multidimensional. Apart from the obvious economic exploitation and political oppression that colonialism brought to the native populations of colonies, Migge and Leglise, underline its crucial impact on a number of social and cultural elements, including language, stating that "[t]hese practices played an instrumental role in assigning low prestige to non-European languages and cultures, including cultural and linguistic forms that emerged due to Europe's colonial expansion, and in establishing the superiority of the coloniser's language and culture."

As a response to the impact of colonialism on language attitudes and policies, Migge and Leglise, state that an ongoing struggle is present, which undertakes the countermanding of the stigma that, due to the legacy of colonial actions, has been associated with non-European languages and cultures, aiming also to challenge the assumed superiority of European languages and cultures. These processes are especially noticeable in the education system, being one of the areas that "continues to implement to a greater or a lesser degree many of the colonial linguistic and cultural policies and is thus instrumental in perpetuating colonial discourses". (Migge & Leglise, 2007) The significance of education, due to its obvious and principal role in either the maintenance of languages or the reinforcement of language shift and language loss, should also be noted.

A crucial question that needs to be addressed is why, after many decades since the decolonization process and the independence of postcolonial states, these colonial practices regarding language remain extremely persistent. According to Migge and Leglise, "economic pressure from the former coloniser, opposition to decolonisation from local elites and increasing globalisation have effectively conspired to maintain colonial social and linguistic practices."

Even more enlightening is their description of the unequal nature of the colonial social system, which in many postcolonial societies remains unchanged, having "hierarchically ordered social categories of people endowed not only with distinct sets

of rights, obligations and social standing but also with distinct intellectual, social and other skills and properties." The power in the colonial societies was held by the European colonizers and their allies, who were consistently seen as possessing prestigious qualities, and were positioned at the top of the social hierarchy, while the colonized, who were seen as occupying a subordinate position, were given low social status, possessing little to no social power. (Migge & Leglise, 2007)

Migge and Leglise describe the process of linguistic colonization, noting that the European languages, having been attributed higher prestige than the local ones, were firstly used by people belonging to the colony's perceived upper social classes and then spread to the lower ones. As a result, the use of European languages, "diffused from the capital to small cities and from there to villages." The education system was weaponized in order to instil this linguistic hierarchy that emphasized the use of European languages, for most administrative and economic activities, often at the expense of local, indigenous languages, creating the social conditions for the flourishing of the former and the endangerment of the latter. (Migge & Leglise, 2007)

The linguistic policies implemented in colonies differed, based on the preferences that were imposed by the colonizing powers. Migge and Leglise, underline the fact that France enforced the exclusive use of the of the French language, while "the British, in accordance with their 'divide and rule' policy, supported the dominant languages in their colonies", leading though to the similar consequence of elevating the prestige of the European language in relation to the local ones. This led to the decay of African languages having been denied the "opportunities for functional development and the extension of existing African lingua francas." Migge and Leglise further elaborate on these colonial language planning attempts stating that "[…] British and Belgian policies encouraged the use of mother tongues in education, they did not give equal attention to all languages. They focused their efforts on (numerically or politically) 'dominant' languages and/or those that were already used as a regional lingua franca and actively supported their spread at the expense of other local languages […]" (Migge & Leglise, 2007). May further notes that "linguistic 'hierarchies of prestige' are, and related processes of language shift and loss […], are, more often than not, closely linked to wider histories of colonialism, conquest or confederation, or some combination of all three, which have marginalized minority language speakers […]" (May, 2018)

In the era when social Darwinism, in combination with extremely racist tendencies flourished, it is undeniable that the role of ideology was central in any policy-making process that considered European languages as more "civilized", "superior" or "important" than local languages of colonies. Migge and Leglise note that the notion of "language" was perceived as one that is closely associated with the concepts of "nation", "culture" and "power" and was, thus, assumed to be attributed to the colonial languages exclusively, while the indigenous languages "were negatively identified as "dialect"' or "patois". The absence of writing systems for indigenous languages was also perceived as part of their inferiority and any "attachment to these languages was considered irrational and a sign of ignorance." On the other hand, European languages were perceived as a means towards the process of "civilizing" the colonized population, which effectively meant the denial of their identity and an attempt for their forced assimilation. (Migge & Leglise, 2007)

The processes of the enforcement of European languages, throughout the European colonies, led to what is termed by many authors as "linguicide". Migge and Leglise define the concept as the result of "the systematic replacement of an indigenous language with the language of an outside, dominant group, resulting in a permanent language shift and the death of the indigenous language". Language loss has in some cases been the result of the physical elimination of the native population by the colonizers, either entirely or in part, as it has been the case, mainly during the course of early colonization attempts in South America. However, in the majority of cases language loss was caused by language shifts, which were the result of the colonial practices described previously, leading the abandonment of native languages by the colonized population either under duress or as a decision that was based on the enforced social and economic conditions that favoured the use of European languages and severely disadvantaged the local ones. (Migge & Leglise, 2007).

Post-colonial situation

As a number of post-colonial states emerged as independent nations throughout the 20th century -and especially during the first decades after the Second World War- it became obvious that the former colonies found extremely difficult to move on from the legacy

of centuries of colonial rule and the social and political systems embedded with the colonial mentality of discrimination, overt or covert racism and, of course, linguistic policies that were at best indifferent towards local or indigenous languages and at worst extremely hostile towards them.

Migge and Leglise accurately describe the situation in the post-colonial states noting that language and educational methods of historically colonized countries have been greatly impacted by colonial policies, typically in a negative way. In order to instil ideas of European morality in their colonial subjects and to create a readily available and inexpensive labour resource for the pursuit of their economic endeavours, colonial powers actively sought to modify the linguistic landscape of many colonized territories, implementing educational systems that were specifically designed to serve their own needs. (Migge & Leglise, 2007)

At the same time, as this number of new nations emerged, having gained their independence through the decolonization process throughout the second half of the 20th century and after the Second World War, there was a need for the establishment of a new legal order for each one of them, a concept that includes minority rights. The late 1940s have been marked as an era of drafting human rights provisions both at a national and at an international level. Post-colonial states were formed, in many cases, at the same time that some of the most significant and consequential human rights instruments were drafted or deliberated, in the then newly established United National organisation. The scope, the extent and the purposes of those provisions differs, though. During the course of these drafting processes the issue of linking the issue of colonialism and human rights – a concept mainly pursued by the newly formed post-colonial states – faced considerable initial resistance and the decolonization process and the concerns of post-colonial states were only addressed at a later stage of these processes. (Ewing, 2020)

May validates the fact that language policies, the reality of linguistic loss and the marginalization of linguistic minorities are the products of historical, social and political decisions that occurred over the recent or distant past, claiming that “Language policy is always imbricated with questions of history, power, politics and (in)equaity” (May, 2015). Undoubtedly the political, social and ideological legacy of centuries of colonial rule have left multiple challenges for post-colonial states, in their pursuit of the

realization of linguistic minority rights, in line with the relevant international law initiatives and related developments on the broader field of human rights.

The dominance of English as a world language or international lingua franca has, also, sparked various debates, with Philipson arguing that linguistic imperialism was promoted by colonial powers, which deliberately promoted colonial languages through linguistic planning and Spolsky maintaining that the immigration of English-speaking settlers -who eventually formed the majority of the population in the settler colonies- was the main reason behind the dominance of English. The dominance of English in former British colonies and the language shift from minority languages, either by force or due to the social, political or economic circumstances, is a widely recognized fact that has led to the further endangerment of minority languages in the post-colonial era.

The endangerment of languages, generally occurs when speakers of a less dominant language decide to stop using their mother language and begin using a more dominant language. Parents, then, opt to teach only that dominant language to their children. Gradually, the intergenerational transmission of the first language is greatly reduced and may even cease. As a result, it is possible that the language will not acquire any new native speakers and that it will eventually stop being used at all. A language may go dormant or extinct, remaining only in transcriptions, written records, or recordings. Languages that have not been sufficiently recorded or documented disappear completely. A vast number of languages are considered endangered today, many with a an extremely small number of speakers, quite often as a result of colonial language planning or due to the hegemony of colonial languages in post-colonial states. (Ethnologue)

Linguistic Policy and its significance

From the moment that a state chooses a language in order to conduct its official business, any person residing within its borders that is able to communicate in that language is much more privileged than anyone who is living within the same state but is not a fluent speaker of that language – usually persons that belong to a linguistic minority, who are disadvantaged by that choice of official language. De Varennes

introduces the idea of a spectrum where the fact that a state can severely disadvantage or even exclude individuals through its linguistic practices is placed on the one end and the acceptance of any demand in language matters is placed on the other. He, then, argues that the balance between those ends constitutes the accommodation of those individuals belonging to linguistic minorities, based on the values of tolerance and non-discrimination but also practical concerns, emphasizing that this balance of interests is beneficial for states, as this not only does not pose any threat for their sovereignty or unity but it can actually anticipate tensions or internal conflicts. (De Varennes, 2015)

The power of language policies is exemplified by De Varennes who argues that "[a] State can be inclusive through its language policies or, in effect, it can increase inequalities and contribute to the exclusion of part of its population through language preferences which in areas such as education and employment – particularly in the civil service – may exclude or disadvantage many individuals." He then describes the extreme end of social exclusion that can be enforced by linguistic policies that can necessarily dictate the exclusion or uttermost marginalization of minorities from social, political or economic activities, and the subsequent power that inclusion in these activities could entail "by requiring fluency in a particular employment or political position.", noting that "in many cases of ethnic strife where a minority or indigenous people is pitched against the power of the state, the deep-laid sources of these conflicts can be linked in the early periods to practices which excluded these segments of society from employment, education and other opportunities." (De Varennes, 2015)

Chapter 2 - Exploring the concept of Minority Linguistic Rights: Their Nature and Characteristics

Koenig and De Guchteneire notes that one of the most significant factors influencing the cultural diversity of nations around the world has been language. For democratic states, language diversity poses a particularly significant policy problem as conventional ideas of democracy have frequently assumed the existence of a linguistically homogeneous population, as indicated by the traditional model of the nation-state. However, the growing acceptance of language human rights in international law has helped modify the nation-state paradigm, along with other social and economic causes, and has offered democratic methods of multilingual society governance, including the acknowledgment and promotion of the human rights of linguistic minorities. (Koenig & De Guchteneire, 2007)

Skutnabb Kangas defines linguistic rights (LRs) as "all rights related to the learning and use of languages" and further distinguishes linguistic human rights (LHRs) as those rights only "that are so basic that every human being is entitled to them because of being human", also noting the fact that many linguistic rights could not be recognized as linguistic human rights. (Skutnabb Kangas, 2013) May underlines that "the field of language rights is a direct response to these processes that position languages, and their speakers, unequally." The fields of sociolinguistics and the sociology of language, which are related, were the first to place an emphasis on language rights. Since then, they have branched out into other fields like political philosophy and international law (May, 2018) Osiejewicz argues though that there is no single international treaty that is extensively devoted to linguistic rights, arguing that "[m]ost of international and regional legal instruments in this field refer to the human rights and the cultural importance of languages, and consequently to the linguistic diversity as a general policy" (Osiejewicz, 2017)

As persons belonging to linguistic minorities are recipients of individual human rights –as all human beings are- they are entitled to individual rights that relate to language. While they have historically faced discrimination, due to their cultural identity related to colonial expansion and its legacy, and various forms of oppression, their right to speak their own language is protected under individual human rights instruments. At the same time, as minority languages exist along with one or more dominant/official

languages within a particular state, these languages are protected under provisions relating to the promotion of cultural diversity and plurality, a framework that includes linguistic diversity. Minority languages that are considered endangered languages are protected under provisions related to the protection of endangered languages. The latter couple of kinds of provisions are the most proactive ones, as they require the coordinated action of states, that need to not just legally accept the existence or transmission of these languages, but to act in order maintain or revitalize them, through the use of language policies and language planning. (De Varennes, 2012)

Trends and Approaches in Linguistic Rights Protection

De Varennes and Kuzborska argue that "in international law, there are three different approaches to language issues: (1) the human rights approach which is the one mainly referred to when describing language or minority rights in this chapter, (2) the approach aimed at protecting or promoting linguistic diversity, and (3) an approach more narrowly focussed on only protecting endangered languages." According to the first approach, people, and possibly some communities according to certain provisions, are subjects of international law. Instead of rights being held by persons or communities, the latter two models consider languages as objects of protection with duties on authorities to take specific actions for their protection and promotion.
(De Varennes & Kuzborska, 2019)

De Varennes identifies three main trends in linguistic rights protection, based on the particular objectives of the related provisions of International Law:
1. *Human rights instruments*, referring to provisions that aim to safeguard individual rights of persons belonging in minority groups or indigenous individuals. These rights, based on the values of non-discrimination and freedom of expression, among others, aim to safeguard the right of individual human beings to use, maintain and transmit their language. These rights are not exclusively reserved for persons belonging to minorities or indigenous groups but apply to all human beings and, in many cases, the rights applicable to this trend do not explicitly refer to language. but they do have an indirect, language dimension.
2. *Protection or promotion of linguistic diversity,* referring to rights of a collective nature, that recognize the significance of linguistic diversity and its worth. These kinds

of provisions do not focus on the respect of the rights of individual speakers, but rather aim to create obligations for the states to respect languages and promote their use, in support of linguistic diversity and pluralism.

3. *Protection of endangered languages,* referring to provisions that specifically focus on the protection of some of the most threatened languages which are under an immediate threat of extinction, due to language shift. The justification for the adoption of such provisions, according to De Varennes, lies in the fact that over half of the world's languages are seriously endangered and will possibly be lost over the next decades, with the rate of language extinction constantly increasing in the modern era. (De Varennes, 2012)

Language Rights in Private and Public Spaces

De Varennes further distinguishes between the international human rights standards that relate to the use of language in private settings and those that relate to the use of a language in public or by the state. The former includes the use of a particular language in a private setting, such as by a family within its home, in private correspondence, in the choice of names, in the display of signs or posters, or within private educational, media or economic activities. On the other hand, the use of minority languages by the state refers to its use by administrative authorities, in public education settings, within the judicial system, in officially recognized names and toponyms, by the public media and within political institutions. In order for such use to be reasonable, De Varennes, underlines the implementation of the "sliding-scale model", which based on specific criteria, such as the numerical strength of a minority and its concentration within a particular area, progressively accommodates the needs of linguistic minorities, where the presence of a large number of persons belonging to a linguistic minority would require greater accommodation of their linguistic needs - for instance with the conduct of administrative matters in the minority language by public employees, while a smaller number would require a relatively small degree of accommodation, such as the provision of certain basic information in that language. One area that such a model, based on the provisions of international law is not applicable are the proceedings of criminal courts, where the understanding (with the need of interpretation and/or translation) of the proceedings for accused persons, including the speakers of minority languages, is guaranteed. (De Varennes, 2012)

Individual and Collective Rights

Skutnabb-Kangas states that, in addition to individuals, "collectivities of people (individuals, groups, peoples, organizations or states) may have rights to use, develop, and maintain languages or duties to enable the use, development, or maintenance of them" Skutnabb-Kangas notes that certain provisions "combine individual and collective rights" referring to the persons that belong to a minority group and granting rights on that basis. (Skutnabb-Kangas, 2007)

Universal, Regional and National (Domestic) Rights

Depending on the source that language rights emanate from, these rights can be distinguished among universal rights – those whose source are universally applicable provisions of International Law, such as Article 27 of the ICCPR, regional rights – those whose source are provisions of a treaty or declaration that is regionally applicable, for instance rights contained in treaties of the Council of Europe or the Organization of American States, which apply to countries within the European and American continents, respectively, and also rights that apply to a single state, based on its domestic legislation.

Normative Models

Arzoz introduces five normative models of language rights, deriving from legal norms and state practices and based on their philosophic foundations, their objectives and their scope:

1. The human rights model

Based on the protection against discrimination and assimilation, as well as, freedom of expression and respect of private life, with the scope of the promotion of personal autonomy, these human rights provisions are granted to all human beings, whether they belong to numerical majorities or minorities and without any territorial criteria. Although, they may not refer specifically to language, they have at least some implied linguistic dimensions. These are described by Arzoz as "weak rights" and are often negative rights.

2. The 'old minority' rights model

These rights are included either in universal or regional international law obligations, in bilateral agreements or in domestic legislation and they refer to linguistic groups

which are historically concentrated in specific territories within states where they constitute a minority. The single specific provision in the international law framework is the Article 27 if the International Convenient of Civil and Political Rights, while there have been further provisions that relate to minorities by regional bodies, such as the Council of Europe. Old minority rights are also granted based on bilateral treaties and crucially based on the provisions of domestic legislation. The emergence of the old minority rights model lies on the idea that members of linguistic minorities need a certain degree of special protection and accommodation in comparison with those belonging to the majority, in order to prevent assimilation.

3. The 'new minority' rights model

These rights are mostly based on domestic legislation and refer to persons belonging to 'new' minorities, such as immigrants or new citizens. These measures are in many cases of a temporary nature, and they exist only until the members of the new minority are sufficiently integrated, and thus able to communicate in the official language of the state. Similarly, second-generation immigrants are not expected to be granted such accommodations, if they have sufficient command of the state's language. A central development towards the recognition of language rights of new minorities was the United States Supreme Court Decision in Lau v. Nichols, that recognized that the non-provision of school programmes for non-English speakers constitutes a violation of the provisions of the Civil Rights Act of 1964, in the United States.

4. The indigenous peoples' rights model

These rights are specifically granted to indigenous populations, which as a result of colonial practices, form a tiny minority in many post-colonial states, with very limited political power or representation. Two basic international law instruments are important in safeguarding linguistic rights, the non-binding UN Declaration on the Rights of Indigenous Peoples and the ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries, which has been ratified only by a small number of states. These rights aim to safeguard the ethnocultural preservation of indigenous peoples.

5. The official language rights model

This model applies to countries that have recognized more than one official languages for the conduct of their official business. This model may apply to the whole of the

state's territory or specific languages may be recognized as official only in specified regions of the state. This model does not necessarily grand the equal treatment of all official languages that may have a presence within the state. In many cases, such models apply as a result of political compromise or through a broader process of nation building with the aim to safeguard the state's "internal peace-keeping" and political integration.

Arzoz underlines the fact that these models are not mutually exclusive, but in many cases rather complement each other, with a combination of those being in force in a number of states in order to serve the interests of different linguistic groups. The first and the fifth model apply without any qualifiers to all humans in the case of the former, and to all citizens of the state in the latter. On the other hand, the three minority-based rights models (old minorities, new minorities and indigenous minorities) are granted only to persons belonging to the respective population groups and on the basis of a number of criteria, including the size of the group, the reasonableness of their requests and other applicable circumstances. Arzoz, further, emphasizes that while these three models share a significant number of similarities as to their application and normative justification, they are considered separate, as the three kinds of minorities are usually treated distinctively under both domestic and international law provisions. (Arzoz, 2007)

Linguistic Rights and Linguistic Human Rights (LHRs)

Skutnabb-Kangas distinguishes among language rights and linguistic human rights, stating that "only these language rights are linguistic human rights which are so basic for a dignified life that everybody has them because of being human; therefore, in principle no state (or individual) is allowed to violate them". (Skutnabb-Kangas, 2019) She claims that most language rights are placed in the middle of a continuum where one end comprises of linguicide and the other end of maximal or full linguistic human rights. There is a number of language rights that are not linguistic human rights, since the former constitutes, by definition, a much broader category of rights.

Personal and Territorial Rights

Skutnabb-Kangas distinguishes further between personal and territorial rights based on whether a person is able to use their mother tongue in the public domain anywhere within the territory of their state or not. In that case, the right is considered personal and

a high degree of linguistic protection is signified, while in any case that person is only able to use his or her own language within a specified territory/part of the state, then the right is considered territorial, with this kind of protection regarded inferior, in comparison to the one provided by personal rights. (Skutnabb-Kangas, 2007)

Negative and Positive Rights

Skutnabb-Kangas further notes the difference among negative rights, those that based on the prohibition of discrimination are concerned with the toleration of languages and, positive rights which are concerned with ensuring the equal treatment and promotion of languages. (Skutnabb-Kangas, 2007)

Arzoz argues that there are two main categories of language rights, or two types or levels of protection that can be provided by law - on the one hand, the regime of linguistic tolerance, which includes rights that protect speakers of minority languages from discrimination and assimilation and on the other hand, the regime of linguistic promotion, which includes certain positive rights, for the provision of a number of public services, including education, access to justice or media, in minority languages. (Arzoz, 2007)

Overt and Covert Language Rights

Another distinction that Skutnabb-Kangas notes is the one between overtness and covertness of rights, emphasizing that both distinctions are in fact continua with various positions between their ends. It is clear, that international law provisions on indigenous linguistic rights could also be classified into explicit and implicit mention of language rights. For instance, a number of provisions relate to indigenous cultural rights and aim to provide for the indigenous cultures' protection, without explicitly mentioning indigenous languages, which, nevertheless, could be stated that they form an integral part of that culture. On the other hand, a number of provisions overtly mention language and stipulate rights regarding their use and promotion or for the protection of linguistic communities. (Skutnabb-Kangas, 2007)

Soft law and Hard law

A particularly important kind of classification among international legal texts is that between hard and soft law. Hard law provisions are those that are binding towards the states that have ratified them, while soft law refers to provisions that are of a non-

binding and rather consultative nature. With regards to soft law, Arzoz maintains that "soft law is useful in enunciating broad principles, in giving a broad sense of direction in new areas of law-making, where details of obligation remain to be elaborated. Soft law can also express standards and international consensus on the need for particular action, when unanimity is lacking in state practice and the will to establish hard law is absent." (Arzoz, 2007) Provisions of International Law that relate to language are disproportionately represented in soft law initiatives, rather than hard law, yet at the same time a core number of binding provisions which relate to the use of language exist through treaties that are widely respected.

Instrumental and Non-instrumental linguistic rights provisions

Harris argues that in the bibliography of minority language rights, the distinction among instrumental and non-instrumental rights frequently appears, with the former referring to the use of language as required for the provision of other services, for instance healthcare or education, and the enjoyment of other rights or for meaningful engagement in the political life of a state while non-instrumental refers to the safeguarding of identity and culture that is linked with the use of a specific language. (Harris, 2012)

Chapter 3 – Minority Linguistic Rights under the International Law

Introducing International Law Provisions on Minority Linguistic Rights

Johnson argues that "[i]n the late 1970s, some transnational indigenous actors and activists turned their attention to the United Nations seeking international standing for their collective claims. These activists saw potential in expanding the international human rights framework to encompass their indigenous rights" (Johnson, 2020) These actions were valuable for the internationalization of indigenous rights, and minority rights more broadly, due to the fact that early international law largely ignores the history of colonialism and is also preoccupied with the protection of individual rights, rather than with more collective expressions of rights. Johnson points out that "[n]otably, the history of settler colonialism informed neither the making of the Declaration of Human Rights in 1948 nor the design of major instruments of international law regarding rights of self-determination in subsequent decades" (Johnson, 2020)

Young activists and older leaders in Anglo settler states promoted the notion that the there was a need for the creation of a new social compact between the state authorities and the indigenous communities in the 1970s. In the 1980s, a fresh effort was launched at the level of the United Nations to call for the global recognition of indigenous rights under the framework of human rights. In particular, the definition of self-determination (which many states wanted to ensure did not trigger a right of secession) and a restriction of the right of self-government to domestic concerns were contentious and led to protracted debates which required significant compromises from the part of the indigenous communities. Johnsons describes the efforts as ones that reimagined the meaning of the universal protection offered by the ideals of human rights, recognizing that "indigenous rights activists did open up new legal and political space in the 1970s for redress and recognition within settler states and even at the United Nations" (Johnson, 2020) Indigenous activists achieved great success at the international level in extending the concepts of human rights and self-determination to include their collective rights. (Johnson, 2020)

The Universal Declaration of Human Rights passed by the General Assembly of the United Nations Organisation in 1948, signalled the beginning of a new era in which human rights provisions form part of international law. Then, a number of international treaties have been introduced under the aegis of the United Nations, including the

International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Right, both in 1966, with the former being particularly important for the protection of minorities as in Article 27 the right of linguistic minorities to use their own language is formulated, the only binding provision in International law which directly deals with minority languages. Chandrahasan notes that "[a]nother significant inter-national instrument is the Declaration of the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities of 1992. This Declaration builds upon Article 27 of the ICCPR and imposes obligations on states to take measures to promote and protect the identity of minorities. The Declaration focuses on language rights, education rights and the right to a certain degree of control over development activities within the area where the Minority lives." (Chandrahasan, 2015)

A number of other international conventions are deal with minority rights, including the UNESCO Convention against Discrimination in Education of 1960, the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions of 2005 and the Convention on the Rights of the Child of 1989, along with a number of regional treaties such as the African Charter on Human and Peoples' Rights of 1981, the European Charter for Regional or Minority Languages of 1992 and the European Framework Convention for the Protection of National Minorities of 1995. (Chandrahasan, 2015)

The United Nations Special Rapporteur on minority issues outlines a number of International Law texts as important for minority linguistic rights including the "1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, UNESCO's Three 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 Organization for Security and Co-operation in Europe (OSCE) Oslo Recommendations Regarding the Linguistic Rights of National Minorities" (United Nations Special Rapporteur on minority issues, 2017)

Henrard appears to be critical of the existing international minority language rights framework, highlighting its shortcomings, especially the fact that it remains

underdeveloped and relatively weak, noting that even Article 27 of the ICCPR, which is considered the most fundamental provision in international law regarding minority rights, "is not particularly helpful in that it merely states that persons belonging to linguistic minorities shall not be denied the right to use their own language." (Henrard, 2001) It should also be noted that the extent of litigation at the level of International Law, regarding the enforcement of minority and indigenous linguistic rights has rather been limited, with other concerns of minority and indigenous groups being instead prioritised.

De Varennes and Kuzborska, have distinguished three broad categories, with regards to the nature of linguistic rights in International Law, based on the intended scope of the rights and the general characteristics of the relevant provisions, one that relates to linguistic liberty, or in other words the liberty to use a minority language in private settings, a second that concerns fundamental fairness, which includes the right to use a language within legal settings, and a third that relates to proportionality and public services, which refers to the use of minority languages by public authorities. (De Varennes & Kuzborska, 2019)

They further note that "all private use of a language is protected by freedom of expression, since language is a form of expression protected under this human rights standard. It is therefore one of the most powerful language rights available to all individuals, though most often invoked in practical terms by linguistic minorities." They note, though, that this is not the sole provision within the human rights framework that relates to the use of languages noting that freedom of religion includes the use of liturgical languages in religious activities, Article 27 of the International Covenant on Civil and Political Rights protects the use of minority languages; while freedom of association and the right to private life also protect language use. Similarly, the prohibition of discrimination on the ground of language further strengthens the linguistic rights framework. Many of these rights, although indirectly connected with the use of language are crucial for the protection of the use of minority languages in the absence of more robust or more specific provisions. (De Varennes & Kuzborska, 2019) The United Nations Special Rapporteur on minority issues identifies four main focuses of linguistic rights based on International Law provisions: dignity, liberty, equality and identity. Dignity refers to the equality in the respect of rights for all humans, as stipulated by the Universal Declaration of Human Rights. This is a widely recognized

and respected principle of international law, and of distinct significance for the protection and promotion of minority rights. Liberty refers to the freedom of language preference in private settings and activities, whether these are of commercial, artistic, religious or political character, which is protected by basic human rights such as freedom of expression, the right to a private life, the right of minorities to use their own language or the prohibition of discrimination. Equality and non-discrimination relate to the prohibition of discrimination, which prohibits the unreasonable exclusion of persons by the state authorities from participating in any activity or from receiving services, support or privileges provided by the state, due to their linguistic background. Finally, identity concerns the linguistic form of identity, which may be considered as fundamental by individuals, groups or states and can be protected by the right to freedom of expression, the right to a private life, the right of minorities to use their own languages or the prohibition of discrimination, as well. (United Nations Special Rapporteur on minority issues, 2017)

Survey of rights in international Law

The main international law provisions that relate to minority and indigenous linguistic rights include:

a. Individual rights
    i. Equality of all people in rights (Article 1 of Universal Declaration of Human Rights)
    ii. Language should not be used as a criterion for the denial of any of prescribed rights and freedoms (Article 2 of the Universal Declaration of Human Rights).

        The declaration, which was adopted by the United Nations General Assembly in 1948, is non-binding as it does not constitute international treaty, yet it is considered as a milestone in human rights protection and its provisions as the foundations of International Human Rights Law.
    iii. Linguistic minorities should be allowed to use their own language (Article 27 of the International Covenant on Civil and Political Rights). The Covenant was adopted by the United Nations General Assembly in 1966 and is binding for the 173 states that have ratified the Covenant.

iv. "Every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind such as […] language […]" (Article 2 of the African Charter on Human and Peoples' Rights)

The Charter was adopted in 1981 and entered into force in 1986 and has been ratified by 54 African states, constituting a crucial part of the human rights framework of the African Union. The African Commission on Human and Peoples' Rights is mandated with the oversight and monitoring of the implementation of the Charter.

b. Protection or promotion of linguistic diversity

i. Indigenous children should be taught to read and write in their mother tongue and appropriate measures should be taken for the preservation of the mother tongue (Article 23 of Indigenous and Tribal Populations Convention, 1957).

The Convention, which was drafted by the International Labour Organization, is perhaps the first international treaty to explicitly refers to indigenous peoples' and address indigenous linguistic rights. The convention, which is binding for its parties, has 27 ratifications of which 10 have now denounced and most of them moved to ratify C169 of 1989, an updated version of the 1957 convention.

ii. Indigenous children should be taught to read and write in their mother tongue and appropriate measures should be taken for the preservation of the mother tongue (Article 28 of the Convention concerning Indigenous and Tribal Peoples in Independent Countries).

The Convention constitutes an updated version of the Indigenous and Tribal Populations Convention, 1957, and as is also drafted by the International Labour Organization. The convention is ratified by only 23 states, including Bolivia, Brazil, Mexico and Peru. It is obvious that both the 1957 and the 1989 ILO Conventions have a remarkably low number of ratifications, a fact which highlights the limited extent and weakness of binding provisions in the domain of minority and indigenous linguistic rights recognition in International Law.

iii. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their languages while states have to ensure that

indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation (Article 13 of the United Nations Declaration on the Rights of Indigenous Peoples)

iv. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning. States shall make sure that children have access to an education provided in their own language. (Article 14 of the United Nations Declaration on the Rights of Indigenous Peoples)

v. Indigenous peoples have the right to establish their own media in their own languages. (Article 16 of the United Nations Declaration on the Rights of Indigenous Peoples)

The declaration was adopted by the UN G.A. on September 2007, with 144 states voting in favour, while 4 against (Australia, Canada, New Zealand, United States) and 11 abstaining. All 4 states that vote against the declaration are now endorsing it. The declaration is non-binding as an international law instrument, yet it is the most comprehensive and ambitious soft-law international provision on indigenous peoples' rights.

vi. Where persons belonging to linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right to use his or her own language. (Article 30 of the Convention on the Rights of the Child).

The convention entered into force on the 2nd of September 1990. The binding convention is the one with the most ratifications in the international human rights law history, having been ratified by every member state of the UN, except the United States.

vii. Indigenous peoples have the right to use their own tongues and languages (Article 6 of the American Declaration on the Rights of Indigenous Peoples)

viii. Indigenous peoples have the right to preserve, use, develop, revitalize, and transmit to future generations their languages, the right to designate and retain their own names for their communities, individuals and

places, the call for states to adopt effective measures for the exercise of such rights in participation with indigenous peoples, the right to develop systems of communication and broadcast programmes in indigenous languages with the support of the state, the right to understand and be understood in their own languages in administrative, political and judicial proceedings through interpretation. (Article 14 of the American Declaration on the Rights of Indigenous Peoples)

ix. Indigenous peoples have the right to establish and control their educational systems in their own languages, the right for people living outside of their communities to have to have access to education in their own languages, the call for states to develop educational systems that reflect the multilingual nature of their societies and provide an education that reflects indigenous cultures. (Article 15 of the American Declaration on the Rights of Indigenous Peoples)

x. Indigenous children have the right that their use of indigenous language to be considered as a factor in matters of custody, adoption and family ties. (Article 17 of the American Declaration on the Rights of Indigenous Peoples)

The declaration was adopted in June 2016 by the Organization of American States (OAS), after years of deliberations. Even though the declaration is non-binding, it is considered as one of the most important instruments of the Inter-American Human Rights System.

xi. "All persons have […] the right to express themselves and to create and disseminate their work in the language of their choice, and particularly in their mother tongue; all persons are entitled to quality education and training that fully respect their cultural identity; and all persons have the right to participate in the cultural life of their choice and conduct their own cultural practices, subject to respect for human rights and fundamental freedoms." (Article 5 of the UNESCO Universal Declaration on Cultural Diversity).

The declaration, which is not binding, was adopted by the General Conference of UNESCO in November 2001.

xii. "Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities)

have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination." (Article 2 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities)

xiii. "States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards. (Article 4 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities)

The non-binding declaration was adopted by the United Nations General Assembly in December 1992 and is considered central for the protection of minority rights, being one of the very few UN declaration exclusively devoted to minorities.

xiv. "It is essential to recognize the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and, depending on the educational policy of each State, the use or the teaching of their own language […]"

(Article 5 of the UNESCO Convention against Discrimination in Education 1960)

The Convention was adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization in December 1960 and includes important provisions with regards to the elimination of discrimination in education, an issue of profound significance for minority groups.

c. Protection of endangered languages

i. "The protection and promotion of linguistic diversity is crucial to the achievement of the Sustainable Development Goals (SDGs)." (Conclusion 1 of the Yuelu Proclamation on the Protection and Promotion of Linguistic Diversity of the World)

ii. "The protection and promotion of linguistic diversity requires the proactive, accountable and measurable participation of all sectors of the

international community". (Conclusion 2 of the Yuelu Proclamation on the Protection and Promotion of Linguistic Diversity of the World)

iii. "It is essential to combine the protection and promotion of linguistic diversity with the development of science and technology." (Conclusion 3 of the Yuelu Proclamation on the Protection and Promotion of Linguistic Diversity of the World)

The proclamation was released in February 2019 by UNESCO and the Chinese Ministry of Education. The document was first drafted during an International Conference in Changsha, China in September 2018. It is considered as UNESCO's first permanent document themed on linguistic diversity protection. The proclamation has a purely consultative status but one of its calls –for the celebration of a decade of indigenous languages by the UN- has already materialized.

UNESCO Contribution

The importance and contribution of a rights-based approach towards the safeguarding of linguistic rights is recognized by Blake, but at the same time, she criticizes its lack of enforcement and failures in sufficiently answering the demands of minority language communities, emphasizing the contribution of UNESCO's normative instruments towards that aim. Blake, further argues that linguistic diversity is implied as one of the fundamental principles by UNESCO's Constitution and is also directly supported by the 2001 Declaration on Cultural Diversity. Blake particularly emphasizes the issue of language endangerment and the special needs of language users that are trying to prevent the loss of their languages. The willingness of the language communities to save their languages is recognized as a catalyst, along with awareness over the value of language maintenance. Language documentation is recognized as a means for the preservation of languages, at least through the medium of a repository, in order for the unique knowledge and cultural traditions of language communities to be saved. At the same time, the challenges of these processes are emphasized, particularly the neglected and poorly defined state of cultural rights, as well as, the unwillingness of states to effectively implement them due to their complex enforcement and the associated financial costs. (Blake, 2008)

UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

The Declaration includes, in its first article, provisions for the protection of the existence of the linguistic identity of minorities within nation states, and the encouragement and promotion of that identity, with the adoption of appropriate legislative and other measures. The fourth article provides for the adoption of appropriate measures by states so that, persons belonging to minorities are provided with opportunities to learn their mother tongue or to have instruction in their mother tongue. Skutnabb-Kangas argues that “the general identity-oriented clauses 1.1 and 1.2 have many obligating, positive measures whereas the education clause 4.3 is full of opt-outs” (Skutnabb-Kangas, 2007) Henrard, further notes that the Declaration, inspired by the contents of Article 27 of ICCPR, further illuminates its meaning, and goes beyond its provisions, stating that “[w]hereas Article 2(1) of the Declaration merely reformulates Article 27, Article 1(1) explicitly recognises the right to linguistic identity of minorities, which is merely implicit in Article 27 ICCPR”, while Article 4, among others, “stipulates that states shall take measures to create favourable conditions to enable persons belonging to minorities to develop their language” Henrard remains critical though, noting that the provisions “remain quite vague” and “are formulated in such a cautious way that states can easily argue that they comply” due to the “use of formulations such as "wherever possible", "adequate opportunities" and the use of the verb "should" rather than "shall" to reflect states’ obligations inevitably concede a wide margin of discretion to states” (Henrard, 2001)

International Covenant on Civil and Political Rights

As it has already been mentioned, Article 27 of the International Covenant on Civil and Political Rights is a provision that is central for the protection of linguistic minorities due to its binding nature, as well as, the widespread recognition of the Covenant, which has been ratified by the vast majority of states, around the world. Article 27 mentions that: “In those States in which […] linguistic minorities exist, persons belonging to such minorities shall not be denied the right […] to use their own language.” Reddi, recognizing the significance of the provisions of the covenant argues that “[t]he principal contemporary international law provision concerning minority rights is

contained in article 27 of the International Covenant on Civil and Political Rights (ICCPR). Article 27 has been described as 'the first internationally accepted rule for the protection of minorities despite the reluctance of states to afford special legal status to minority ethnic, religious or linguistic groups as such. (Reddi, 2002) The provisions of Article 27 are indeed quite basic in nature but the fact that the Covenant was drafted during a period where communal expressions of rights were given minimum attention, in favour of individualistic ones, is illustrating the significance of its contents.

United Nations Declaration on the Rights of Indigenous Peoples

The Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the General Assembly in 2007. The declaration insists that indigenous peoples are full human rights subjects (Article 1), who are "free and equal" (Article 2) and who “bear rights to self-determination” (Article 3) and self-government (Article 3). The declaration begins with affirmations of equality and emphasizes principles of non-discrimination, while also recognizing the value of diversity and rights to cultural difference (Article 4). The adoption of UNDRIP is evidence of how indigenous rights became a worldwide concern when activists were able to successfully link specific indigenous rights concerns to the larger conversation about human rights and self-determination. Certain indigenous leaders expect that the declaration will bring renewed appreciation of indigenous rights as human rights. (Johnson, 2020)

Article 13 recognizes that “Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.” and that “States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.” Article 14 states that “Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages […]” and that “States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children […] to have access, when possible, to an education […] provided in their own language.” Article 16 states that

“Indigenous peoples have the right to establish their own media in their own languages […]” (United Nations Declaration on the Rights of Indigenous Peoples)

Xanthaki argues that “the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007 has been widely recognized as a major success for indigenous peoples’ rights”. The Declaration was adopted with objections presented by New Zealand, Canada, USA and Australia, though all four states have now reconsidered and expressed their support of the Declaration. The significance of the Declaration lies, according to Xanthaki, not only to the fact that the recognition of the extensive indigenous rights that it contains leads to the expansion of international human rights law standards, but also to the transformative effect these rights have for international law and international organizations, challenging the primacy of state actors over non-state actors, and of absolute state sovereignty over values such as of justice and democratic inclusiveness. (Xanthaki, 2014)

Of course, the adoption of the UNDRIP is also of remarkable significance for indigenous communities, with the deliberations over the Declaration revealing that that some population groups, particularly indigenous populations, depend on collective rights. More than it might be comprehended by outside parties, their identities are deeply entwined with their communities, and in their eyes, rejecting collective rights is equivalent to rejecting their right to identity, while historically, the violations of their human rights, include violations of a collective character toward indigenous groups as a whole, thus not being able to be prevented by the provision of a human rights framework exclusively based on individual rights. (Xanthaki, 2014)

Xanthaki, further argues that beyond the importance of the recognition of collective rights for indigenous peoples, this recognition can be of remarkable significance for other sub-national groups, as well, noting that “[c]ontrary to other international instruments, the UNDRIP unfolds the generic ‘right to culture’ into other rights included in several articles, including the right of indigenous peoples to their cultural traditions and customs; to manifestations of their cultures, spiritual and religious traditions; the right to their histories, languages and oral traditions and so forth” (Xanthaki, 2014) It is the first document that explicitly recognizes some aspects of the "right to culture," treats such aspects as human rights (as opposed to state rights), and connects those features to sub-national groupings, rather than to whole populations of

states. The Declaration advances current international legal norms for cultural rights in this regard. (Xanthaki, 2014)

Indigenous rights recognition is also recognized as significant for the expansion and further recognition of other minority rights, as the perception that indigenous rights are a "special case" or "an exception" to the otherwise individual focus of human rights constitutes a significant barrier to the extension of these rights to other groups, such as minorities. The continuous consolidation of indigenous rights, though, after the adoption of the UNDRIP, especially by the regional bodies, can potentially be transformative, forming the basis for the further expansion of these rights to other minority groups. (Xanthaki, 2014)

Analysing the background behind the drafting process of the Declaration, Toki notes that “[t]he Declaration on the Rights of Indigenous Peoples was the initiative of the Working Group on Indigenous Populations ("WGIP")”, which was established in 1982, with the mandate of developing international standards regarding the rights of Indigenous peoples. “The Declaration was a manifestation of this mandate and a clear articulation of international standards on the rights of Indigenous peoples. It was not until 25 years later, in September 2007, that the final text was adopted by the General Assembly.” (Toki, 2011)

Toki further argues that the effect of the Declaration is particularly consequential and valuable, as “[t]he Declaration provides a benchmark, as an international standard, against which Indigenous peoples may measure state action. State breach of this standard provides Indigenous peoples with a means of appeal in the international arena.” (Toki, 2011) Being a soft law initiative without binding provisions, the Declaration indeed may not force states to legislate rights for indigenous minorities but certainly constitutes an important guide for these minorities in their dealings with state authorities, influencing their demands and serving as a powerful instrument in negotiating state concessions towards indigenous groups claims.

International Year and International Decade of Indigenous Languages

Based on a recommendation by the Permanent Forum on Indigenous Issues, the United Nations General Assembly passed a resolution in 2016 (A/RES/71/178) designating

2019 as the International Year of Indigenous Languages. The Permanent Forum was mobilized by the fact that around 40% of the estimated 6,700 languages spoken globally, at the time, were considered as endangered, the majority of which are languages spoken by indigenous peoples.

The United Nations General Assembly, through its resolution, expressed its concern for the vast number of indigenous endangered languages, and particularly indigenous ones, recognized the need for action in order for these languages to be preserved, promoted and revitalized acknowledged the value that these languages signify for the transmission of indigenous cultural elements to the future generations, and proclaimed 2019 as the International Year of Indigenous Languages. The resolution stated that the aim of this action was to raise awareness over the severe loss of indigenous languages, the urgent need to protect, revive, and promote them, as well as, the necessity for more urgent action at both the national and international levels.

Furthermore, the General Assembly, reiterated its calls for the preservation of indigenous endangered languages and proclaimed through its resolution A/RES/74/396 in December 2019, an International Decade of Indigenous Languages, from 2022 to 2032, in order to "to draw attention to the critical loss of indigenous languages and the urgent need to preserve, revitalize and promote indigenous languages and to take urgent steps at the national and international levels". UNESCO has been assigned the leading role for the coordination of activities related to the Decade, in cooperation with other agencies. Explaining the need for the proclamation of the Decade, the Global Action Plan of the International Decade of Indigenous Languages states that "The scope of work envisaged during the International Decade is beyond the capacity of any single nation, country, stakeholder group, generation, scientific discipline, policy framework or set of actions. So, the International Decade presents a unique framework for convening a wide range of stakeholders collectively to align their efforts, accelerate development plans, make strategic investments, set research and legislative agendas, and launch concrete initiatives around common goals." (Global Action Plan of the International Decade of Indigenous Languages). The Los Pinos Declaration, was drafted in February 2020 in Mexico City, containing strategic directives, thematic considerations and setting outcomes and implementation guidelines for the coordination of actions with regards to the International Decade.

These resolutions clearly set the matter of language endangerment into the international agenda. The action from the General Assembly came in the background of years of action in the Economic and Social Council and its Permanent Forum on Indigenous Issues, as well as, UNESCO and other United Nations agencies and initiatives. Sehume recognizes the value and significance of the endangered indigenous languages, noting that the extinction of indigenous languages leads to a number of severe implications "since this represents the loss of cultures, civilisations and the reservoir of accumulated strategic resources for good governance, peacebuilding, reconciliation, and sustainable development" (Sehume, 2019)

Importance of education for linguistic minority rights

The role of education in language transmission and maintenance, is by definition, a prominent one. While education is a complex process that requires careful planning and long-term considerations, Skutnabb-Kangas maintains that the education of children belonging to minority groups is often organized without taking into account research findings and evidence with regards to the beneficial role of multilingual and bilingual education, that would enable their optimal educational performance, while further noting the results of dominant-language medium education on students belonging to linguistic minorities, and observing that the result of this foreign -or dominant-language medium education has typically been the lack of reading and writing abilities in their own language. Frequently, their proficiency in the dominant language has not reached the level that dominant-language peers have; their academic achievement, at least on a group level, has been low; and many have felt ashamed of their language and culture and have not taught it to their own children in the -misguided- belief that this will help them. Quite often, this vicious cycle is what drives the current need for language revitalization, after causing the endangerment of non-dominant minority languages. (Skutnabb-Kangas, 2015)

There has been substantial discussion about the function of language in education, particularly in colonial and post-colonial contexts, on a global scale. English took over as the official language of instruction in many colonies, which ultimately halted the transmission of indigenous languages from one generation to the next. Only European languages were recognized and permitted for official and educational purposes in the

French, Belgian, Spanish, and Portuguese colonies. […] In order to give English a better standing in social and educational contexts, British cultural policy emphasized primary education in the local languages with a transfer to English at higher levels. (Nic Craith, 2007)

Skutnabb-Kangas recognizes a number of challenges in the implementation of linguistic human rights in education, particularly the costs involved in the process of delivering educational services in minority languages but also some ideological misconceptions and fears regarding the matter of multilingual education. At the same time, the mono-disciplinary examination of the topic does not help, as well, as any research confined in a single discipline is not able to adequately analyse the complex, multidisciplinary issue of minority language rights in educational settings. Skutnabb-Kangas further notes the critical role of education for the transmission and maintenance of minority languages, stating that "[e]ducational linguistic human rights, especially the right to mother-tongue medium education, are among the most important rights for any minority. Without them, a minority whose children attend school, usually, cannot reproduce itself as a minority. It cannot integrate with the majority but is forced to assimilate into it." (Skutnabb-Kangas, 2008) Both the right to get a basic education primarily in one's mother tongue and the right to master the official or dominant language are included in educational LHRs. These two are not at odds with one another; quite the contrary, as high levels of mother tongue skills are combined with high levels of majority language abilities in contexts where learning is additive. (Skutnabb-Kangas, 2008)

Chapter 4 - Post-Colonial state practices on Linguistic Rights of Minorities

4.1 South Africa

Language Landscape in South Africa

Mkhize and Balfour provide a scrupulous description of the current linguistic landscape in South Africa noting that "[d]espite the fact that the majority of people in South Africa speak languages other than English and Afrikaans, these languages – English, in particular, and Afrikaans, to a lesser extent – continue to dominate official public domains. The continued hegemony of these languages undermines the language rights of other citizens as enshrined in the Constitution of the Republic of South Africa (1996) and other legislative frameworks. In education, this hegemony circumscribes additive multilingualism as promoted in the Constitution, Language-in- Education Policy (LiEP) […] Language Policy for Higher Education […] and other legislative frameworks." (Mkhize & Balfour, 2017) Mkhize and Balfour further observe a feature that sets many African countries, including South Africa, apart from the conventional idea that language rights are mainly needed for the protection of the languages of minorities: "Contrary to the developed world where language rights are often intended to protect languages spoken by the minority groups […], in Africa, including South Africa, language rights are aimed at protecting languages spoken by the majority of the people against dominant languages, such as English, French, Portuguese, and sometimes other dominant African languages". (Mkhize & Balfour, 2017) It should be noted, though, that it is the total population of the individual minority groups that may constitute the majority, whereas, individually, all of the linguistic communities constitute minority groups.

Henrard does, indeed, define every single population group in South Africa "that can be distinguished on ethnic, religious and linguistic grounds" as a minority, "with the possible exception of the English language group". This fact has remarkable consequences for the language policies that South Africa, as a multilingual postcolonial society, without a clear linguistic majority, follows. Henrard notes that "[t]he most numerous linguistic group in South Africa is the Zulu, comprising 23 % of the national population, while Ndebele is spoken by only 1.3 % of the national population." (Henrard, 2001)

Henrard further argues, with regards to the vast linguistic diversity in South Africa, that "[t]he current general provision on languages contained in the South African Constitution (section 6, 1996 Constitution) reveals that in addition to Afrikaans, English and several indigenous languages (Khoi, Nama, San, Sepedi, Sesotho, Setswana, Siswati, Tshivenda, Xitsonga, isiNdebele, isiXhosa and isiZulu), there are several other European and Asian languages spoken in South Africa (German, Greek, Portuguese, Hindi, Gujarati, Tamil, Telegu, Urdu, Arabic, Hebrew and Sanskrit). The wording of the constitutional clause, further, makes clear that the list of languages mentioned is not exhaustive as it states that these languages are those commonly used by communities in South Africa. Additionally, even though all linguistic groups are dispersed across the country, the majority of them do have relative geographical concentrations in any particular region or provinces. (Henrard, 2001)

The colonial history of South Africa and especially the battles "between the two groups of colonisers, namely those speaking English and Dutch (later Afrikaans)" have created a long-lasting legacy that continues to impact linguistic policies and regulations in the country. This legacy is responsible, according to Henrard, for the "strong emotional reactions from a sector of the Afrikaner population towards rules which, purportedly aimed at multilingualism, they consider to be a veiled attempt to move towards English lingua franca" At the same time, as is the case in most - if not all - colonial settings, the "development and promotion of the indigenous languages and the Indian languages was simultaneously neglected, thus giving these languages an inferior status" (Henrard, 2001)

Sehume does also note the destructive and persistent impact of the racial segregation regime of apartheid in the denial of language rights and the marginalisation of certain indigenous linguistic communities, claiming that "[r]ecent evidence paints an unpleasant picture about the general welfare for those regarded as southern Africa's first nations and their descendants, some of whose languages have become extinct, their identity a casualty of the forces of globalisation and their material circumstances not much improved" (Sehume, 2019)

Historical Timeline

The formation of South Africa is the result of the union of four distinct British colonies in 1910, which were formed as a result of the defeat of the Boer republics during the Second Anglo-Boer War. “In the Union of South Africa, Afrikaans-speaking students were taught in either English or Dutch, both languages which they did not speak in their daily lives.” (Brenzinger, 2017) Afrikaans was recognized as an official language in 1925 and gained constitutional recognition after the establishment of the Republic of South Africa, in 1961, along with Dutch and English. The 1983 Constitution recognized only English and Afrikaans only as official languages, granting them equal treatment. Currie notes that “[o]fficial bilingualism in a multilingual country came to symbolise white political domination”. (Currie, 2013)

Brenzinger claims that “[t]he Union had no intention whatsoever of improving the situation of the economically and politically deprived non-white majority [...] Even more disastrous times were ahead for the marginalised majority when the National Party came to power in 1948. The National Party embarked on institutionalising the Apartheid system with the segregation of racial groups at its core. In 1950, the first Group Areas Act was put into effect which imposed residential and social segregation along racial lines on all citizens of the Union.” (Brenzinger, 2017) The Afrikaans-speaking white ruling class created an Apartheid state at this time, dividing people based on their mother tongues. The non-white majority was made to live in distinct, autonomous administrative regions, where the "official" languages of these ostensibly "independent states" were their respective native tongues. Under the Apartheid government, the languages of black Africans were standardized, and language learning and teaching resources were created with the intention of dividing and ruling over the black majority. In order to deny the majority access to resources and political rights, languages were thus employed as a device for political division. (Brenzinger, 2017)

Of particular significance is the decision in 1974, by the Apartheid regime to impose Afrikaans, along with English, as a compulsory medium of instruction in schools. This decision led to mass protests by black students who refused to be taught in Afrikaans, in an act of defiance against a language that was perceived as ideologically aligned with the racist regime. “On 16 June 1976 a protest march of black students in Sharpeville ended in a massacre in which schoolchildren were shot by the police. This brutal reaction by the Apartheid state accelerated the backing and activities of the liberation struggle within the country as well as in exile.” (Brenzinger, 2017) This brutal historical

episode enlightens the significance of language policy in the South African context and the deeply politicized nature of the topic in the country, which continues, to a certain degree, until today.

After the abandonment of the apartheid policies in 1990 and the first free and democratic elections in 1994, a new Constitution was adopted in 1996, which set a milestone for the protection of minority languages. Brenzinger notes that "[i]n line with an overall ambitious vision for a new South Africa, the Constitution recognises eleven official languages with equal status and mentions several additional ones as being considered in future national developments." (Brenzinger, 2017) The Constitution was being drafted against the background of the indisputable dominance of the English-speaking and Afrikaans-speaking elites, which had to be accommodated, along with the historically marginalized South African majority, which linguistically speaks a wide number of African languages, in a manner that will enable to construction of a democratic country that will be inclusive towards all of its citizens, for the first time in its history. However, despite the constitutional provisions that were adopted for the empowerment of the previously underprivileged and marginalized African languages, English not only continue their hegemony in most public domains but further expanded their presence. That dominance of English, which constitutes a shared feature of almost all post-colonial states that experienced British colonialism, is explained by Brenzinger, who claims that "[d]emands in global economies for efficient communication makes English the default language choice in the market-driven South African society. For South African citizens fluency in English is a prerequisite for career advancement and also an indispensable requirement for performing well in the educational system. The improvement of English skills among the non-mother-tongue-speaking South African majority is therefore generally considered the top priority in all levels of formal education." (Brenzinger, 2017)

Brenzinger notes that "[w]ith eleven official languages, the Constitution of post-Apartheid South Africa is the world champion with regard to respecting a nation's language diversity." Nevertheless, he is also cautious over the impact of the constitution claiming that while the official recognition of a high number of languages "deserves to be saluted as a powerful statement in recognising multilingualism", at the same time, that number poses obstacles in the creation and implementation of meaningful language

policies, leading thus to the dominance of English in all public domains. (Brenzinger, 2017)

Sehume claims that the hegemony of English, "is a convenient by-product of history, alongside Afrikaans, and contemporaneous necessity of fashioning a new nation", a lingua franca, that is employed for the processes of effective communication and mutual understanding along racial, linguistic and ethnic lines, observing that South Africa "like most postcolonies, resorted to the former colonialist's mode of communication to assuage the various factions coming together at the birth of a new polity". Sehume, further argues that in "South Africa, language equity is both an existential and real-life necessity to undo the cumulative damage wrought by the segregationist apartheid policies" as well as a powerful device that will enable the "struggle for representation (in parliament and government), affirmation (in the media spaces), and empowerment (for their socialisation institutions)." of marginalized communities (Sehume, 2019)

Minority Languages in Education

Munyai and Phooko recognize the fact that "colonialism in Africa and apartheid in South Africa prevented the development of indigenous languages in both primary and tertiary education" They further claim that there is a high number of South Africans who are not able to gain access to institutions of higher education due to language barriers, noting that "[t]he reality is that indigenous languages, despite their Constitutional recognition as official languages, have not been afforded the official space to function as academic and scientific language" (Munyai & Phooko, 2021). Sapignoli and Hitchcock describe a bleak situation regarding the education of students belonging to indigenous minorities in the past, arguing that "[i]ndigenous children were frequently discriminated against in schools, and they were sometimes subjected to bullying by their peers and corporal punishment by the teachers and administrators. As a consequence, there was a high drop-out rate from school, resulting in low levels of qualifications necessary for getting jobs in the formal economies of the southern African states." (Sapignoli & Hitchcock, 2013)

For Mkhize and Balfour, "the links between underperformance in schooling and poor throughput rates for black students especially (for whom English remains a second or third language) at universities, are obvious." They claim that the lack of the utilization

of African languages “as a viable means of enabling success in higher education remains equally compelling”, criticizing the denial of “a fundamental human right for the vast majority of South African citizens who remain not only entitled to the right, but expectant of higher education’s commitment to enable academic success through it.” (Mkhize & Balfour, 2017)

Henrard recognizes the fact that language “became a central component of apartheid education”, which caused “a great deal of educational disadvantage among African students” (Henrard, 2001) In an attempt to comply with the constitutional imperatives for multilingualism “the national ministry of education has proclaimed Norms and Standards regarding Language Policy published in terms of Section 6(1) of the South African Schools Act, 1996.” The foundational tenets of this document should be viewed in light of the Language in Education Policy created by the same department, which emphasized the value of additive and multilingualism in education and required schools to foster multilingualism. Henrard further observes that. The legacy of apartheid's indoctrination about the inferiority of indigenous languages and the notion of the absolute strength of English have a significant impact on the decision to use English as the medium of teaching. (Henrard, 2001)

The “National Curriculum Framework for Children from Birth to Four” is a policy document of the Department of Basic Education, which among others, provides for the designing of programmes for children based on indigenous knowledge and behaviours in order to enhance their development and learning processes. The curriculum framework does also recognize the value of learning mother languages and the importance of language acquisition in a multilingual environment, stating that “[a]ll children need to hear and learn to speak in their mother tongue. If they have a solid foundation in their mother tongue, they will find it easier to learn another language as they will have already found out how language is structured and how to communicate with others. This will help them if they are cared for in a place where more than one language is spoken” (National Curriculum Framework for Children from Birth to Four)

The Incremental Introduction of African Languages (IIAL) policy contains a number of stated aims, including the promotion of the use of African languages by all learners in school settings, the strengthening of the use of previously marginalized African languages, the increased access to languages by school students beyond English and Afrikaans, and the utilization of African languages as tools for the promotion of social

cohesion through the preservation of indigenous heritage and cultures. The policy had set its initial commencement in 2015 for the first school grade with the expected full implementation in all school grades occurring in 2026.

The National Education Policy Act recognises the determination and development of a national policy for language in education as a responsibility of the respective minister. The Act further provides for "every learner to be instructed in the language of his or her choice where this is reasonably practicable", for "every person to establish, where practicable, education institutions based on a common language, culture or religion, as long as there is no discrimination on the ground of race" and for "every person to use the language and participate in the cultural life of his or her choice within an education institution". (National Education Policy Act 27 of 1996)

The Language in Education Policy acknowledges the value of cultural diversity, the need for the promotion of multilingualism, for the development of the official languages and respect for all languages used in the country, stating that one of the main aims of the relevant Ministry in the field of language education is "to pursue […] additive multilingualism as an approach to language in education", "to promote and develop all the official languages", "to support the teaching and learning of all other languages required by learners or used by communities in South Africa" and to "to develop programmes for the redress of previously disadvantaged languages", among others. (Language in Education Policy 1997)

The Language Policy Framework for Public Higher Education Institutions (2020), mandates all institutions to develop policies and practices for the promotion of multilingualism, indicating at least two official languages, apart from the medium of instruction or the language utilized for the processes of teaching and learning, to be used for scholarly discourse and official communication purposes. The policy recognizes the value and the need for study of official languages "especially those which were historically marginalised, including the Khoi, Nama and San languages", with institutions expected "to develop language plans and strategies indicating mechanisms they will put in place to enhance the development and promotion of indigenous African languages as centres of research and scholarship." (Language Policy Framework for Public Higher Education Institutions, 2020)

The policy further provides for the Department of Higher Education and Training to establish and implement a funding model for the implementation of the policy objectives, as well as, a monitoring instrument, "with indicators that will form part of the monitoring process." (Language Policy Framework for Public Higher Education Institutions, 2020)

Pan South African Language Board (PanSALB)

The Pan South African Language Board was established by the Pan South African Language Board Act 59 of 1995, with the main task of developing languages that had been disadvantaged and marginalized during the previous regimes of colonialism and apartheid. Munyai and Phooko observe that the "[t]he Board was established to promote respect for and ensure the implementation of the constitutional principles in section 3(9); to create condition for development and for the promotion of equal use and enjoyment of all official languages in South Africa; to prevent the use of any language for the purposes of exploitation, domination or division; to develop official languages in South Africa, promote respect for and the development of other languages used by communities in South Africa; promote the utilisation of South Africa's language resources" (Munyai & Phooko, 2021). Henrard further notes that "[t]he Pan South African Language Board undeniably provides a degree of institutional support for the language policy as outlined in the Constitution. The Board's functions can be described as advising government, making proposals on language policy and investigating complaints concerning language rights" (Henrard, 2001)

Mkhize and Balfour appear to be quite assertive about the failures in the performance of the PanSALB, criticizing its failure to "develop a visible plan and profile for language development in South Africa, while also noting certain legislative and policy failures with regards to Board, arguing that the "absence of credible regulatory control, a realisable mandate and capacity to deliver on its accountability aims, has weakened PanSALB." (Mkhize & Balfour, 2017) Henrard does also appear to be critical of the Board noting that "[t]he Language Board's activities and difficulties suggest that the practice regarding language issues in South Africa is rather disappointing. This is exacerbated by the shift towards English lingua franca in the public domain." (Henrard, 2001)

South African Constitution

Brenzinger notes that "[t]he Constitution of the Republic of South Africa of 1996 addresses languages at globally unprecedented length and in great detail in the founding provisions of chapter 1, section 6." The constitution recognizes Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa and isiZulu as official languages of the state. Nine of the eleven languages, are indigenous ones or "African languages" as they are commonly termed in South Africa. English have been introduced through colonialism and Afrikaans are linguistically close to Dutch and have a colonial legacy, as well. The section further calls for steps for the elevation and advancement of the indigenous languages to be taken, by the state, in recognition of their historically disadvantaged status.

The importance of the recognition of the 11 official languages in the 1996 Constitution is highlighted by Henrard, due to its symbolic value especially towards the speakers of the nine African languages, which have never in the past received any state support or recognition and whose speakers have been discriminated during the apartheid era. All official languages are expected to be treated equitably and "must enjoy parity of esteem". Henrard is sceptical, though, about the absence of any provision providing for the equal treatment of the official languages, "but 'merely' the equitable treatment and parity of esteem of these languages" (Henrard, 2001). In terms of the official use of languages by the national and provincial governments, the constitution stipulates that any of the official languages may be used based on a number of set criteria, provided that at least two of the languages are used, while municipalities are expected to use languages based on the linguistic profile of their residents.

The constitution further provides for the establishment of the Pan South African Language Board (PanSALB) with the aim of promoting and actively supporting the use of all official languages, as recognized by the Constitution, the Khoi, Nama and San indigenous languages and sign language, while also promoting and fostering respect for all the languages that are commonly used within South Africa, including German, Greek, Gujarati, Hindi, Portuguese, Tamil, Telegu and Urdu, as well as, Arabic, Hebrew, Sanskrit and other languages used for religious purposes in South Africa. (Brenzinger, 2017)

Reddi notes similarities between “[t]he provisions of article 27 of the ICCPR and sections 30 and 31 of the South African Constitution”, arguing that [t]his is evident from the rights contained in these provisions of an individual to the enjoyment of culture, the practise of religion and the use of the language of his or her choice”, further noting though that there are “distinct differences between the respective provisions: […] Foremost amongst these differences is that article 27 bestows on members of minority groups rights that are intended to be additional to those that they enjoy by virtue of being a part of the population of a state. Section 30, however, does not distinguish between individuals or groups of individuals in respect of the application of the rights contained therein. Under this section, the enjoyment of these rights applies equally to all persons regardless of whether they are members of a majority or minority group.” (Reddi, 2002)

Providing for the right of every person to speak the language and engage in the culture of their choice, section 31 of the constitution, adopts a more collective approach in contrast with the more individualistic one of its proceeding articles, in conjunction with the “phrase used in article 27 to the effect that persons belonging to cultural, religious or linguistic communities may exercise their rights 'in community with other members of their group'. The use of this phraseology in the provisions of article 27 has been interpreted to mean that the article is constituted of a combination of individual and collective rights. […] However, like section 30, and unlike article 27, the right afforded by section 31 may be enjoyed by all the citizens of the state without distinction on the basis of membership of a majority or minority community” (Reddi, 2002)

Henrard does also recognize the similarities between section 31 of the Constitution, regarding its formulation and scope with Article 27 of the ICCPR, noting that this leads to its identification “as a minority rights provision sensu stricto.” She then particularly notes the significance of the existence of a constitutional provision safeguarding the rights of minorities, only a few years after the abolition of apartheid, a regime that was notorious for its disregard of minority rights. With the probable exception of the English language group, all language groups in South Africa can be considered linguistic minorities, hence the corresponding constitutional sections function as measures to protect minorities. Henrard further notes that the model of the indirect protection of linguistic minorities provided by the South African Constitution is similar with the one present in the European Charter for Regional or Minority Languages of the Council of

Europe, which does also not recognize rights directly to speakers of minority or regional languages but its centre of attention is rather the languages themselves and their use. (Henrard, 2001)

Henrard does also note a couple of controversies regarding the constitutional provisions on languages. The first concerns the provision on the right to education, contained in section 29 of the 1996 Constitution, which is relevant to the issue of the operation of single medium institutions, mostly in Afrikaans, which have led to a number of political conflicts and legal cases, due to the position of Afrikaans during the apartheid regime on the one hand, and the reaction of the Afrikaans-speaking community on the other. The second regards the multiple obstacles on the implementation of the constitutional provisions, evident due to the domination of English in the public domain, that according to Henrard, have effectively led to "a de facto denial of several constitutional principles concerning the status of languages and multilingualism" (Henrard, 2001)

National Development Plan

The National Development Plan (NDP), an important government policy document on long-term strategy, drafted in 2012, by the South African National Planning Commission, with the aims of eliminating poverty and reducing inequality by 2030, contains a number of provisions related to language. The NDP recognizes the constitutional provisions on non-discrimination based on language, among other characteristics, recognizing though the persistent detrimental effects of the legacy of official discrimination, noting that more efforts are needed for the implementation of the constitutional provisions and the related legislation on language equality.

The NDP recognizes that in South Africa, language and race are often interrelated and further notes the dominant nature of English, arguing that "lines of inclusion and exclusion will be shaped by the degree of competence that individual South Africans possess in this world-dominant language", thus providing for the need that "[b]y 2030, every South African should be functionally literate in English." The NDP crucially does also recognize the value and embraces minority languages, stating that "South Africans must continue to make daily use of languages other than English.", noting that "[t]his will only happen if other languages are cherished by their language communities, and continue to be vital in both the spoken and written word. If stories are still told, poems

written, songs sung, then the language will live, and its speakers will become multilingual citizens." The NDP recognizes the role of the government in the realization of this goal, through providing funds for the support of related programmes and encouraging the transmission of languages across the country's communities. The importance of language learning is also emphasized as a powerful contrivance for the promotion of mutual understanding and the development and maintenance of social cohesion. The proposal included in the NDP includes the plan for the learning of at least one of the nine indigenous, African, languages by every South African at school. The need for the development of the necessary second-language curricula, along with the training of educators is also recognized, while the Plan does also provide for the encouragement of learning an African language by adults who do not speak one, even for the encouragement of businesses to reward their employees who do so.

National Language Policy Framework

The policy contains, among others, provisions on the use of languages and the pursual of multilingualism in the sphere of public service and governance. Specifically, the policy states that even though each government agency is expected to agree on one or further working languages "no person will be prevented from using the language(s) of his or her preference", while also providing for the utilization of translation and interpreting services for the effective management of the multilingual environment, within government structures. With regards to external communication with members of the public, the policy states that in official correspondence, the language of the citizen's choice is expected to be used, while in oral communication the preferred official language of the target audience is to be utilized, with the provision of translation and interpretation services, where this is reasonable. (National Language Policy Framework 2003)

Regarding government publications, a "publication programme of functional multilingualism" is expected by the policy to be implemented by national government departments wherever publication in all 11 official languages is not required. The policy does also provide for the publishing of information required for the "effective and stable operation of government at any level" in all 11 official languages and, in the case of

provinces, in the official languages recognized by each province. (National Language Policy Framework 2003)

Use of Official Languages Act

The Use of Official Languages Act stipulates that "[e]very national department, national public entity and national public enterprise must adopt a language policy regarding its use of official languages for government purposes", which is expected to comply with constitutional provisions, and identify at least 3 of the official languages to use in the provision of its services. Language Units are also expected to be established in government departments and agencies, tasked with the management of language issues. (Use of Official Languages Act 2012)

Brenzinger notes that "[i]n addition to the nine language policies on the provincial level, the Use of Official Languages Act (Act No. 12 of 2012) further requested all "national departments; national public entities; and national enterprises" (section 3(1)(a-c)) to adopt a language policy which must "identify at least three official languages that [they] will use for government purposes" (section 4(2)(b))." The Act further provides for the adoption of measures promoting the use and elevating the status of indigenous languages which have historically been disadvantaged. (Brenzinger, 2017)

4.2 Australia

General Linguistic Landscape in Australia

Even though a wide number of languages are spoken in Australia, including a plethora of indigenous (Aboriginal) languages, Aboriginal English, Creoles and other minority (immigrant) languages, the dominance of Standard Australian English is indisputable. Despite the fact that the revival of indigenous languages has seen some advances, in certain states, a number of language mechanisms, that are in place continue to maintain the hegemony of Standard Australian English, the language spoken by the dominant majority in Australia. Such mechanisms include the practices of language testing, the provisions of educational curricula and the media. (Truscott & Malcolm, 2010)

Harris notes that it is estimated that "at the time of the first British settlement in Australia in 1788, anywhere between 250 and 300 Indigenous languages were spoken […] By 2001, […] this number had declined to 'perhaps' 100 traditional languages being spoken", observing that "the rate of decline of the remaining languages could see them all dead by the new millennium" (Harris, 2012) noting though "a number of developments that appear to indicate a greater willingness on the part of the federal government to engage with the issues of Indigenous language rights" (Harris, 2012).

The Australian legislature has just recently begun to acknowledge the unique rights of Australia's Indigenous communities. This acknowledgment has only been limited to a relatively limited articulation of native title rights and cultural heritage. This is despite the fact that the ongoing loss of Indigenous Australian languages has consequences for crucial domains including law, health, and education. (Harris, 2012)

The population of Indigenous Australians (also termed as Aboriginal and Torres Strait Islanders) is comparatively small, constituting around 2,5% of the total population of the country in 2006. This percentage presents a wide variety across the different states and territories of the federal country, with the Northern Territory being the epicentre of indigenous presence in Australia and "having by far the highest proportion of Indigenous residents, with almost 32% of its population claiming Indigenous heritage. By comparison, Queensland and Western Australia, which have the next highest proportion of Indigenous residents, both have less than 4%." (Wigglesworth & Lasagabaster, 2011)

Few Indigenous languages are still being taught to children in Australia as their first language, and many of those that were being spoken at the time of colonization have now been lost. In terms of both individual and collective identity, language loss has a catastrophic social impact on Indigenous communities, which in turn has a negative influence on the wellbeing of Indigenous people. Additionally, it is detrimental to all Australians in general, since Indigenous languages convey knowledge about customs and cultures relating to the land, the environment, and people, and this knowledge is normally not available elsewhere. To deal with the high rate of language loss, bilingual education's role in preserving and promoting Indigenous languages and cultures is vital. (Wigglesworth & Lasagabaster, 2011)

Wigglesworth and Lasagabaster recognize the complex history that underpins the current language situation in Australia, with a lot of the indigenous languages only ever having a few hundred speakers, commenting on the movement of people as an important factor of the historical developments that impacted language developments: “Historically, many Indigenous people were forcibly relocated to missions, cattle stations and towns away from their traditional homelands. More recently, people have moved voluntarily for a variety of reasons, including employment, medical treatment or marriage outside their communities. This has resulted in a situation where, of the 300 or so languages spoken at the time of colonisation, all but about 20 are today seriously endangered”, while at the same time “many Indigenous children entering the formal school system in remote areas come to school with only very limited knowledge of Standard Australian English, if any.” (Wigglesworth & Lasagabaster, 2011)

Australia, contrary to other states, does not have any federal laws providing for the recognition or protection of Indigenous languages and, at the same time, has poor protections against language discrimination. Beacroft notes that “Australia has a long-history of discriminating overtly against Indigenous peoples, and discriminatory practices against Indigenous languages are intertwined with racist practices” (Beacroft, 2017) The absence of language recognition and the lack of human rights legislation have further contributed to discrimination based on language. Beacroft notes that around 17% of people belonging to Australian indigenous communities do not speak English well or at all. However, Australia's government-funded translating and interpreting service, which was a pioneer in multilingual telephone interpreting services and dates back to the 1940s, has never provided services in Indigenous languages. After

a trial in 2000, the first interpreting services for Indigenous speakers were established in the Northern Territory, however language services for Indigenous peoples are still insufficient and underdeveloped, especially for those residing in isolated communities. (Beacroft, 2017)

Legacy of Colonialism

Collingwood-Whittick notes, with regards to the impact of colonial practices on Australian indigenous communities that "[i]n many respects post-contact Australia's domestic history has been dominated by the question of how to suppress the psychic irritant of an indigenous presence judged incompatible with the values of a civilized European society. After failing in the initial phases of colonization to physically exterminate the Aborigines, the default solution Anglo-Australians have consistently fallen back on has been the 'absorption' (cultural and/or biological) of the natives." (Collingwood – Whittick, 2012) Since homogeneity was a necessary element for the settler nationalist project, in terms of both culture and national phenotype, the fundamentally alien culture of the continent's Aboriginal occupants was perceived by the settlers as an obstacle that needed to be eliminated, during the process of the creation of their settler colonial society. (Collingwood – Whittick, 2012)

It was only in the mid 20th century, in late 1950s, and in response to negative attention by the international community, that the government initiated a "propaganda campaign" with the aim of eliminating the racial prejudices from the part of white Australians. (Collingwood – Whittick, 2012) It is now considered a fairly recognized fact that Indigenous Australians were severely denied rights from the time when European settlers first came to Australia until the decades that followed federation. Following federation, each state developed its own system for handling Aboriginal matters, including ways to limit the rights of Indigenous people. (Chappell, Chesterman & Hill, 2009) The birth of the United Nations in 1945 and the subsequent adoption of the Universal Declaration of Human Rights in 1948, signifying the inclusion of human rights discourse as an important item in the international policy agenda led to a significant, though gradual, change in the position of indigenous persons in Australian society. At the same time, due to the constitutional arrangements and the federal nature of the state, "the search for equal rights for Indigenous Australians had to focus as much

on discrimination within the states and territories as it did on national laws." (Chappell, Chesterman & Hill, 2009)

The enactment of the federal Racial Discrimination Act in the mid 1970s is considered a milestone, as for the first time, indigenous people in Australia gained formal equality with the non-indigenous Australians. Chappell, Chesterman & Hill note that "[t]he Act is Australia's version of the United Nations' International Convention on the Elimination of All Forms of Racial Discrimination (1966)", further observing that "[t]he achievement of formal equality did not, and does not, amount to the equal enjoyment of human rights, a fact that immediately quells any impulse to celebrate the removal of racial discrimination from Australia's laws." (Chappell, Chesterman & Hill, 2009)

The period from the 1970s to the 1990s has been termed by Chappell, Chesterman and Hill as the Indigenous rights phase, owing to the fact that during this period the Australian state moved to recognize rights for Indigenous Australians over the possession of their lands and their distinct societal organisation. The activism from the part of indigenous communities over the proceeding periods is recognized as playing a significant role for these developments. (Chappell, Chesterman & Hill, 2009)

Truscott and Malcolm describe the treatment of indigenous communities in Australia as a product of a number of social ideologies, many of which are closely linked with the history of colonial expansion: "[T]hese attitudes are related to broader social, political and historical concepts including power relationships among groups in societies, discrimination, nation-building and social engineering" (Truscott & Malcolm, 2010) These attitudes, then led to a series of linguistic practices that affected indigenous linguistic minorities in Australia, including the stigma associated with certain languages or dialects, including Aboriginal English and severe restrictions on the use of languages, including the prohibition of the use of indigenous languages in schools and the sole use of Standard Australian English as the medium of instruction in education.

Truscott and Malcolm describe the current linguistic environment in Australia, as one in which overt language policies exist along with covert mechanisms, with the maintenance of Standard Australian English achieved through the promotion of ideologies that favour their dominance, as well as, through the marginalization of

minority groups. They argue that "[o]vert language policies can afford to pay lip service to inclusive language, diversity and democratic processes as long as covert mechanisms are functioning to execute policies with contrary aims" (Truscott & Malcolm, 2010)

Timeline of Language Policy formation

Constant shifts, changes of position and realignments have marked the history of language policy in Australia with its evolution being the product of complex social and political attitudes. Djite distinguishes five distinct phases of language policy formation in Australia, the "accepting but laissez-faire" phase, up to the mid-1870s, the "tolerant but restrictive" phase, from the 1870s to the early 1900s, the "rejecting" phase, from 1914 to 1970, the "accepting" or "multicultural" phase, from the early 1970s to the late 1980s, and the "Asianist" or "economic rationalism" phase, from the late 1980s and the early 1990s. (Djite, 2011)

The first of the five phases, the "accepting but laissez-faire" phase was characterised by the positioning of Australia's identity firmly within the bounds of the British Empire and English language. A policy of monolingualism was pursued, along with linguistic and cultural homogenisation, with English being regarded as the language of authority. This phase included practices towards the assimilation of Aborigines and the homogenisation of non-British immigrants (Djite, 2011)

The second of the five phases, the "tolerant but restrictive" phase is identified by the introduction of top-down policies, characterised by an overt hostility towards any foreign languages, as well as, their speakers. In the field of education, provisions against bilingual schooling were introduced, along with the prohibition of the use of languages other than English, as medium of instruction. The language shift towards English was pursued and encouraged. (Djite, 2011)

The third of the five phases, the "rejecting" phase is considered as an even more restricting one, compared to the proceeding ones, marked by an increased hostility towards foreign languages, which was reinforced by the bleak economic conditions that the depression of the 1930s and World War II created. This phase included the marginalisation of immigrants from non-Anglo and non-Celtic backgrounds, with their

languages excluded from the society and considered only appropriate to be used privately. (Djite, 2011)

The fourth of the five phases, the "accepting" or "multicultural" phase is described as a shift towards the acceptance of difference, an acceptance that, at least in part, occurred due to the demands both by indigenous and migrant groups for the right to use their languages. This phase oversaw the weakening of the connections between Australia and Britain -as the former colonial metropolis- and instead focused in the multicultural identity of the nation, legitimizing the existence and public display of cultures and languages beyond English. It was also during this period that infrastructure necessary for the cultivation and maintenance of linguistic pluralism was created. (Djite, 2011) Djite notes that "in the 1970s, Australia was moving way from a monolingual ethos and a long-held intransigence towards any formal recognition of cultural and linguistic diversity. Faced with an increasingly multilingual population and language needs and growing prominence of ethnic communities pushing for services, Australian institutions were responding with great ingenuity and inventiveness […] and were on the verge of achieving remarkable advances in national policy-making" (Djite, 2011)

The fifth of the five phases, the "Asianist" or "economic rationalism" phase is characterised by a focus on Asian languages, the use of which is perceived be beneficial for economic and trade purposes, as well as, an insistence on English literacy, which is also dictated by economic terms, due to the hegemonic position of the English language as an international lingua franca. This phase largely reversed the gains of the fourth phase towards the acceptance and embracing of the multilingual identity of the Australian society.

Djite argues that "[t]he shifting pendulum of language policy-making in Australia underscores the fact that language policy always carries sociopolitical overtones. The decades since the early 1990s have been in sharp contrast with the enthusiasm generated in the late 1970s and 1980s" (Djite, 2011), further claiming that "[n]ational sentiment and ideologies have indeed dictated language policy in Australia over the last 30 years." In the 1970s and 1980s, Australia transitioned from a monolingual mentality that aspired to assimilate all other languages and cultures to a principled advocate for languages based on intellectual and cultural enrichment. Before English literacy was once more rediscovered as the best way to ensure and improve employment opportunities at the national level while maintaining global trade links, some languages

(such as Asian languages) came to be seen as economic assets that could be used to boost the nation's regional trade potential in the middle of the 1990s. “As a consequence, language policy in Australia continues to be a site for negotiation between the monolingual ethos and the urge for linguistic pluralism.” (Djite, 2011)

A number of language mechanisms including language testing, education curricula and the media work in order to elevate the status of English and simultaneously and as a direct result further marginalize the position of indigenous and minority languages, already attributed a low-prestige status, as a consequence of colonial social engineering and language planning ideas and initiatives. These covert mechanisms are able to form an unofficial or invisible language policy that effectively derails the implementation of the official language policy. (Truscott & Malcolm, 2010) Truscott and Malcolm claim that “a de facto or invisible form of language policy exists that is not explicitly written but is implicitly created: it privileges monolingualism over multilingualism and impedes full revitalisation and maintenance of Indigenous languages. The elevated status of English encourages a shift away from these languages and encourages speaker communities to accept – automatically, unconsciously and therefore without resistance – the hegemonic ideologies of the dominant socio-political group. This shift goes against certain human rights and has significant implications in the fields of health, education, law and social justice.” (Truscott & Malcolm, 2010)

After more than two centuries of the implementation of assimilationist practices, which denied the value of indigenous languages, the endangerment of these languages in Australia is now a well-established and documented fact. A number of positive developments have been initiated over the last years, with the introduction of programmes for the revitalization of certain languages, as well as, the establishment of language centres and schools which have brought attention to the issue and have assisted indigenous communities in their struggle for the maintenance of their languages, still facing the obstacles that are present, including the covert mechanisms that favour the dominant language and the long-lasting legacy of colonial assimilationist practices.

National Policy on Languages

The National Policy on Languages (NPL) was adopted in 1987, supporting the continued learning of community languages by members of ethnic communities and emphasizing the learning of further languages by monolingual English speakers. In 1989, the NPL identified Arabic, Chinese, French, German, Greek, Indonesian, Italian, Japanese and Spanish as languages of "wider teaching" allocating additional support and resources for their study. The National Aboriginal Language Project (NALP) was also introduced by the NPL. Djite notes that "[t]he strength of the NPL lay in its comprehensiveness, federalism and broad representation of all Australians, as well as its research arm", while Truscott and Malcolm recognize that NPL emphasized "consultation and shared decision making, national importance of Aboriginal languages and prioritization of educational and social role of languages currently in use" (Djite; Truscott & Malcolm)

Australian Literacy and Language Policy (ALLP)

The Australian Literacy and Language Policy (ALLP) is a product of the early 1990s, a period when the advocacy for the maintenance of minority (both indigenous and migrant) languages had started to lose momentum. As a result, the policy effectively labels language maintenance as an individual responsibility, avoiding to recognize the community efforts that are essential for the transmission and maintenance of any language, let alone an endangered language. Djite noted that "[a]long the same lines, Aboriginal languages were only to be maintained and developed 'where they are still transmitted', suggesting that maintenance and development of these languages could not be undertaken anywhere else. Although Aboriginal languages were disappearing at an alarming rate, even their 'recording' for posterity could only 'occur where speakers so desire and in consultation with their community'" (Djite, 2011)

The ALLP received criticism for emphasizing "English literacy" and languages that were immediately necessary for Australia's tourism and trade purposes to the exclusion of other languages. Despite its claims to be a continuation of the NPL, the NLP's approach of open pluralism had been scaled back to only include Asian languages that were seen to be commercially important for Australia's trade prospects. (Djite, 2011) Truscott and Malcolm do also argue that with the introduction of the ALLP in the early 1990s, Australia changed its focus from community concerns to national economic

goals and global strategic objectives, noting also the elevation of the status of English, which were associated directly with the Australian identity, culture, community and workplace. (Truscott & Malcolm, 2010)

Commonwealth Literacy Policy (CLP)

The CLP once more constrained the scope of national linguistic policy, advancing the delicate topic of "traditional Australian values," and advocating the idea of “Fortress Australia”, much like the post-multicultural policy adjustments that proceeded it. As a result, English literacy was referred to as "the single most essential achievement of education," "the core skill," or "the critical objective of schooling," further weakening any inclusive approach to language policy-making. (Djite, 2011)

Minority Languages in Education – Bilingual Education

Harris argues that “linguistic rights in Australia have been identified as central to the issue of schooling for Indigenous children (particularly in remote communities), with special reference to the question of bilingual schooling” (Harris, 2012). The enforcement of assimilationist policies obliged indigenous students to study exclusively in English, with the lack of implementation of bilingual programmes, a condition which violated the linguistic rights of indigenous communities and deteriorated relations between Indigenous and non-Indigenous people during the enforcement of such policies, until the late 20th century. Australia's federal government finally recognized the necessity of creating Indigenous multilingual programmes in order to preserve Aboriginal languages and traditions in 1972, following two centuries of adamant assimilationism. In the majority of these programmes, instruction began in the mother tongue of the students, with the use of English gradually increasing as students progressed. (Wigglesworth & Lasagabaster, 2011)

Wigglesworth and Lasagabaster, commenting on the role and significance of bilingual education, state that “[b]ilingual education plays a triple role in this situation: (1) it provides children with early education and literacy development in the language in which they are fluent; (2) it may contribute to reversing the increasing loss of Indigenous languages in the communities where children still learn and speak them and

(3) the children also learn Standard Australian English." (Wigglesworth & Lasagabaster, 2011)

Since colonization, policy-makers have quite often ignored the abundant empirical evidence that demonstrates the benefits that can be attributed to well-run bilingual education programmes as they consider the linguistic diversity of Indigenous languages a barrier to the imposition of English as the primary language. (Wigglesworth & Lasagabaster, 2011) Opposition towards bilingual programmes is not absent in the political landscape of Australia and, in fact, a political decision on the dismantling of bilingual education programmes in the Northern Territory, the territory with the largest concentration of Indigenous communities in Australia, was taken in 2008, although programmes have since been restored. Collingwood–Whittick considers the decision as "a clear violation of Arts. 14.1 and 15.1 of UNDRIP because of the potentially devastating impact of that decision on Aboriginal cultures", since deciding to make English the primary language of instruction for non-anglophone Aboriginal children living in the sole region of Australia where indigenous languages are still spoken practically equated to the end of those languages. (Collingwood–Whittick)

Although the Northern Territory Bilingual Education Program was vibrant during the 1970s and 1980s, the lack of political will, combined with growing funding cuts - including those for teacher training- have caused these programmes to wane. Students who speak an indigenous language have limited access to programmes in their mother tongue or to specialized English as a second language programmes, as well. This also applies to speakers of more recent variants, such as the creole languages that are extensively spoken in northern Australia. In many situations, education policy and practices do not identify or take into account the learning needs of these students, either as English language learners or as learners of their mother languages. (Disbray & Wigglesworth, 2019) Beacroft, further argues, that the Northern Territory government decision pausing bilingual education, although now overturned, has long-term consequences, as it "was not only contrary to evidence and taken without any consultation, but was officially stated to be a response to 'poor ... literacy and numeracy results'. In this manner it problematised the role of Indigenous languages in schooling, rather than acknowledging their role as a national cultural asset and the value of bilingualism/multilingualism to children" (Beacroft, 2017)

The scarcity of bilingual programmes at schools, which are often victims of rapid policy changes, perpetuates inequalities in the Australian society, as non-indigenous Australians, belonging to the dominant majority can easily pursue education in their mother language, while indigenous Australians are only left with the option of education in another language (English) and not their mother tongue, quite often with the unfortunate result of achieving poor results in both languages. Further obstacles that bilingual programmes face, according to Wigglesworth and Lasagabaster are the "the lack of adequately trained teachers in Indigenous schools, high mobility of the teachers and a curriculum which does not take account of the children's cultural background", as well as, the absence of "strong support from the administration and the lack of adequate, stable and well-trained teachers to meet the needs of this educational model", leading to bleak prospects for the future of indigenous languages but also for the educational and life opportunities of indigenous children, who are left to cope with educational systems that are inadequate for their needs. (Wigglesworth & Lasagabaster, 2011)

Domestic legislation

Despite the fact that anti-discrimination legislation has been enacted in Australia since the 1970s, there are no provisions specific for the linguistic rights of the protection of Indigenous Australians or, in fact, of any minority group. (Harris, 2012) The Racial Discrimination Act (RDA) of 1975 does not make any explicit mentions on either language or minority rights. Harris notes, thought that "it could be argued that language […] is the main marker that identifies a distinct ethnic group", and thus discrimination based on language might be perceived as discrimination against a specific group, which is covered by the Act. Harris further recognizes that the enactment of specific legislation, either in the form of education or human rights is a more effective avenue for the protection of linguistic minorities. (Harris, 2012) The Racial Discrimination Act constitutes the domestic implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. Its central role in the protection against discrimination, including based on language, is explained by the absence of national human rights legislation and by the primacy of Commonwealth (federal) laws in cases of inconsistencies with state/territory legislation under the provisions of the Australian Constitution. Beacroft maintains that "the RDA provides a limited but

unique equality guarantee regarding laws for persons of a particular race, colour or national or ethnic origin" (Beacroft, 2017)

In light of the federal nature of the Australian state, it is worth noting that despite the absence of federal legislation on linguistic rights, the state of Victoria has in fact enacted the Victorian Charter of Human Rights and Responsibilities Act 2006, which contains provisions central to the issue of linguistic minorities accommodation. Article 19(1) of the Charter stipulates that "[a]ll persons with a particular cultural, religious, racial or linguistic background must not be denied the right, in community with other persons of that background, to enjoy his or her culture, to declare and practise his or her religion and to use his or her language", while Article 19(2) of the Charter provides that "Aboriginal persons hold distinct cultural rights and must not be denied the right, with other members of their community - (a) to enjoy their identity and culture; and (b) to maintain and use their language" (Victorian Charter of Human Rights and Responsibilities Act 2006). Harris claims that it is of significance that "the Act protects the right of all persons to use their language, but also makes specific provision for the rights of Indigenous Australians to maintain and use their language" (Harris, 2012) The Aboriginal Languages Act of 2019 in New South Wales is considered as the first -and so far the only- piece of legislation that is exclusively devoted to indigenous languages. The Act does recognize the value of indigenous languages as an integral part of Aboriginal culture, mentions the detrimental role that government decisions in the past had leading to the loss or endangerment of many indigenous languages, as well as, the need for their fostering, maintenance and revitalization. However, the Act does not recognize any specific linguistic rights, merely providing for the establishment of an Aboriginal Languages Trust, which is tasked to provide strategies and policies for the support of Aboriginal linguistic communities.

A number of policies and reports have been published by various Commonwealth (federal) government agencies, including the National Indigenous Languages Survey Report, the 2009 National Indigenous Languages Policy, the 2009 Social Justice Report**,** the 2020 National Indigenous Languages Report (prompted by the declaration of the International Year on Indigenous Languages by UNESCO) and the reports of the Closing the Gap program. All of them recognize the value of indigenous languages for persons belonging to indigenous communities and recommend a number of actions for the government in order to promote the use and maintenance of indigenous languages.

However, the reports and policies do not have binding nature, in contrast with legislation, and their implementation depends on whether there is political willingness from the part of the government. State and territory governments have also developed policies of consultative nature, including the “Many Voices - Aboriginal and Torres Strait Islander Languages Policy” in Queensland, the “Language Services Policy” in Western Australia, the “Keeping Indigenous Languages and Cultures Strong” plan in Northern Territory, the “Pupangarli Marnmarnepu 'Owning Our Future’ Aboriginal Self-Determination Reform Strategy” and the “Taking care of Culture” report in Victoria. These policy papers have been introduced relatively recently and their impact needs to be critically examined. Whether the recommendations they contain and the goals they set are to be followed by the respective governments is an issue that will define the future of language policy in Australia and will certainly determine the future of the remaining Aboriginal languages in the country. The mere existence of these policies and reports signifies at least an interest, from the part of the state authorities, towards the recognition of the value of indigenous languages and the support of minority linguistic communities. However, concrete plans need to be implemented in order for multilingualism to be actively supported, the gap between policy and practice to be eliminated and for the indigenous communities to find the assistance they seek in order to avoid further language loss.

4.3 Aotearoa/New Zealand

Language landscape in Aotearoa/New Zealand

The linguistic landscape in New Zealand is characterized by the presence of a national (indigenous) minority language - te reo Mori or the Māori language, English as a dominating language, spoken by the majority of the population as a result of colonisation, and a considerable presence of migrant languages, including Pacific languages. Although English may not be a legally recognized official language in New Zealand, it is certainly the dominant language in practice. The Māori Language Act of 1987 firstly recognized te reo Māori as an official language and New Zealand Sign Language (NZSL) became the country's second official language in 2006. (De Bres, 2015)

Ruckstuhl observes that "Māori are the indigenous people of Aotearoa New Zealand making up 15% of the population […] As is the case for most Indigenous peoples globally […], the Māori language has been impacted upon by the force of the dominant language, in this case English, and since the earliest colonial times has been under threat." The signing, in 1840, of the Treaty of Waitangi, allowed British settlement - and the subsequent creation of a settler colony - while guaranteeing the protection of the taonga (prized possessions) of the indigenous Māori. While te reo Māori continued to be the main language of Māori until the mid-twentieth century, then, in search of better opportunities, a large number of Māori started migrating to urban areas, where English dominated. Gradually, the language shift accelerated, as Māori adults stopped transmitting their language to their children, who were speaking instead English, "with the decline so great it was predicted that there would soon no longer be native speakers." (Ruckstuhl, 2018)

Hill argues that "[t]he Māori language is the Indigenous language of Aotearoa/New Zealand, while the languages of the Pasifika people were brought to this country from the islands of Polynesia from the 1960s onwards." Although both linguistic minorities share similar characteristics, dealing with the same linguistic environment where English are dominating, "they differ in the status their languages have in New Zealand society and the extent of language shift they have suffered." (Hill, 2017) The Māori language is the recipient of much greater support from state authorities, as a recognized official language. The impact of colonial practices has, nevertheless, been so

detrimental and persistent that the language has experienced a devastating language shift towards English, to the extent that English is in most cases the first -and in many cases the only- language amongst Māori. On the other hand, Pasifika languages may receive less official recognition and support, as they are considered migrant lanauages, but they are used more extensively among the Pasifika community. (Hill, 2017)

De Bres notes that "[t]here is no overarching national language policy, although calls for one have been made since at least the 1980s." even though "[a] well-formulated proposal was published by the Ministry of Education in 1992" and "[a] Statement on Language Policy published by the Human Rights Commission in 2008 […] sought to provide an elementary interim framework to prioritise, implement, and monitor language policy development.", further arguing that "[d]espite the absence of such, significant policy activity has occurred in relation to particular languages […]" (De Bres, 2015) The absence of an overall language policy may appear problematic on the surface, but is actually balanced by the presence of a number of policies on language that cover specific administrative areas and the existence of specialized agencies that develop strategies for language revitalization and maintenance.

The impact of colonialism on Māori language education

The arrival of British colonialists in New Zealand, according to May, brought the usual detrimental effects that indigenous people encountered in the majority -if not the entirety- of the colonial world, including "political disenfranchisement, misappropriation of land, population and health decline, educational disadvantage and socioeconomic marginalization" (May 2012). New Zealand did not escape the assimilationist approach that almost all colonial contexts adopted, and its impact has been profound in the field of Māori education and in the decline of transmission of the Māori language. May notes that "the teaching of English was considered to be a central task of the school, and te reo Māori was often regarded as the prime obstacle to the progress of Māori children", while "schooling came to be seen as a primary instrument for taming and civilizing the 'natives' and forging a nation which was connected at a concrete level with the historical and moral processes of Britain." (May 2012)

This disregard for the indigenous cultures demonstrated by the colonial regime led to further oppression and prohibitions towards the expression of Māori culture and

language within educational institutions. As May observes, "by the turn of the twentieth century the Māori language had all but been banned from the precincts of the schools; a prohibition, often enforced by corporal punishment, that was to continue until the 1950s" (May 2012) The further implementation of assimilationist policies in education throughout the twentieth century had the direct consequence of a rapid decline on the use of the Māori language. And despite the fact that assimilation was theoretically replaced in the 1960s, by the practice of 'integration', which "was less crude than assimilation in its conceptions of culture", the assumptions of cultural hierarchy were still present. Due to Māori activism and criticism, a new multicultural education approach emerged in the 1970s and 1980s replacing integration. This model encapsulated the incorporation of a "Māori dimension into the curriculum that was available to all pupils, Māori and non-Māori alike". (May 2012) The constant language shift towards English and loss of te reo Māori continued despite the policy changes. "Consequently, by the 1990s, only one in ten, 50,000 people in all, were adult native speakers of Māori […] In the 2006 Census, 131,613 (23.7 percent) did identify as Māori speakers […], although this figure is likely to encompass a wide range of language proficiency" (May 2012)

May, further argues, that the rejection of assimilation which stems from colonial social engineering, by Māori activists, increasingly intensified since the 1970s, demanding the recognition of Māori political culture and social organization and of the cultural and linguistic distinctiveness of Māori, by the state authorities. At the same time, the introduction of the Waitangi Tribunal has also played a critical role in "reinvesting moral and legal authority in the Treaty of Waitangi" leading to both direct and indirect acts of restitution from the part of state authorities to Māori claimants. (May 2012) The return of the Treaty to prominence has been beneficial for the cause of Māori cultural recognition and equality, with the adoption of the concept of biculturalism effectively signifying the mutual acceptance both of the European and the indigenous identity of Aotearoa/New Zealand and the coexistence of both cultures. May further notes the significant role of the judiciary towards that aim, observing that "[w]here the New Zealand government has balked at its own rhetoric, it has been kept to its task by the judiciary." (May 2012)

Te reo Māori as an official language

Harris maintains that "[t]he importance of the Māori language has been recognised both by the New Zealand courts […] which have interpreted that provision of the Treaty of Waitangi that guarantees the protection by the Crown of the taonga (treasures) of the Māori people to mean Māori language, and in the Māori Language Act 1987". The act, which has now been replaced by the Māori Language Act 2016, recognized the Māori language as an official language of New Zealand. Both acts recognize the right of any person to use Māori during the course of legal proceedings, "although this right does not extend to a requirement that the speaker should be addressed or answered in Māori." (Harris, 2012)

Albury comments of the dramatic change, that occurred after the 1980s, after decades of colonial assimilation: "Accepting with guilt that colonial policies to assimilate the Māori almost entirely eradicated their language, New Zealand embarked on an ambitious programme to revitalise te reo Māori. The language obtained official status, the government now funds the Māori-medium schools that Māori communities themselves had established, te reo Māori is available as a second language in the curriculum, and a central government agency has overseen policy to give life the language's new status. […] Te reo Māori remains endangered, and it follows that policy has been less successful than desired" (Albury, 2018)

Recognizing the importance of education and its central role in language policy formation, De Bres argues that "[m]uch language policy activity in New Zealand occurs in relation to compulsory education", noting the significance of the inclusion of te reo Māori in the modern education system: "In the New Zealand Curriculum, te reo Māori and NZSL are accorded special mention as official languages. Alongside English, both of these may be studied as first or additional languages. They may also be the medium of instruction across all learning areas" (De Bres, 2015)

Commenting on the New Zealand Curriculum for schools that was published in 2007, Nicholson notes the major changes of focus that it presents in comparison with previous versions. "The Treaty of Waitangi, diversity, official languages, the prominent place of te reo Māori-all these aspects were highlighted. […] This Ministry of Education document is a far cry from so many of the assimilationist forces of previous years" (Nicholson, 2012) According to Nicholson, "[i]n the section of the curriculum devoted specifically to te reo Māori, the language is described as follows: Te reo Māori is indigenous to Aotearoa New Zealand. It is a taonga recognized under the Treaty of

Waitangi, a primary source of our nation's self-knowledge and identity, and an official language. By understanding and using te reo Māori, New Zealanders become more aware of the role played by the indigenous language and culture in defining and asserting our point of difference in the wider world." (Nicholson, 2012) The incorporation in the school curriculum of these developments further strengthens the recognition of te reo Māori as an official language and serves the crucial purpose of their meaningful inclusion in school settings, which is a prerequisite for the maintenance of the language, through intergenerational transmission.

The development of Aotearoa/New Zealand's 2016 Māori Language Act and 2014 Māori Language Strategy

Ruckstuhl does also identify the 1960s, and especially the 1970s, as periods of increased assertiveness from the part of Māori towards their rights and the state failures with regards to the protection of those taonga, that was supposed to be guaranteed under the provisions of the Treaty of Waitangi, including the Māori language. "This increased Māori assertiveness led to the setting up of the Waitangi Tribunal in 1975 as a permanent commission of enquiry to investigate and make recommendations to the government of the day on Māori-initiated claims in relation to Crown actions or omissions that breached the Treaty […]" (Ruckstuhl, 2018) Crucially, the Māori Language Act 1987, which also created the Māori Language Commission (Te Taura Whiri) tasked with creating a Mori language plan, was passed one year after it was determined that the Crown had violated its duties to safeguard the Māori language by the Waitangi Tribunal in 1986. The plethora of initiatives that followed included the introduction of Māori language medium education from the stage of early childhood, into school and tertiary education, the establishment of Māori language radio and television stations, the provision of funds for community-led Māori language initiatives, as well as, the conduct of Māori language surveys. Despite these efforts, the percentage of Māori language speakers decreased throughout that time. (Ruckstuhl, 2018).

Ruckstuhl further describes the operations of the Waitangi Tribunal, which is central in the formation of policies towards the Māori minority and which constitutes a feature that sets New Zealand apart from the other post-colonial states: "The Tribunal is part

of the judicial system and functions within the codified rules of an adversarial context with State "defendants" on one side and Māori "plaintiffs" on the other, with findings determined by the strength of the claim against Treaty principles that the Tribunal has refined over a number of years. […] The Tribunal's findings, while non-binding on the Crown, have had considerable influence on Aotearoa New Zealand's legal and policy landscape – the passing of the 1987 Māori Language Act being only one of many examples." (Ruckstuhl, 2018)

Smits notes that "policies of cultural recognition and incorporation constitute the cultural redress dimension of Waitangi Tribunal recommendations, and form a key strand of what became the dominant policy of biculturalism." Biculturalism constitutes the recognition by the state of the coexistence of the dominant settler and the indigenous Māori cultures leading to the recognition of the need to "reform state institutions, policies, and regulations so that they include greater participation by Māori people, as well as Māori concerns, forms of expression and cultural practices." (Smits, 2019)

May is cautious, though, regarding the official recognition of the Māori language, maintaining that its scope remains relatively limited, noting that "the right to use or to demand the use of Māori in the public domain does not extend beyond the oral use of the language in courts of law and some quasi-legal tribunals". Nevertheless, he recognizes the importance of the fact that it is one of the very few indigenous languages that has been officially recognized as an official state language in a post-colonial state. (May 2012)

A new Māori Language Act was passed into New Zealand legislation, in 2016. That Bill was accompanied by $7.5 millions of government investment in the creation of a new Māori and State partnership entity, called "Te Mātāwai" aiming to "sit at the one table which will be about the absolute promotion of Te Reo Māori across the country." (Ruckstuhl, 2018) The Māori Language Act 2016 recognizes the Māori language both as a taonga of Māori and as an official language of New Zealand, as well as, includes an acknowledgment by the Crown of the pernicious effects of past practices which failed to protect the Māori language and instead led to a significant language shift from te reo Māori to English, as well as, an expression of willingness to cooperate with the Māori community for the promotion of the Māori language. The act recognizes the single right of using the Māori language during the course of legal proceedings, without the requirement of being addressed back in the same language. A statement of

principles is also included, which acknowledges, among others, the central role of the Māori language for the Māori community, its protection under the provisions of the Treaty of Waitangi, also stating the intent of the state to collaborate with the Māori community for the promotion and revitalisation of te reo Māori.

Pasifika Minority

Although the migration of people from states of the Pacific (Pasifika communities) to New Zealand started after the Second World War, the majority of the migrants arrived in the 1960s and 1970s, being treated "as a source of cheap and ready manual labour" primarily being employed "in the expanding manufacturing and service sectors of the post-war New Zealand economy" Their numbers have risen significantly and the 2006 Census noted over 100,000 speakers of Pasifika languages in the country, most of them speakers of the Samoan language (May 2012)

Despite the relatively high number of Pasifika migrants, May notes an inaction by the state authorities with regards to their education needs that is reflective of the lack of political willingness to engage with the topic, emanating from the extremely marginalized position of Pasifika communities within the society of New Zealand. May does also observes an approach by the state towards Pasifika that differs significantly compared to the one towards the indigenous Māori: "In this respect, Pasifika are specifically constructed by the state in quite different terms to Māori – as a 'migrant' minority group, with no right of recourse to minority language and education provisions" (May 2012)

Smits appears to criticize this "construction" of the Pasifika as an immigrant group, as well, arguing that they may constitute a migrant polyethnic community but being Polynesians and having been subjected to the effects of colonialism in other Pacific regions, they share a number of common characteristics with the indigenous Māori, rather than with the other migrant communities, while, at the same time, they contribute to the enrichment of the Pacific identity of New Zealand. Thus, an alignment of the linguistic policies addressing te reo Māori with those aiming Pacific languages could be a more valid one, compared with treating this community similarly to the other migrant linguistic communities. (Smits, 2019)

Smits further notes that "[t]he 1993 Human Rights Act prohibits discrimination on the grounds of race and ethnicity, among other categories, but specifically exempts provisions that are designed to ensure the equality of disadvantaged groups" with the scope of guaranteeing the equal treatment of specific disadvantaged groups, such as the Māori and Pasifika communities. According to Smits, "[t]hese accommodations for Pasifika communities suggest that the immigrant/indigenous distinction is less important in shaping multiculturalist practices and policies than the ways in which national values and identity can be mobilized by the groups involved". The distinction between indigenous and immigrant has been essentially blurred, setting a precedent that can be significant for the development of policies aiming to strengthen Pacific languages in a manner comparable to those already existing for Māori.

May agrees that developments in the protection of te reo Māori "do not preclude, in principle at least, the extension of promotion-oriented language and education rights to other minority groups in Aotearoa/New Zealand." (May 2012) The state has exhibited a lack of initiative towards an effective response over the linguistic rights, interests and needs of other minorities, especially the Pasifika minority. Despite the fact that in this specific case it is the identity of Pasifika that is central in considering them close to indigenous communities, the distinction between indigenous and migrant languages does relate to the rights protection models by Arzoz, which highlight the differentiated ways that legislative frameworks and state policies adopt toward languages of migrants and indigenous ones.

It is also important to note the activity of the "Ministry for Pacific Peoples", a state agency that acts as an advisor for the government on matters that relate to the Pasifika minority. The Ministry has developed a draft Pacific Languages Policy, which although far less advanced or sophisticated compared to those directed at te reo Māori, constitutes an important milestone for the protection of Pacific languages in New Zealand. The strategy states as its main actions the needs to "shift perspectives to ensure Pacific language use is valued", to "increase opportunities and pathways for learning Pacific languages" and to "create environments for Pacific languages to be used more often, and in more spaces". (Draft Pacific Languages Policy)

Maihi Karauna Strategy (2019-2023)

The main scope of the Maihi Karauna Strategy is to encourage the use, learning and appreciation of the Māori language in New Zealand, to the point that the language is used broadly and is rendered an ordinary aspect of the daily life in the country. The strategy acknowledges the need to raise the number of domains where the Māori language is used as a critical one, including the adoption of te reo Māori as a first language for the Māori community at school, as well as at home and within communities as an established practice.

The strategy sets three ambitious goals for the promotion of the Māori language in the long-term. The first one refers to the increase in the number of New Zealand citizens that consider te reo Māori as an indispensable element of the country's national identity, to at least 85% by 2040. The strategy explains that by achieving this goal the social and cultural circumstances in which te reo Mori speakers feel at ease using the language will be created, along with the generation of interest towards learning and using te reo Māori.

The second of the goals states that at least one million New Zealand citizens shall have the ability to maintain basic conversations in te reo Māori, by 2040. The value of intergenerational transmission is emphasized as a key aspect for the survival and maintenance of the language. The strategy relies on the development of policies and the allocation of funds by the state for the achievement of the goal.

The third and final goal states that te reo Mori will be used by 150,000 Mori who are 15 and older, as frequently as English, by 2040. The goal emphasizes the everyday use of languages as a feature of profound importance for the maintenance of a language in the long term.

The strategy identifies three priority groups for the achievement of its goals: young people, proficient speakers and the public sector. With regards to young people, the group is identified as critical, in recognition of the fact that language acquisition and development happen mostly at a young age and thus the Strategy expects that the majority of the potential new speakers of te reo Māori will be young in age. Proficient speakers are identified as a priority group, according to the Strategy, as they are considered necessary for the viability of the language. The public sector is also identified as being remarkably important, due to the extensive interaction of the Māori

community with the public service, both physically across New Zealand, as well as, online or through broadcasting.

Māori Language Strategy (2014)

The Māori Language Strategy of 2014 includes five stated results areas that refer to raising the status of the language in society, increasing the number of people both in the Māori community and among other New Zealand citizens who are able to speak Māori, growing awareness regarding language revitalization efforts, supporting the use of the language and the maintenance of its dialects and increasing the use of the language, particularly within home settings.

The Language Strategy further assigns tasks for the government with the scope of supporting the revitalisation of the Māori language, including the identification of the responsible agencies for planning, implementation and reporting of language programmes and services.

4.4 Comparison of state practices with International Law

It is true that many governments have in recent decades imposed one official language, without much consideration for the languages that are actually in use, in various parts of the world. Indigenous and minority languages were to be eradicated or, at the very least, restricted to the home by European colonial powers like the British, French, Spanish, and Portuguese, especially since the sixteenth century. This was true even if these languages were spoken by a sizable portion of the population, and in some rare but not unheard-of cases, even the majority. The imposition of colonial languages and the extinction of indigenous languages were often accomplished through the use of the law, which was also frequently employed in educational settings to punish or degrade pupils who chose to speak their mother tongues instead of the official language. In addition, there has always been ideological support for monolingualism inside a state, which encourages the exclusive use of a single language and excludes linguistic minorities. Minority languages were stigmatized as "undesirable, backward, or uncivilized" and linguistic minorities were forced to assimilate by being excluded from receiving state services, having their names changed forcibly, and having the sole option of using the official language in educational institutions. (Kochenov & De Varennes, 2014)

It has only become apparent, in the last few decades, that a state's linguistic policies must be in accordance with international human rights legislation and that the right to free expression extends to private language preferences. States all around the world are expected to do their best to defend their policies against international human rights norms, that are in certain cases binding upon them. (Kochenov & De Varennes, 2014)

Skutnabb-Kangas and Phillipson refer to six distinct periods of linguistic rights development, based on the development of relevant state practices and the development of International Law:

- The first phase (pre-1815), when minority linguistic rights were mostly ignored, with the majority of countries imposing monolingual regimes, and some being indifferent on the issue, allowing minorities to speak their own languages as long as they were obedient on their supposed duties, such as taxation

- The second phase (until the First World War), when minority linguistic rights were recognized by the signatories of the Final Act of the Congress of Vienna 1815, but with many other states continuing to impose monolingualism
- The third phase, (mid World Wars period), when minority linguistic rights were included in a number of international provisions, either in peace treaties or through the League of Nations, noting that in some cases the recognition of these rights worked, though in others it did not
- The fourth phase (from 1945 until the 1970s), the era of the drafting of the most important human rights instruments, with the focus mainly on individual rights and not minorities.
- The fifth phase (after 1970s), shows renewed interest in minorities, with linguistic rights appearing in national constitutions, less so in regional human rights provisions, and are barely mentioned in international ones. Their impact varies and mostly depends on the degree of implementation of these provisions.
- The sixth phase, that could be argued that we are currently entering, where existing provisions are reinterpreted in favour of the recognition of minority linguistic rights, as well as, the strengthening of monitoring systems that aim to guarantee the actual implementation of already recognized rights. (Skutnabb-Kangas & Phillipson, 2010)

Harris notes a pattern of common features, which shape the experiences of Indigenous communities in settler societies, "including the various strategies by which efforts were made to discourage the use and transmission of Indigenous languages. Given the parallels between the Indigenous communities and the settler societies regarding language policies" Harris notes that "it is useful to contrast the post-colonial experience of different nations" towards the implementation of linguistic rights. (Harris, 2012) Although such an attempt would certainly require profound resources in order to be complete and cover multiple policy areas – as language due to its nature is present is settings ranging from education to healthcare to justice, a basic attempt to compare the practices that the three states examined in this chapter reveals a number of similarities but also significant differences in the policies selected and implemented. Of course, any kind of comparison, either among the three states or examining their compliance with international standards needs to take into account the unique nature of the linguistic landscape in each of the state. For instance, it could be stated that while revitalizing one

indigenous language in New Zealand is certainly a challenging task, dealing with the multilingual environment of South Africa or attempting to support the maintenance or revitalization of a considerable number of indigenous languages in Australia are certainly even more formidable tasks. Thus, it has be acknowledged that any kind of comparison is relative in its approaches, and state actions -or indeed the lack of initiatives by states- need to be comprehended and criticized within the unique characteristics of the linguistic environment that is present in each state.

South Africa, at least in theory, at the level of policy decision-making, appears to operate within the international minority protection standards (Henrard, 2001). Indeed, the guaranteeing of the equal treatment of languages and the related provisions safeguarding minority linguistic communities by the Constitution is not only compliant with the provisions of the International Covenant on Civil and Political Rights, but even modelled after its provisions. Further legislative provisions and policy statements in the field of education, providing for access to education in minority and indigenous languages, render South Africa compliant with the United Nations Convention on the Rights of the Child, while constitutional and legislative provisions prohibiting discrimination ensure that South Africa is compliant with its international obligations towards anti-discrimination, emanating from the Universal Declaration of Human Rights and the Convention against Discrimination in Education. Nevertheless, Henrard notes that “in view of the weak nature of these obligations and the numerous loopholes in the current standards that leaves the states a great deal of discretion, this is not a difficult task.”, further arguing that “in terms of actual practice, the picture in South Africa is considerably less positive”. (Henrard, 2001) This gap between policy and practice, although not unique to South Africa, constitutes a characteristic that differentiates this country with the other two, where gaps are smaller, in the case of New Zealand due to the fact that what is prescribed by law or policy is generally implemented and in the case of Australia due to the absence of any substantial legislative or policy decisions to be implemented, at least until the past few years.

Australia, being a signatory of human rights declarations relating to the right of children in education in their first language, including the Universal Declaration of Human Rights, the Universal Declaration on Cultural Diversity, the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights (Truscott & Malcolm, 2010), as well as, the Convention against Discrimination in Education, has failed to

introduce any specific legislative provisions that safeguard the right to mother-tongue education for the minority communities residing in the country, including the indigenous ones. The only case of federal legislation stemming from the international obligations of the state concerns the Racial Discrimination Act, which prohibits discrimination against ethnic groups of people, without explicitly mentioning language. It should be noted that the provisions of both the ICCPR and the Convention on the Rights of the Child are binding upon the states that they have ratified them, and thus Australia is bound to protect the right of persons belonging to linguistic minorities to enjoy their culture and use their own language, in community with other members of their group.

New Zealand, having signed a number of human rights instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and Convention against Discrimination in Education, has introduced through legislation a limited number of language rights but has also adopted a number of policies and strategies towards the safeguarding of minority linguistic communities, including the revitalization of its national indigenous language through a number of measures, such as the introduction of indigenous languages as a medium of instruction in educational institutions. A sophisticated network of government agencies works in order to promote and safeguard the interests of indigenous Māori, setting ambitious goals for the future of the Māori language, while other minorities, such as the Pasifika community receive less state support but measures for the protection of their languages have also recently been adopted.

All three countries have acknowledged the United Nations Declaration on the Rights of Indigenous Peoples, with South Africa supporting the declaration since its initial adoption at the United Nations General Assembly. Australia and New Zealand were among the very few countries that did not initially support the Declaration, mainly due to its provisions on indigenous self-determination, but have since changed their position, expressing their support for the Declaration.

The crucial issue of implementation of language rights provisions is also presenting variation among the three postcolonial states. For instance, with regards to the provision of education in indigenous or minority languages, it is evident that while this is certainly the case in New Zealand, with the provision of Māori-medium education being a reality,

South Africa is struggling to provide education in some of its official languages, with the relevant policy setting the goal of providing such education in all school grades until 2026. Australia, on the other hand, is only providing bilingual education in some indigenous languages in a relatively small number of schools and that after re-introducing bilingual education, which was halted for some years over the last decade, due to a change of policy. The utilization of minority languages in other areas, including the crucial domains of healthcare, justice or public administration does also present significant differences among the three states, owed in part due to the high number -and the subsequent difficulty in the management- of minority languages present in Australia and South Africa, compared with New Zealand. It is also the historical background in South Africa, characterized by the brutal regime of Apartheid and the institutionalized racism and discrimination in Australia that sets these two states apart from New Zealand, which from the initial days of colonization -and in spite of the brutal experience that colonialism constituted for its indigenous population- differs, due to the presence of the Treaty of Waitangi, which provides at least some form of long-standing institutional recognition of indigenous minority rights, that has been absent for much of the history of the two other states.

Finally, all three states have introduced a number of ambitious policies, strategies and plans for the protection of minority linguistic communities. However, the introduction of such policies in Australia has occurred considerably later -mainly during the course of the past decade or during the past few years- while in South Africa they have been published since the end of the apartheid regime and the adoption of inclusive democratic practices in the mid-1990s and in New Zealand since the last decades of the 20th century. The federal nature of the Australian government further differentiates the case of Australia, as state governments have significant powers over the education systems, as well as, other vital policy fields that relate to language policy. Thus, any approach towards the protection of minority languages in Australia needs to be examined in the distinct framework provided by each of the Australian states and territories and not exclusively on a national level.

Conclusion

Questions with regards to the adequacy and the sufficiency of the international framework of linguistic minority rights protection, in the eve of the third decade of the 21st century, are timely and indispensable, especially as linguistic diversity continues to be threatened and minority linguistic communities face varying degrees of disregard on the exercise of their linguistic rights and inaction towards the preservation of their languages. For the issue of minority linguistic rights protection, being an issue of significant complexity and an interdisciplinary one, no easy or quick solutions are available. It is obvious that in the modern world not all minority or indigenous languages are going to flourish; no matter the legal framework that aims to protect them. However, linguistic diversity can be supported, and minority and indigenous communities should receive the legal protection and assistance in order to preserve, maintain and revitalize their unique heritage, which includes minority and indigenous languages, by coordinated action and in collaboration with these communities.

The detrimental effects of colonial policies practiced extensively in colonized territories during the previous centuries, leading to profound language shift and language loss, have been well documented. Post-colonial states have struggled to deal with the legacy of such practices, which in the past amounted to overt racism and discrimination. Practical factors such as the high number of minority languages, the small number of active speakers and the lack of resources, combined with ideological obstacles, such as the lack of political willingness -intensified by the lack of political power from the part of minorities- and the failure of adopting research evidence and best practices, often create conditions for the further marginalization of minority linguistic communities. Certain progress has been achieved, though, as the three states examined in this study indicate. Despite ongoing challenges, South Africa has created an extensive legislative and policy framework regarding the protection of minority languages, Australia has recently drafted a number of policy initiatives addressing the loss of indigenous languages and New Zealand has set ambitious goals for the maintenance and support of its national indigenous language. The implementation of these policies, along with the further development of language rights standards, in the future, will determine the future of linguistic communities in these post-colonial societies.

On the international level, there is a number of comprehensive and ambitious soft law provisions and initiatives which, in certain cases, already seem to lead to some action.

The prospects of minority linguistic rights would be better safeguarded under binding provisions, and given the scarcity and the rather shallow nature of the already existing binding provisions, it is evident that more ambitious hard law provisions are needed in order for certain states, that have adopted a rather indifferent position to the issue, to be legally obliged to take action. Even with the adoption of soft law provisions and initiatives, though, it is of significance that the issue of language rights and of the protection of linguistic minority communities remains relevant to the developments in the international agenda.

Many provisions of international law rightly emphasize the importance of education and safeguard the rights of children belonging to minority groups to learn their mother tongue; the implementation of this right can lead to new speakers for minority and indigenous languages, through the prioritization of the transmission of these languages to future generations, thus significantly enhancing their maintenance. At the same time, scientific research and technology –if encouraged and properly funded- are able to contribute significantly on the maintenance and revitalization of endangered minority languages. Currently, only a small number of provisions relates to this need and it is within the scope of the protection and promotion of linguistic diversity for more provisions to identify this need.

No matter how comprehensive or adequate the international framework on the protection of minority linguistic rights may in the future become, it will still need to strengthen the mechanisms towards the actual, universal application and implementation of provisions, as well as, influence national governments in the adoption of domestic linguistic policies that support linguistic diversity, as well. There is a need for minority rights protection through national norms, laws, strategies and initiatives for comprehensive and sustainable action, in line with the international protection framework, at the domestic level. Similarly, international governmental and non-governmental organizations, academic institutions, the informed civil society and the minority and indigenous communities themselves have a significant role, along with national and local governments, in the perusal and the management of the issue.

During the course of the last few years, certain progress has been achieved with the recognition of 2019 as the International Year of Indigenous Languages, by the General Assembly of the United Nations. Several states, including post-colonial ones, were influenced by this initiative and achieved milestones or important fundamental steps

towards the protection of minority languages. The introduction of a decade on indigenous languages, by the United Nations General Assembly, provides hope for further action, on a global level, with the inclusion of the issue, for the first time, at the core of the international agenda for such an extensive period of time.

Further research may examine the impact of recently adopted policy initiatives and reports in a number of post-colonial states, as well as, developments at the international level, towards the amelioration of the position of linguistic minorities and the accommodation of their rights. Much of the research in the field of minority linguistic rights has been focused on Europe and there is a need for more research and studies that deal with the issue, outside of Europe, and especially in Asian and African states. Finally, further comparative studies could be conducted among the different classifications of minorities, such the “old” ethnic minorities, the “new” immigrant minorities and indigenous minorities, in order for the differentiated linguistic policy needs among those to be enlightened.

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