



**General Assembly**

Distr.: General  
9 January 2020

Original: English

**Human Rights Council**

**Forty-third session**

24 February–20 March 2020

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

**Education, language and the human rights  
of minorities**

**Report of the UN Special Rapporteur on minority issues**

*Summary*

*In his report, the Special Rapporteur on minority issues, Fernand de Varennnes, provides a clear working definition of the concept of a minority in order to guide his activities and those of the United Nations. He describes a series of initiatives, including three regional forums that complement the Forum on Minority Issues. In the thematic section of his report, he sets out the often misunderstood language dimension of education for minorities, which emanates from the proper understanding and implementation of international human rights obligations. He describes the parameters of the application of human rights, and in particular the principles of equality without discrimination, as of primary importance for the achievement of Sustainable Development Goal 4 on quality education for all, including linguistic minorities such as users of sign languages.*

## I. Introduction

1. The mandate of the Special Rapporteur on minority issues was established by the Commission on Human Rights in its resolution 2005/79 of 21 April 2005. It was subsequently extended by the Human Rights Council in successive resolutions, the most recent being resolution 34/6, which extended the mandate under the same terms as provided for in resolution 25/5.

2. The Special Rapporteur, Fernand de Varennes, was appointed by the Human Rights Council on 26 June 2017 and assumed his functions on 1 August 2017. His term in office may be renewed for one three-year period.

3. The Special Rapporteur is honoured to be entrusted with the mandate and thanks the Human Rights Council for its trust in him. He also wishes to thank the Office of the United Nations High Commissioner for Human Rights (OHCHR) for its support in the implementation of the mandate.

4. The present report is the third submitted by the Special Rapporteur to the Human Rights Council. Section II provides an overview of the activities of the Special Rapporteur in 2019, including an update on the Forum on Minority Issues. In section III, the Special Rapporteur reports on education, language and the human rights of minorities. In section IV, the significance of raising awareness and increasing the visibility of minority issues is highlighted. Section V refers to the recommendations and other documentation emanating from the Forum on Minority Issues and those of three regional forums, which for the first time were organized under the mandate of the Special Rapporteur in order to provide more accessible and context-relevant consultations and exchanges in different parts of the world. The final section of the report contains the main recommendations of the Special Rapporteur.

## II. Activities of the Special Rapporteur

5. The Special Rapporteur wishes to draw the attention of the Human Rights Council to the information published on the web page of the Special Rapporteur, which provides general information on the activities associated with the Special Rapporteur, including communications, press statements, public appearances, country visits and thematic reports.<sup>1</sup>

6. The second year of the Special Rapporteur's mandate has been focused on raising awareness and increasing the visibility of minority issues, both

---

1 [www.ohchr.org/EN/Issues/Minorities/SRMinorities/Pages/SRminorityissuesIndex.aspx](http://www.ohchr.org/EN/Issues/Minorities/SRMinorities/Pages/SRminorityissuesIndex.aspx).

within United Nations institutions and more generally with other regional and international organizations and members of the public, and on exploring new approaches in order to improve the accessibility of the Special Rapporteur's activities, such as the Forum on Minority Issues. This has included two main initiatives:

(a) Developing, in cooperation with the Tom Lantos Institute and numerous regional minority and human rights organizations, a series of three regional forums (Africa and the Middle East, Asia and the Pacific, and Europe) on the same theme as that of the 2019 Forum on Minority Issues;

(b) Clarifying, for the purposes of the mandate, a working definition of the concept of a minority.

#### A. Country visits

7. In pursuance of his mandate to promote the implementation of the Declaration on the Rights of Minorities and to identify best practices in every region, the Special Rapporteur looks forward to continuing a dialogue with Cameroon, India, Jordan, Kenya, Nepal, Paraguay, South Africa, South Sudan, the Syrian Arab Republic, Timor-Leste and Vanuatu, to whom he has made requests to visit.

8. The Special Rapporteur wishes to thank the States that had accepted visits by previous special rapporteurs on minority issues for their cooperation and encourages other States, including those to which requests for visits have been made, to engage positively with the Special Rapporteur. Country visits have helped in addressing fundamental issues pertaining to minorities and in creating effective communication channels to bring together the means to improve technical cooperation and to respond to the need to capitalize on existing and evolving positive practices. In addition to country visits, the Special Rapporteur will ensure continuous and consistent exchanges with Member States on all matters relevant to his mandate.

9. In all of his country visits, the Special Rapporteur focuses on the importance of addressing discrimination, exclusion and other violations of human rights involving particularly vulnerable minorities such as the Roma, of doubly or triply marginalized minority women, and issues pertaining to deaf and hearing-impaired persons who, as users of sign languages, are members of linguistic minorities. During his country visits, the Special Rapporteur emphasizes the need to have consultations with members of those and other marginalized groups and communities.

10. The Special Rapporteur undertook an official visit to Spain from 14 to 25 January 2019. He also conducted a visit to Kyrgyzstan from 6 to 17 December 2019, and the report will be presented to the Human Rights Council in March 2021.

## **B. Communications**

11. The Special Rapporteur sent letters of allegation and urgent action letters to the Member States concerned based on information received from diverse sources about human rights violations perpetrated against national, ethnic, religious and linguistic minorities. Those communications and the responses thereto are publicly available.<sup>2</sup>

12. A total of 52 communications have been sent to Governments since January 2019. All of those were sent jointly with other special procedure mandate holders. Of those, 13 were urgent appeals, 32 were letters of allegation, and 7 were other letters expressing legislation and policy concerns.

13. The largest number of communications were sent to States in Europe and Central Asia (17), followed by the Asia and the Pacific (16), the Middle East and North Africa (14) and sub-Saharan Africa (3). Two communications were sent to States in the Americas region.

## **C. Conferences and awareness-raising activities**

14. Raising awareness and increasing the visibility of the human rights of minorities has been repeatedly highlighted as an important dimension of the Special Rapporteur's mandate since his election by the Human Rights Council in June 2017. This has, among other things, taken the form of frequently speaking and contributing to numerous conferences, seminars and meetings internationally, regionally and nationally, throughout the world. He has in particular, whenever the opportunity has presented itself, continuously referred to the minority issues that have been identified as the thematic priorities of his mandate, such as statelessness, education and the language of minorities, hate speech and social media, and the prevention of ethnic conflict. Cross-cutting issues have also frequently been highlighted, including the double or even triple marginalization of minority women, and particularly vulnerable groups such as the Roma and the Dalit. The Special Rapporteur has additionally emphasized on many occasions in his activities the status of users of sign languages as members of a linguistic minority. The present report contains the

---

<sup>2</sup> See [www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx](http://www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx).

main activities from July to December 2019. The activities prior to this period are identified in his 2019 annual report to the General Assembly (A/74/160).

15. On 23 July 2019, the Special Rapporteur was the keynote presenter at the opening of the 18<sup>th</sup> World Congress of the World Federation of the Deaf, held in Paris. The overarching theme of the Congress was sign language rights for all, and in his presentation at the opening session, before more than 2,000 participants from 137 countries, the Special Rapporteur referred to his confirmation at the Forum on Minority Issues, held in Geneva in December 2017, that users of sign languages were members of linguistic minorities because sign languages were fully fledged languages.

16. On 1 August 2019 in Kota Kinabalu, Sabah, Malaysia, at the 9<sup>th</sup> National Conference on Non-discrimination, with the theme of achieving unity in a plural society, the Special Rapporteur gave the keynote address, entitled “Minorities and non-discrimination in international human rights law: unity, respect and inclusion”. His address described, among other things, his mandate and raised a number of topical human rights concerns involving minorities, including the potential for millions of members of religious minorities to become stateless in Assam, India. The previous day, on 31 July, the Special Rapporteur visited the offices of the Human Rights Commission of Malaysia (SUHAKAM) and had an exchange with a number of commissioners on his role and mandate and on the significance of minority rights and issues in Malaysia. He also held courtesy meetings on the same day with high ranking Malaysian officials, including the Minister for National Unity and Social Well-being, Y.B. Waytha Moorthy, and at the Ministry of Foreign Affairs.

17. On 2 August 2019, the Special Rapporteur held a seminar entitled “United Nations special procedures and the role of the United Nations in the protection of human rights” at the University of Malaysia Sabah in Kota Kinabalu.

18. On 20 and 21 September 2019, the Special Rapporteur was a speaker at the Asia-Pacific Regional Forum on Education, Language and the Human Rights of Minorities, which was held at Mahidol University in Bangkok. There were some 70 registered participants, including representatives from eight States, who met to develop a recommendation aimed at reflecting the conditions and challenges relating to the teaching of and education in minority languages.

19. On 30 September 2019, the Special Rapporteur gave the opening statement at the round table on the International Year of Indigenous Languages, entitled “Writing the future in indigenous languages”, held at the 85<sup>th</sup> PEN International Congress in Manila. The annual congress, whose theme for 2019

was “Speaking in tongues: literary freedom and indigenous languages”, brought together some 250 writers, essayists, playwrights and poets from around the world. In addition, on 1 October 2019, the Special Rapporteur participated in a panel discussion on the human rights of minorities in South-East Asia.

20. On 7 October 2019, the Special Rapporteur was the keynote speaker at the 26<sup>th</sup> Annual International Law and Religion Symposium, convened by the International Center for Law and Religion Studies at Brigham Young University in Provo, Utah, United States. The theme was “Human dignity and freedom of religion or belief: preventing and addressing persecution”, and the Special Rapporteur spoke on the challenge of confronting hate speech worldwide, particularly in social media, which appears to increasingly target religious and other minorities. He also emphasized the importance of strengthening international human rights mechanisms.

21. On 25 October 2019, the Special Rapporteur gave the keynote address, on the United Nations main principles and actions on language rights, at the European Forum on Language Rights, organized by the Conseil régional de Bretagne, the European Language Equality Network and Kevre Breizh. The next day he spoke on the strategic use of United Nations and other human rights mechanisms to protect and implement the rights of minorities during the annual European Language Equality Network General Assembly. Both events were held in Rennes, France.

22. On 28 and 29 October 2019, the Special Rapporteur participated in the Africa-Middle East Regional Forum on Education, Language and the Human Rights of Minorities, held in Tunis. Some 50 participants met to develop recommendations aimed at reflecting the regional conditions and challenges relating to the teaching of and education in minority languages in Africa and the Middle East.

23. On 4 November 2019, the Special Rapporteur made an opening statement at the 19<sup>th</sup> Informal Asia-Europe Meeting (ASEM) Seminar on Human Rights: Human Rights Education and Training, held in Tromsø, Norway. He highlighted the need to give minority issues greater visibility by international organizations and in human rights discourse.

24. On 6 November 2019, the Special Rapporteur gave a presentation entitled “Hate speech and incitement to hatred against minorities: how can the challenges be met?” and discussed potential collaboration with staff and researchers at the Norwegian Center for Holocaust and Minority Studies, University of Oslo.

25. On 11 November 2019, the Special Rapporteur participated in an academic workshop on confronting inequality and social exclusion in Hong Kong, China, organized by the Justice Centre Hong Kong and the Department of Asian and Policy Studies at the Education University of Hong Kong, China.

26. On 14 November 2019, the Special Rapporteur gave the closing remarks at the high-level conference of the Organization for Security and Cooperation in Europe (OSCE) High Commissioner on National Minorities to commemorate the 20th anniversary of the Lund Recommendations on the Effective Participation of National Minorities in Public Life. The conference, entitled “From Lund to Ljubljana: promoting the participation of national minorities as a pathway to the integration of diverse societies”, was held in Lund, Sweden.

27. On 18 and 19 November 2019, the Special Rapporteur participated in the United for Intercultural Action conference UNITED #WithoutHate: Building Partnerships towards a Hate-free Society, held in Poprad, Slovakia. During the initial panel discussion of the conference, he addressed the theme “Protecting minorities, resisting hate”, highlighting how a human rights approach was essential to tackle the upsurge of hate speech and hate crimes, which mainly targeted minorities around the world.

28. On 4 December 2019 in Paris, the Special Rapporteur addressed the Parliamentary Assembly of the Council of Europe’s Committee on Equality and Non-Discrimination hearing on preserving Europe’s linguistic, ethnic, cultural and national diversity. In his presentation, he discussed the differences between international norms protecting minorities and the experiences of persons belonging to minorities in Europe.

29. Between 6 and 17 December 2019, the Special Rapporteur was on a country visit to assess the situation of minorities and the protection and promotion of their human rights in Kyrgyzstan.

30. On 18 and 19 December 2019, the Special Rapporteur participated in an expert workshop on a human rights training toolkit for faith actors, held in Collonges-sous-Salève, France. The workshop was organized by OHCHR to strengthen the implementation of minority rights and the freedom of religion or belief and to prevent violent extremism by designing a human rights training toolkit for faith actors.

### III. Education, language and the human rights of minorities

#### A. Introduction

31. Language is undeniably central to the identity of linguistic minorities. Language also refers to all of the world's 6,000 or so recognized languages, including sign languages. Language issues are at times among the main grievances that may contribute to toxic environments of exclusion and claims of discrimination in education that can lead to tensions and even conflicts between minorities and authorities, as shown unfortunately in different parts of the world.

32. The centrality of language for individuals and communities alike is acknowledged in article 1 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which solemnly affirms in paragraph 1 that “States shall protect the existence and the... linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity”, adding in the next paragraph that they “shall adopt appropriate legislative and other measures to achieve those ends”. One could therefore expect that this would entail significant measures for the use of minority languages in education, since, to state the obvious, as does a quote attributed to French historian Camille Jullian, “une langue qu'on n'enseigne pas est une langue qu'on tue” (“you kill a language if you do not teach it”).

33. The central importance of a minority's language in education was furthermore left in no doubt both in the large number of responses from various States and other interested parties to the questionnaire that was issued with the objective of collecting information from the contributors involved in the topic of the present report,<sup>3</sup> as well as the almost 1,000 participants – including States and international and regional organizations – that provided information and insights during the three regional forums conducted in 2019 on education, language and the human rights of minorities, and during the Forum on Minority Issues held in Geneva in November 2019. The point cannot be understated: language is perhaps the central defining characteristic of humanity. “Language is the key to inclusion. Language is at the centre of human activity, self-expression and identity. Recognizing the primary importance that people place on their own language fosters the kind of true participation in development that achieves lasting results.”<sup>4</sup>

<sup>3</sup> See annex.

<sup>4</sup> UNESCO Bangkok, *Why Language Matters for the Millennium Development Goals* (UNESCO, 2012), p. 1.

**B.** The growing visibility of language in education as a human rights issue

34. After 1945, with the establishment of the United Nations, the emphasis was on the universal protection of individual rights and freedoms instead of what has at times been perceived as the more “collective” minority approach under the League of Nations. This, however, is not quite the full picture: some peace treaties concluded immediately following the Second World War included general human rights and some specific minority provisions. These treaties, just as in the case of their predecessors before the Second World War, contained mainly human rights standards and a few specific provisions focusing on “resident” minorities. Thus the Treaty of Peace with Italy of 1947 contained, in addition to the usual general provisions on human rights, provisions guaranteeing citizenship to all those normally residing in Italy who did not acquire nationality in a neighbouring State (and in the main targeting the largest affected minorities) and, in annex IV, specific sections on minorities, in relation to the German-speaking minority, particularly in education:

1. German-speaking inhabitants of the Bolzano Province and of the neighbouring bilingual townships of the Trento Province will be assured complete equality of rights with the Italian-speaking inhabitants, within the framework of special provisions to safeguard the ethnical character and the cultural and economic development of the German-speaking element.

In accordance with legislation already enacted or awaiting enactment the said German-speaking citizens will be granted in particular:

(a) elementary and secondary teaching in the mother tongue.

35. Article 6 of the State Treaty for the Re-establishment of an Independent and Democratic Austria (Austrian State Treaty) of 1955 includes, among other bilateral or peace treaties of this period and like most treaties relating to the rights of minorities, known as “minority treaties” of the interwar period, a provision guaranteeing, without discrimination, “all measures necessary to secure to all persons under Austrian jurisdiction, without distinction as to race, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of expression, of press and publication, of religious worship, of political opinion and of public meeting”. More to the point, article 7 grants to Austrian nationals who are members of the Croat and Slovene minorities in the parts of the country where they are concentrated (Carinthia, Burgenland and Styria) “the same rights on

equal terms” as other citizens in their own language, as well as in relation to education:

2. They are entitled to elementary instruction in the Slovene or Croat language and to a proportional number of their own secondary schools; in this connection school curricula shall be reviewed and a section of the Inspectorate of Education shall be established for Slovene and Croat schools.

36. The Treaty of Peace with Italy and the Austrian State Treaty were directly inspired by the human rights approach reflected in the content of the minority treaties of the interwar period, in that their content appears to be anchored to the principle of equality and they recognize general human rights for all. Furthermore, the minority language rights they refer to are, in relation to education and access to services in minority languages, dependent on what is reasonable and justified, that is, in those parts of the country where most speakers of these languages reside and according to a proportional approach.

37. By the end of the 1950s, international law had gradually shifted towards a more straightforward acknowledgement of the rights of minorities or language rights, starting with the International Labour Organization (ILO) Indigenous and Tribal Populations Convention, 1957 (No. 107), which, although avoiding the word “minority”,<sup>5</sup> provided that indigenous populations had the right to be taught in their mother tongue or, where this was not practicable, in the language most commonly used by the group to which they belonged. A few years later, the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education of 1960 prohibited, under article 1, “any distinction, exclusion or preference” based upon language or other grounds, which “has the purpose or effect of nullifying or impairing equality of treatment in education”, while making clear, in article 2 (b) that it did not constitute discrimination to establish or maintain, for linguistic reasons, separate educational systems or institutions.

38. For the global human rights system, this UNESCO treaty is significant. Article 5 (1) (c) indicates that “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”, provided that “this right is not exercised in a manner which prevents the members of these minorities

<sup>5</sup> While indigenous peoples are a distinct legal category, factually indigenous peoples may simultaneously constitute a minority in countries where they live. Being a minority does not extinguish or diminish any indigenous rights.

from understanding the culture and language of the community as a whole and from participating in its activities, or which prejudices national sovereignty”.

39. In the 1960s, language continued to be referred to as impermissible grounds of discrimination in the two United Nations covenants on human rights, namely the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, both adopted on 16 December 1966. The latter treaty provided a specific reference to some rights for linguistic minorities: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”

40. A few decades later, only one other United Nations treaty, namely the Convention on the Rights of the Child, adopted on 20 November 1966, would entrench an almost identical provision. Article 30 of the Convention states: “In those States in which ethnic, religious or 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, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.” By the 1990s, however, any remaining reluctance to address and acknowledge minority language rights was gone, with other regional or international treaties incorporating language or minority rights standards, such as the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), the European Charter for Regional or Minority Languages, and the Framework Convention for the Protection of National Minorities. It is also at the end of the twentieth century that non-binding documents dealing with minority language rights or minority rights generally proliferated, including in education, with the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the United Nations Declaration on the Rights of Indigenous Peoples, the Vienna Declaration and Programme of Action and the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the Conference on Security and Cooperation in Europe, among others, as well as guidance documents such as the Oslo Recommendations Regarding the Linguistic Rights of National Minorities, the Hague Recommendations Regarding the Education Rights of National Minorities, the Lund Recommendations on the Effective Participation of National Minorities in Public Life and *Language Rights of Linguistic Minorities: A Practical Guide for Implementation*, a handbook developed by the Special Rapporteur on minority issues.

### C. Interpretation by United Nations treaty bodies

41. Contemporary jurisprudence has also neither been consistent nor comprehensive: different treaties are still relatively “young” and there have been different approaches and views in the interpretation of the extent to which there is a “right” to use the language of minorities in education, and what this use implies. For example, in one of the most important cases in this area, the European Court of Human Rights clearly stated that there was no “automatic” right to be educated in one’s language under article 2, Protocol 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms (Belgian Linguistics Case<sup>6</sup>), even in combination with the prohibition of discrimination on the ground of language. However, contrary to what has often been written by some experts, it did not exclude the possibility that, in appropriate circumstances, it could be discrimination on the ground of language not to use one’s mother tongue as a medium of instruction.

42. Nevertheless, United Nations treaty bodies have at times left little doubt that minorities and indigenous peoples do have a right to be educated in their own language in some circumstances. In addition, such a right where it is practical would also seem to be enshrined in treaties such as the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages, as interpreted by the advisory committee of experts of each of these treaties.<sup>7</sup>

43. There are undoubtedly contradictions and inconsistencies. Over a period of decades, there may be an evolution as to how international law standards are interpreted in their meaning and application, especially in relation to indigenous peoples or minorities. Additionally, certain concepts, such as an individual’s right to identity – even though not actually recognized in most treaties – have had an influence on how various bodies interpret and apply legal obligations in areas such as education, of which language is an important component.

44. Most reports tend to confirm an acceptance of the right to education in a minority’s or indigenous people’s mother tongue. At times this acceptance includes higher education in public institutions without restrictions, while

6 See European Court of Human Rights, *Case “Relating to Certain Aspects of the Laws on the Use of Languages in Education in Belgium” v. Belgium (Merits)*, (application Nos. 1474/62, 1677/62, 1691/62, 1994/63 and 2126/64), judgment of 23 July 1968.

7 See Advisory Committee of the Framework Convention for the Protection of National Minorities, “Thematic commentary No. 3: the language rights of persons belonging to national minorities under the Framework Convention”, ACFC/44DOC(2012)001 rev, Strasbourg, 5 July 2012, part VI.

at others it means that there should be “multilingual” schools that include children from the majority linguistic community. It is not always clear whether, in practical terms, this means that single-medium education in a State’s official language should itself be avoided. This would seem to be impractical, especially in countries with a large number of minority languages.

45. What has therefore emerged more recently is that differences of treatment between two languages, including where the privileged language is an official language and in the area of public education, may be discriminatory in international human rights law if they are not demonstrated to be reasonable and justified preferences. In *Diergaardt v. Namibia* (CCPR/C/69/D/760/1997), the majority of the members of the Human Rights Committee concluded that non-discrimination might permit the use of other languages in addition to an official one where it was unreasonable and unjustified for administrative authorities not to use another language in addition to that country’s only official language at the time, namely English. Similarly, the African Commission on Human and Peoples’ Rights concluded in 2009 that the almost exclusive use of one official language, French, in banking matters regulated by the Government of Cameroon so disadvantaged English-speaking citizens as to be unjustified, and therefore in violation of a substantive approach to equality and non-discrimination on the ground of language,<sup>8</sup> suggesting therefore that the anglophone minority in that country was entitled to language rights anchored in this general human rights standard.

46. The above human rights conclusions suggest that a State language preference can constitute discrimination if it is unreasonable or unjustified, or not based on what is proportionate, practical and justified. It would seem therefore that public education not provided in a child’s language could be a breach of the right to education if students are imposed with an unrealistic burden through the language choice of authorities,<sup>9</sup> or excluded from the opportunity of learning the national language.<sup>10</sup> The implications are that the prohibition of discrimination on the ground of language can lead to situations where State authorities have an obligation to communicate with members of the public in a non-official language, often a minority language, where this is reasonable and justified. In relation to the right to education, there can, for example, be situations of a denial of the substance of the right if the language

---

8 African Commission on Human and Peoples’ Rights, *Mgwanga Gunme et al. v. Cameroon*, Communication No. 266/2003, 27 May 2009.

9 European Court of Human Rights, *Cyprus v. Turkey* (application No. 25781/94), judgment of 10 May 2001.

10 European Court of Human Rights, *Catan and Others v. Moldova and Russia*, Application Nos. 43370/04, 18454/06 and 8252/05, judgment, 19 October 2012.

used as a medium of instruction is not a child's mother tongue for as long and as extensively as is reasonably practicable.

47. Whereas for language rights in private activities the defining principle would be a laissez-faire approach, the use of minority languages by State authorities would seem to call for the use of a proportionality principle – based on what is reasonable or justified after consideration of all the relevant circumstances in order to comply with the prohibition of discrimination. This is essentially also the principle enshrined in treaties and documents specifically dealing with the human rights of minorities, such as the Framework Convention for the Protection of National Minorities. This tends to take the shape of a provision indicating, among others, an obligation for State authorities to use proportionally a minority language where the numbers, demand and geographic concentration of its speakers make it a reasonable or justified use of a minority language. Beyond the legal principle itself at the supranational level, there is a fairly widespread understanding that a proportionate response is highly desirable for a number of very practical reasons:

Access to public services, particularly in areas such as health and social services, is most effective when offered in a minority's language, particularly indigenous or traditional minorities. This includes public education generally.

Education in a minority's own language generally results in better student retention and academic results, including in learning the official language, particularly for vulnerable segments of society such as indigenous peoples and women.<sup>11</sup>

48. What this describes is at the same time an essential aspect of Sustainable Development Goal 4 on ensuring inclusive and quality education for all and promoting lifelong learning. Inclusive and quality education for members of linguistic minorities means, as far as is practicable, education in their own language. Not using a minority language as a medium of instruction where this is possible is to provide education but not which is of equal value or effect. As demonstrated in numerous studies, teaching children in a language other than their own is not education of the same quality as that of children who are taught in their mother tongue.

49. Studies and practices in many countries demonstrate that an appropriate and proportionate use of minority languages can increase inclusion,

<sup>11</sup> Carol Benson, *Girls, Educational Equity and Mother Tongue-Based Teaching* (Bangkok, UNESCO Asia and Pacific Regional Bureau for Education, 2005).

communication and trust between members of minorities and authorities. This is not simply a matter of authorities using a minority language once a minority has reached a numerical or percentage threshold, since every country and situation is unique. Factors that may be considered in determining the appropriate scale of use of a minority language by public authorities, or as to what is a sufficient number or is justified in a particular case, will depend on the circumstances. Prominent among these would be the already existing use of a minority language by State authorities, the number of speakers of a minority language, the level of demand for the use of a minority language, the territorial concentration of the minority, a State's available resources in light of any additional costs in training or materials, the type of service being requested in the minority language and the relative ease or level of difficulty in responding to the demand.

50. Studies around the world, including some published by the World Bank, UNESCO and the United Nations Children's Fund, arrive at broadly similar results on the effects of education in a minority's mother tongue,<sup>12</sup> combined with quality teaching of the official language, which are that it:

- (a) Is more cost-effective in the long term;
- (b) Reduces dropout and repetition rates;
- (c) Leads to noticeably better academic results, particularly for girls;
- (d) Improves levels of literacy and fluency in both the mother tongue and the official or majority language;
- (e) Leads to greater family and community involvement and support.

51. The use of minority languages in a State's administrative and other public activities thus involves fundamental issues of inclusiveness, participation, access, quality and effectiveness.<sup>13</sup>

52. Children thus stay in school longer, obtain on average better grades, and obtain on average a higher degree of fluency in both the official language and their own language.<sup>14</sup> Put differently, minority students taught only in the

---

12 See generally, UNESCO, *Improving the Quality of Mother Tongue-based Literacy and Learning: Case Studies from Asia, Africa and South America* (Bangkok, UNESCO, 2008).

13 For a list of some of these studies, see United Nations Special Rapporteur on minority issues, *Language Rights of Linguistic Minorities*.

14 For example, in one ranking of high schools in France (*lycées*) for 2013, the top educational

official language will on average repeat grades more often, drop out of school more frequently, receive worse results, end up later in life with the lowest paying jobs and highest unemployment rates, and learn the official language less well than students who were taught in their own language. If persons belonging to linguistic minorities have a responsibility to integrate into the wider society, then it would seem that this can be best achieved through effectively teaching them in their own language because of generally better outcomes from education in one's language, even in acquiring fluency in the official language.<sup>15</sup>

#### D. Human rights obligations and the use of minority languages in education

53. Although there is no unanimity, there are trends in the numerous views of United Nations treaty bodies.<sup>16</sup> While some treaty bodies link the choice of the language of instruction to the right to education by itself, or to the right of minorities to use their own language among themselves, a perusal of the views of various treaty bodies also shows that it is often referred to in association with the prohibition of discrimination. For example, it is the only possible basis for the Committee on the Elimination of Racial Discrimination to comment on the issue of language and education in its concluding observations where it has formed the view that in some cases minorities are entitled to education in their own language. The possibility of using non-discrimination to support the use of a particular language in public education was also admitted by the European Court of Human Rights in the *Belgian Linguistics Case*, where a refusal to do so by authorities could in some situations be deemed to be arbitrary, unreasonable or unjustified, and therefore discriminatory. As explained previously, the disadvantages that children may encounter when not taught in their own language, and this includes the use of sign languages, could under certain conditions constitute direct discrimination on the ground of language, or indirect ethnic or racial discrimination. Simply put, children from indigenous or minority backgrounds will have better academic results (they learn better) and will stay in school longer (lower dropout rates) when they are taught in a language with which they are the most familiar – usually their own. When this happens, especially when they stay in school longer, they

---

facility for the whole country was the Lycée Diwan, where teaching is done in the minority Breton language rather than the country's only official language. This school also had a higher average fluency in the French language than schools that taught in French, even though most of the instruction was in Breton.

- 15 Nadine Dutcher, in collaboration with G. Richard Tucker, "The use of first and second languages in education: a review of educational experience", Pacific Islands Discussion Paper Series, No. 1 (Washington, D.C., World Bank, 1997).
- 16 Excerpts of international and regional documents on education, language and the human rights of minorities are available at [www.ohchr.org/Documents/Issues/Minorities/SR/documents excerpts.docx](http://www.ohchr.org/Documents/Issues/Minorities/SR/documents excerpts.docx).

will not only acquire a stronger basis and literacy in their own language, they will also be able to gain greater fluency in the official/majority language.

54. It is also important to emphasize that the use of a minority language includes the use of sign languages: sign languages are fully fledged languages, and their users can therefore be considered as members of linguistic minorities where they represent less than half of the entire population of a State, as set forth in the working concept the Special Rapporteur submitted in October 2019 in his report to the General Assembly. As members of linguistic minorities, users of sign languages can experience the same disadvantages or exclusion as other minorities if their languages are not used as languages for instruction. In fact, the obstacles to effective, quality education can be said to be even more pronounced.

55. Despite the uncertain references at times to an unqualified “right to education in the mother tongue” – and on other occasions to something as vague as simply “bilingual education” or “multilingual education” – and no clear guidance of the exact extent to education in a particular language, there are still a few indications as to the extent a minority or indigenous people could claim the use of its language as a medium of education.

1. “Where reasonable and justified”: the degree and use of a minority language in education

56. All United Nations treaty bodies are sensitive to what is realistically feasible. This explains the wording used in treaties such as the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages: the degree a minority language is used in education must be appropriate or “according to the situation of each language”. In terms of the prohibition of discrimination, it is obviously not unreasonable and unjustified not to use a minority or indigenous language as a language of instruction where this would be nearly impossible, as where the language is only spoken by a small number of individuals.

57. Most treaty bodies appear to be less hesitant to recognize the right to be educated in the mother tongue when dealing with a large, well-established minority. This is particularly true when education in a minority language has been used as a medium of instruction or has a long literary tradition with educational material already available in that language. In such situations where there is no reasonable justification to refuse or restrict the use of a minority language as a medium of instruction in public schools, various treaty bodies have been more willing to recognize the right to education in a minority

language. In this type of situation, what is “reasonable and justified” would be for the minority language to be used as the main language of instruction to the final years of public education, up to and even including general instruction in the minority language in public university programmes. The European Charter for Regional or Minority Languages recognizes this possibility when it refers to the obligation of Governments “to make available university and other higher education in regional or minority languages” where appropriate for the situation of a particular language.

58. When dealing with much smaller groups of students or where there is not a well-established educational tradition, particularly with indigenous populations, many of the treaty bodies tend to lean towards what is called a “bilingual, multicultural” form of education, though what this means in practice is of course vague and will depend on the circumstances in place. At a minimum, some teaching of the mother tongue during the primary years of education would seem to be required, if at all possible. Beyond that, the degree to which a minority language should be used in upper grades would be to the degree possible, in a type of sliding scale based on local conditions, such as the number of students, if education is already provided in a minority language, and the availability of teachers and educational material in a minority language.

59. The easiest way to describe what would be “reasonable and justified” in the use of a minority language in education could be as much teaching as possible, at the highest level possible: for pedagogical and other reasons a mother tongue should be the language of instruction, where practical, and at the very least be taught as a subject where this is not really feasible. While no treaty body has yet commented directly on the use of sign languages in education based on the prohibition of discrimination, the Special Rapporteur is aware of a number of national judgments that have made such a linkage. In his view, it is clear that users of sign languages can face barriers that are discriminatory in some contexts if their languages are not used as a medium of instruction where it would be reasonable to do so.<sup>17</sup>

---

17 Article 24 of the Convention on the Rights of Persons with Disabilities makes the linkage between equality and the use of sign language, stating in paragraph 3, among others, that States parties shall take appropriate measures, such as facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community, and ensuring that the education of children who are deaf is delivered in the most appropriate languages, and employ teachers who are qualified in sign language.

## 2. Public and private education

60. A few treaties, such as the UNESCO Convention against Discrimination in Education and the Framework Convention for the Protection of National Minorities, make it clear that minorities have the right to establish and operate private schools and educational institutions that use their language as a medium of instruction. General human rights treaties do not clarify this, nor do such provisions as article 27 of the International Covenant on Civil and Political Rights on the right of linguistic minorities to use their own language among themselves, or article 28 of the Convention on the Rights of the Child on the right to education.

61. The concluding observations from different United Nations treaty bodies seem, however, to take it for granted that minorities are entitled to such private schools, and have been willing to recognize it in their responses – even though at times it is not always clear if they are referring to public or private schools, or what a national Government’s legal obligations are under the right to education, or article 27 of the International Covenant on Civil and Political Rights, in relation to public as opposed to private schools using a minority language. For example, article 27 refers only to the use of a minority language among members of a minority themselves, not between members of a minority and a public institution (such as a State school).

62. None of the general human rights treaties refer to an obligation to financially support private schools for minorities, although there is one case where the Human Rights Committee concluded that it could be discriminatory to fund some private religious schools and not the private schools of other (minority) religious groups (CCPR/C/67/D/694/1996).

63. This is therefore an area where there is a great deal of uncertainty. The following interpretations appear to be fairly well supported, at least for private education activities:

(a) Private schools for minorities and educational activities using a minority language seem to be guaranteed under article 27 of the International Covenant on Civil and Political Rights (and similar provisions). It is less clear if the right to education in general includes this aspect;

(b) The prohibition of discrimination suggests that minorities may be able to claim the right to establish private schools, even if private schools in general are prohibited in a country (*Minority Schools in Albania Case*<sup>18</sup>);

(c) It could also be discriminatory to allow private schools to operate in some languages, but not others;

(d) Financial support for private minority schools is less well defined in the observations of various treaty bodies: while it is clear that Governments cannot discriminate if they provide funding to some private schools, this does not mean that there is an automatic entitlement to financial support for private minority schools;

(e) There are comments that seem to suggest that, to truly respect the identity of minorities, some degree of support must be provided to their private institutions;

(f) States are entitled to require that the curriculum in private minority schools conform to national quality and content standards in different subject matters, although this cannot be used to affect the use of a minority language as a medium of instruction in these schools;

(g) Students in private minority schools must always have the opportunity to learn the official, national or majority language.

64. There is another issue concerning the interaction between public and private schools that is not yet clear in the interpretation of various committees and the right to education in general. While individuals have a right to education, it appears that States may comply with this right through private or public education measures. What counts is not a particular model of education, but that the right to education of individuals is respected in practice. If State authorities have an obligation to provide instruction in a mother tongue (whether it is on the basis of article 27 of the International Covenant on Civil and Political Rights, the right to education or the prohibition of discrimination in education), and this is done completely or in part with private education measures, then these same authorities would need to provide the necessary support, financial and material, to ensure that this is done on the basis of equality with similar measures or institutions in the official or majority language.

<sup>18</sup> Permanent Court of International Justice, Advisory Opinion No. 26, 6 April 1935.

### 3. Teaching and the official/majority language

65. One aspect that is absolutely clear from an international legal point of view is that whatever the degree of use of a minority language as a medium of instruction, in private or public schools, students must always be afforded the opportunity of learning the official or majority language. Article 14 (3) of the Framework Convention for the Protection of National Minorities refers to implementation (of education in a minority language) “without prejudice to the learning of the official language or the teaching in this language”.

66. Put differently, whatever model or approach is in place in relation to the use of a minority language as a medium of instruction, children must always have an opportunity to effectively learn the official or majority language where they live.

## IV. Focus on awareness-raising and the visibility of minorities and their human rights

### **A working definition of the concept of a minority for the mandate of the Special Rapporteur**

67. The Special Rapporteur’s 2019 annual report to the General Assembly in October 2019 (A/74/160) addressed the need for a working definition of the concept of a minority in order to:

- (a) Comply with the Special Rapporteur’s mandate;
- (b) Clarify the meaning of the concept in order to avoid controversies and contradictions, within and outside the United Nations, which weaken the full and effective realization of the rights of minorities;
- (c) Clarify the concept according to international law, including the jurisprudence of the Human Rights Committee and the applicable principles under the Vienna Convention on the Law of Treaties.

68. As part of his mandate, the Special Rapporteur must raise awareness and work for the full and effective realization of the rights of persons belonging to minorities. This includes clarifying key concepts such as who can claim to be a minority under the United Nations system. The absence of consistency in understanding who is a minority is a recurring stumbling block to the full and effective realization of the rights of minorities. Different United Nations entities may contradict one another because they consider different groups

of persons as constituting a minority and diverge from the practices in other entities. Some States Members of the United Nations hesitate to engage on matters relating to minorities since they do not know who is a minority and what that entails. In other States, there may even be the assumption that the absence of a definition means it is left to each State to determine freely who is or is not a minority. In most of these situations, the uncertainty leads to restrictive approaches: in many situations, persons are deemed to be “undeserving” because they are not “traditional” minorities, not citizens or not sufficiently “dominated”. The end result is that some minorities are excluded because they are not the “right kind” of minority according to different parties.

69. It is for this reason the Special Rapporteur has opted for a working definition that conforms with the general rule of treaty interpretation and the ordinary meaning of the word “minority” in its “context and in the light of its object and purpose” in the absence of a clearly intended special meaning,<sup>19</sup> as well as a working definition that is consistent with the Human Rights Committee’s own views and interpretation of article 27 of the International Covenant on Civil and Political Rights.<sup>20</sup>

70. The Special Rapporteur, as part of his mandate to promote the full and effective realization of the human rights of minorities, will therefore be using and promoting the following concept of a minority, both within the United Nations and in carrying out his activities: an ethnic, religious or linguistic minority is any group of persons that constitutes less than half of the population in the entire territory of a State whose members share common characteristics of culture, religion or language, or a combination of any of these. A person can freely belong to an ethnic, religious or linguistic minority without any requirement of citizenship, residence, official recognition or any other status.

## V. Update on the 2019 Forum on Minority Issues

71. The Forum on Minority Issues was established in 2007 by the Human Rights Council by its resolution 6/15 and reaffirmed in 2012 by its resolution 19/23. It is mandated to provide a platform for promoting dialogue and cooperation on issues pertaining to national or ethnic, religious and linguistic minorities, and to provide thematic contributions and expertise to the work of the Special Rapporteur on minority issues. The Special Rapporteur is tasked with guiding the work of the Forum, preparing its annual meetings and reporting to the Human Rights Council on its thematic recommendations. The Forum meets annually in Geneva for two working days allocated to thematic discussions.

<sup>19</sup> Vienna Convention on the Law of Treaties, art. 31.

<sup>20</sup> General comment No. 23 (1994) on the rights of minorities.

It brings together an average of 500 participants, including minorities, Member States, United Nations mechanisms, regional intergovernmental bodies and non-governmental organizations.

72. The twelfth session of the Forum was held on 29 and 30 November 2019, with the theme “Education, language and the human rights of minorities.” As in 2018, the number of participants far exceeded the average level of previous years, with more than 600 participants counted.

73. Exceptionally, two co-chairs were appointed for the twelfth session by the President of the Human Rights Council, namely Anastasia Crickley, former chair of the Committee on the Elimination of All Forms of Racial Discrimination, and Astrid Thors, former OSCE High Commissioner on National Minorities. A total of 12 experts and members of minorities from different parts of the world took part in the four main panel discussions, on the topics of: human rights and minority language education; public policy objectives for education in, and the teaching of, minority languages; effective practices for education in, and the teaching of, minority languages; and language, education and the empowerment of minority women and girls. The Forum was opened on 28 November 2019 by the President of the Human Rights Council, followed by statements by the United Nations High Commissioner for Human Rights, the OSCE High Commissioner on National Minorities, Lamberto Zannier, and the Special Rapporteur on minority issues, as well as remarks by the co-chairs.

74. The Special Rapporteur reiterated the crucial importance of the Forum on Minority Issues, which represents the only avenue for a number of minority rights activists to advocate for change at the international level. It is a positive and unique platform for promoting dialogue and cooperation on issues pertaining to national or ethnic, religious and linguistic minorities. He noted the high levels of participation in the Forum in 2019, with more than 200 declarations being made over the two days, as evidence of the timeliness and relevance of the theme of the 2019 Forum for many minorities around the world, and the vital role the Forum continued to play as a unique focal point of discussions and exchanges at the United Nations for minorities, civil society organizations and Member States. A total of 140 recommendations emanated from the three regional forums<sup>21</sup> and more than 100 from the Forum on Minority Issues itself.

---

21 The recommendations of the three regional forums are available at [www.ohchr.org/Documents/Issues/Minorities/IntegratedAfricaRecommendations.pdf](http://www.ohchr.org/Documents/Issues/Minorities/IntegratedAfricaRecommendations.pdf), [www.ohchr.org/Documents/Issues/Minorities/IntegratedAsiaPacificRecommendations.pdf](http://www.ohchr.org/Documents/Issues/Minorities/IntegratedAsiaPacificRecommendations.pdf) and [www.ohchr.org/Documents/Issues/Minorities/IntegratedEuropeRecommendations.pdf](http://www.ohchr.org/Documents/Issues/Minorities/IntegratedEuropeRecommendations.pdf).

75. The Special Rapporteur notes that, among the many recommendations made at the Forum, the emphasis was on the importance of ensuring the implementation of Sustainable Development Goal 4 on ensuring inclusive and equitable quality education and promoting lifelong learning opportunities for all. Many minorities from around the world who had participated in the Forum emphasized the importance of equal treatment and non-discrimination based on the language they spoke or chose to learn. The Special Rapporteur also notes that, for the first time, international sign language interpretation was provided during the Forum, and that it was recommended that sign languages be recognized as languages instituted in law and that legally deaf children have the right to access bilingual education within a sign language environment.

76. The Special Rapporteur notes in particular a call made for regional forums to be held each year before the Forum on Minority Issues in order to provide more accessible and flexible platforms that would enable more contextualized discussions on regional realities. Regional forums would lead to greater regional insights and suggestions that would subsequently be taken into account at the Forum in Geneva and be part of a larger debate. The final report on the 2019 Forum had not yet been finalized at the time of writing of the Special Rapporteur's report.

77. Although a number of objectives were achieved through the Forum, the Special Rapporteur reiterates his view that there remains the need to consolidate the Forum as a space for interactive dialogue and to increase the engagement of States, United Nations bodies, regional organizations and other stakeholders. Additionally, from a procedural viewpoint, the increasingly large number of participants continues to create frustration as not everyone is able to take the floor under the desired agenda item and to delve into specific thematic issues or concerns, particularly when they are limited to two or three minutes to do so. While a more regional approach may make an interactive dialogue more accessible to minorities in different parts of the world and more receptive to regional concerns and contexts, other possible improvements should also be examined in 2020.

### **Regional forums**

78. In his first report to the Human Rights Council, dated 16 January 2018, the Special Rapporteur raised the possibility of taking a more regional approach to the Forum on Minority Issues in order to make the Forum more accessible to minorities in different parts of the world and more receptive to regional concerns and contexts (A/HRC/37/66, para. 64). The first steps towards implementing such an approach were undertaken in 2019, with the organization of three

regional forums. The first forum for Europe, with the theme of “Education, language and the human rights of minorities”, was held at the European Parliament in Brussels on 6 and 7 May 2019. The success of this first regional forum created favourable momentum for the subsequent Asia-Pacific regional forum, held at Mahidol University in Bangkok on 20 and 21 September 2019, and the Africa-Middle East regional forum, held in Tunis on 28 and 29 October 2019. It is hoped that four regional forums might be possible in 2020, which would be on the Special Rapporteur’s third thematic priority, that is, tackling through social media hate speech and incitement to hatred against persons belonging to minorities. For the organization and coordination of the three regional forums in 2019, the Special Rapporteur had received the support of numerous regional civil society partners, as well as material and other support from States such as Austria, Canada, Hungary and Slovenia. All three regional forums were coordinated thanks to the Tom Lantos Institute in Budapest. Nearly 300 participants – including from non-governmental and minority organizations, States, and regional and international organizations (such as UNESCO, OSCE, the European Union and the Council of Europe) – attended this initial round of regional forums.

## VI. Recommendations

### A. Recommendations relating to the working definition of the concept of a minority

**79. The Special Rapporteur invites United Nations entities to take note of the working definition of the concept of a minority under article 27 of the International Covenant on Civil and Political Rights and of the jurisprudence of the Human Rights Committee and comment on who is a member of a minority in order to adopt and apply more consistently a common approach and understanding and therefore more effectively ensure the full and effective realization of the rights of persons belonging to minorities.**

**80. He recommends in particular that OHCHR, other United Nations entities, and the treaty bodies and special procedures review how they publicly describe who is considered a minority so as to avoid confusion and contradiction within the United Nations. The Special Rapporteur urges avoidance of the use of definitions that had previously been rejected by the United Nations Commission on Human Rights.**

**B.** Recommendations relating to education, language and the human rights of minorities

81. **The Special Rapporteur recommends that, as part of his mandate on minority issues, a series of practical guidelines be drafted to provide concrete guidance on the content and implementation of the human rights of minorities and the use of their languages in the field of education. These are to be more focused than, but built upon, the basic principles already identified in the *Language Rights of Linguistic Minorities: A Practical Guide for Implementation*.**

82. **Given the prominence and importance of language for the identity of linguistic minorities and the numerous examples of good practices shared with the Special Rapporteur by States and other stakeholders in response to the questionnaire on this topic,<sup>22</sup> he further recommends that the guidance document be made available in all six official languages of the United Nations, and be widely circulated to interested parties both within the United Nations and with other international and regional organizations and civil society organizations.**

**C.** Recommendations relating to the Forum on Minority Issues and the regional forums

83. **The Special Rapporteur reiterates the call made by numerous participants at the Forum on Minority Issues and in the three regional forums, and recommends the consolidation and institutionalization of a regional approach to the constructive dialogue between all stakeholders on minority issues. He recommends specifically that OHCHR and other interested parties consider practical means to ensure and support, under the mandate of the Special Rapporteur on minority issues, the annual organization of four regional forums to ensure that regional voices and contexts are more fully presented and can complement more effectively the Forum on Minority Issues as a platform for promoting dialogue and cooperation on issues pertaining to national or ethnic, religious and linguistic minorities, and for the further implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.**

---

<sup>22</sup> See the annex for a sample questionnaire and a list of contributors.

**D. Other recommendations**

**84. The Special Rapporteur noted the recommendation that was often raised during the regional forums and other activities, that the human rights of minorities be highlighted more frequently and that a more detailed approach be considered in their recognition and protection within the United Nations system. He recommends in particular that OHCHR, in collaboration with the Special Rapporteur, consider setting up a working group to examine the possibility of establishing a future instrument on the human rights of minorities, along the same lines as those for other marginalized or vulnerable segments of society, such as migrants, persons with disabilities and women.**

**Annex**

**Education, language and the human rights of minorities: sample questionnaire and list of contributors**

**A. Sample questionnaire**

**Call for Submissions by 30 September 2019  
Education, Language and the Human Rights of Minorities**

In accordance with his mandate pursuant to Human Rights Council resolution 34/6, the Special Rapporteur on minority issues, Dr. Fernand de Varennes, intends to present a thematic report at the 43rd Session of the UN Human Rights Council, which will provide a detailed analysis and highlight the issue of “Education, Language and the Human Rights of minorities”. The report will address areas pertaining to the recognition, protection and promotion of minority language in education, including the teaching of and in minority languages, and the adoption of inclusive pedagogical and educational approaches, with the view to ensuring equal access to quality education by persons belonging to minorities, in line with the international commitments under the post-2015 development agenda (SDG 4).

The report will also provide suggestions and recommendations addressed to all relevant stakeholders at the local, national, regional and international levels, and identify examples of good practices and initiatives that recognize and support the linguistic rights of minorities and promote inter-culturalism and multilingualism in the educational systems.

## Context

The issue of education as a human right and its contours and impact for minorities constitutes one of the thematic priorities of the Special Rapporteur. It is also a topical issue, given the persisting significant challenges faced by minorities around the world today in accessing quality education and in particular education that contributes to the preservation of their language and identity.

Laws and policies which provide for a monolingual approach to education and to the provision of services, and which also impose restrictions on the use of minority languages in the public sphere, especially as medium of instruction, are often based on the misconception that investing in minority languages and creating an environment for their use and further development would alienate minorities from the learning of the national/official language, create linguistic segregation that would undermine minority integration and threaten national unity, societal cohesion and harmony.

Research has shown that inclusion of minority languages in education, both as separate subjects and as mediums of instruction, and the adoption of inter-cultural and multi-lingual approaches and methods in educational and vocational training programmes, have a direct positive impact on the educational performance of minority students, their self-esteem and development, and their integration in society in general.

In addition, protection of minority languages and the recognition, respect and promotion of the educational needs of minorities, is a crucial component of the protection and preservation of minorities' cultural heritage and promotion of society's diversity and development, and thus an important factor in reducing inter-ethnic tension and preventing conflicts.

In 2009, the inaugural session of the Forum on Minority Issues focused on minorities and the right to education and recommended that States provide adequate opportunities to persons belonging to minorities to learn their mother tongue or to learn through the medium of the mother tongue, and such opportunities be chosen in consultation with them. It also recommended that teachers and appropriate teaching and reading materials, including textbooks, should be available in the mother tongues of minorities.

Furthermore, in its section on education, the 2017 publication by the mandate of the Special Rapporteur on minority issues entitled "Language Rights of Linguistic Minorities: a practical guide for implementation" highlights the

importance of designing and implementing educational programmes in minority languages along with the teaching of the official language(s), and advocates for the preservation of minority languages, because as stated “a language that is not taught is a language that will ultimately vanish”. Furthermore, the Practical Guide emphasizes that “the rights of linguistic minorities are human rights”, and that education “deals with what is perhaps the central linguistic right of minorities, and is also fundamental to the maintenance of linguistic diversity.” It also indicates that “quality public education in the mother tongue should ‘be extended to as late a stage in education as possible’, up to and including public university education where practicable.”

The thematic report will address existing challenges with regard to such access to quality education by persons belonging to minorities, and will highlight good practices with regard to the inclusion of minority languages in national curricula, the effective involvement of minorities in the design and implementation of educational programmes, as well as other positive legal and policy developments that recognize and guarantee the right of minorities to learn and study in their own language.

In his analysis on minority language integration in the educational systems, the Special Rapporteur will pay particular attention to the educational needs of deaf people, as members of a linguistic minority, the recognition of sign languages as minority languages and their inclusion as a medium of instruction at all educational levels.

### **Call for submissions**

In accordance with the established practice of thematic mandate holders, the Special Rapporteur welcomes inputs by States, UN agencies, regional and international organizations, national human rights institutions, civil society, scholars and research institutions, and others who may wish to submit for this purpose. Such submissions may include, for instance, recommendations, evidence and case studies, as well as analyses relevant to

1. Please provide information on the specific legislative, institutional and policy framework at the national and local level that address minority education, and education of and in minority languages, including sign languages. Please provide examples of key laws, policies and practices, including good practices, as well as gaps.
2. Please provide examples of programmes of linguistic diversity, learning materials, multi-lingual and multi-cultural approaches to and methods

of teaching and learning, involving the teaching and learning of minority languages and cultures.

3. Please provide information on initiatives and programmes that effectively address challenges faced by minorities in accessing quality education, including the issue of direct and indirect costs of education.
4. Please provide examples of training programmes for teaching staff and educational administrators, including inter-cultural training, aiming at preparing them to respond to the educational needs of minority students.
5. Please provide examples of programmes and initiatives to strengthen the availability of teaching staff who speak minority languages, including teaching staff from minority communities.
6. What are the identified challenges in the design and implementation of programmes and initiatives to facilitate access to education, including vocational education and training, by persons belonging to minorities and to integrate minority languages in the national curricula as separate subjects and as mediums of instruction?
7. Please describe to what extent and how are persons belonging to minorities and their representative organizations involved in the design, implementation and evaluation of educational programmes and curricula.
8. Please provide any other relevant information and statistics on access to education by persons belonging to minorities, covering all educational levels. Such information may include:

(a) the number of educational institutions (public and private) at each education level, in which minority languages, including sign languages, are either taught as a separate subject or are used as mediums of instruction, and their proportion to the total number of educational institutions. Please indicate the average weekly frequency of hours of teaching both of and in minority languages;

(b) the number of bi-/multi-lingual classes.

Submissions and inputs on the above-mentioned areas can be submitted in English, French or Spanish and addressed to the Special Rapporteur by email to [minorityissues@ohchr.org](mailto:minorityissues@ohchr.org) by 30 September 2019.

Submissions and inputs will be considered public records unless otherwise expressed by the submitter and will be published on the website of the Special Rapporteur.

## **B. List of contributors**

### **States:**

Armenia, Austria, Azerbaijan, Colombia, Croatia, Estonia, Finland, Georgia, Greece, Hungary, Jordan, Kyrgyzstan, Latvia, Lebanon, Norway, Russia, Senegal, Serbia, Sweden, Ukraine

### **International and Regional Organizations:**

Council of Europe

EU Fundamental Rights Agency

UNESCO

UNHCR

UNICEF

### **National Human Rights Institutions:**

Australian Human Rights Commission – Australia

Comisión Nacional de los Derechos Humanos – Mexico

Defensor del pueblo de la nación – Argentina

Institucija ombudsmena/ombudsmana za ljudska prava – Bosnia and Herzegovina

Office of the Commissioner for Administration and the Protection of Human Rights (Ombudsman) – Cyprus

Protector of Citizens (Ombudsman) – Serbia

Public Defender (Ombudsman) of Georgia – Georgia

### **Civil society organizations and Academia:**

European Union of the Deaf

Human Rights Association – Turkey

International Campaign for Tibet

Minority Rights Group International

Scholars at Risk

Unrepresented Nations and Peoples Organization (UNPO)

International Human Rights Committee

International Association of Library Associations

International Service for Human Rights

Latvian Human Rights Committee

Legal Information Centre for Human Rights – Estonia

Maat for Peace, Development and Human Rights

Vassar College

World Uyghur Congress

---