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## Oxford Handbooks Online

### **Language, Imperialism, and the Modern Nation-State System: Implications for Language Rights**

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### **Abstract and Keywords**

This chapter explores the role of language, and the related status of language varieties, in the modern nation-state system, which emphasizes linguistic homogeneity, especially in the public realm. The emphasis on linguistic homogeneity within modern nation-states, which specifically disadvantages minority language speakers, is compared to the more open, multilingual approach adopted by a range of empires historically. A more linguistically accommodative approach in international law has also emerged, albeit unevenly, over the last sixty to seventy years. The latter emphasizes the public accommodation of minority languages, particularly for national minorities, which equates to what Kloss (1977) has termed “promotion-oriented” language rights. The chapter concludes that the expansion of promotion-oriented language rights accords with a more pluralistic and inclusive approach to linguistic diversity in an increasingly globalized world. Such developments are thus also compatible with the “multilingual turn,” recognizing and valuing multilingual repertoires as a basis for sociolinguistic analysis.

Keywords: language rights, nationalism, empire, minority language, multilingual

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The language of the conqueror in the mouth of the conquered is ever the language of the slave.

—Tacitus, cited in Crowley (1996: 114)

WRITING at the turn of the first century of the common era, the Roman historian Tacitus highlights a key and ongoing characteristic of the inevitable link between sociopolitical power and language use. Put simply, those in the political ascendancy tend to determine the status and use of language varieties within their respective sociopolitical domains. Inevitably, their own language varieties are accorded the highest status, via the active establishment of linguistic “hierarchies of prestige” (Liddicoat, 2013), and consequently

come to occupy key public language domains. These public language domains might include, but are not limited to, governance, administration, law, and education. Dominant languages also invariably emerge as *lingua francas*, or languages of wider communication.

The consequences for the language varieties of socially and politically minoritized groups in these contexts are equally clear. If dominant language varieties come to occupy the public domains, minority language varieties tend to be delimited to private (familial, community) domains, resulting in a diglossic language situation. Diglossia, involving the bifurcation of languages into public and private use, was a regular feature of empires and is still evident in a variety of multilingual postcolonial nation-states today (May, 2014a). Diglossic language contexts involve the initial expansion (p. 36) of the linguistic repertoires of minorities via the acquisition of “the language of the conqueror” in their everyday (public) use. However, given the linguistic hierarchies at play, and the consequent devaluation/delimitation of minority languages, it also might well lead, over time, to the eventual shift and loss of minority languages, even in multilingual communities. This tendency toward language replacement is further reinforced in the modern era by the influence of nationalism and the nation-state system, which, unlike its imperial antecedents, as we shall see shortly, privileges the pursuit of linguistic homogeneity as a key imperative in, and characteristic of, nation-building (May, 2008, 2012a).

In this chapter, I first discuss briefly how empires accommodated multilingualism in their various forms of political administration. I then turn to a more substantive examination of the rise and influence of nationalism, and the modern nation-state system with which it is associated. I focus, in particular, on how, over time, the core principle of linguistic homogeneity underpinning both nationalism and the nation-state system has impacted negatively on minority languages and their speakers. I illustrate this through a discussion of the emergence of the modern French state. Given this historical trajectory, the public accommodation of minority languages—or what Kloss (1971, 1977) describes as “promotion-oriented language rights”—is seldom contemplated in modern nation-states. This antipathy toward promotion-oriented language rights for linguistic minorities is also clearly evident in developments in international law—particularly, during the post-World War II period—and constitutes a key focus of the next section. However, there are also clear, albeit still uneven, alternative possibilities beginning to emerge in international law in support of promotion-oriented language rights. This is particularly so for “national minorities” (Kymlicka, 1995)—those minority groups that have always been associated historically with a particular territory<sup>1</sup>—but much less so for immigrant minorities. I conclude that, despite the considerable obstacles still facing the implementation of promotion-oriented language rights for linguistic minorities, such rights are still the best

means of ensuring the greater recognition and protection of minority languages and their speakers over time. Fostering the expansion of promotion-oriented language rights also accords with a more pluralistic and inclusive approach to linguistic diversity in an increasingly globalized world.

## **Empires and Linguistic Minorities**

As we shall see in the next section, the requirement to speak a common language is unique to nation-states, and a relatively recent historical phenomenon, arising out of the political nationalism of the last few centuries. Prior to that, in what might be broadly termed the imperial era, linguistic uniformity was not such a central imperative (Grillo, 1998). While practices inevitably varied, a number of key imperial administrations openly accommodated the multilingual nature of their populations. For example, (p. 37) multilingual administration was the norm in the ancient empires of the Persians, the Ptolemies, and the Carthaginians (see, e.g., Esther 1:22 in relation to Persia). Such linguistic largesse did not extend to the Greek Empire, whose elites tended toward monolingualism and which, especially under Alexander the Great, privileged Greek at the specific expense of other languages (Haarhoff, 1938). But it did extend to the Roman Empire. Indeed, the Romans were remarkably unconcerned with imposing Latin on their subject peoples. Where it was spoken, it was almost always in conjunction with other languages rather than in their stead, an approach underpinned by the principle *per pacem societatis* (“through a pact of society”) (Rochette, 2011). This pact emphasized the primacy of the economic accountability of subject peoples to the Roman Empire (as long as taxes were paid, all was well), along with the broad adoption of Roman mores and administrative practices, where appropriate (Garnsey and Saller, 1987). Of course, Latin remained important for administrative purposes—it was the dominant language of the Roman Governors, the army, and the law courts. Accordingly, the preferred Roman strategy of co-opting local elites into imperial administration saw them schooled in Classical Latin and often also Greek, while administering on behalf of the empire predominantly through vulgar Latin (Mufwene, 2004). However, these local elites simultaneously maintained their own languages, and there were no restrictions imposed on the local populations with respect to their ongoing multilingual language use (Rochette, 2011).

More recent imperial powers demonstrate a similar diversity of approaches to the multilingualism of their subject populations. For example, the Spanish Empire, which can be traced to the amalgamation of the Spanish royal houses of Aragón and Castile in 1492, consistently privileged Castilian, both within its historical European territory, as well as

its subsequent colonies in Central and Southern America, at the expense of local languages (Mar-Molinero, 2000; Mignolo, 2003). Other modern imperial regimes, however, were to follow the more expansive linguistic policies of the Romans. Two examples are particularly noteworthy here. The nineteenth-century Austro-Hungarian Habsburg Empire adopted a strategy of political unification by deliberately seeking to avoid the uniform imposition of German on its various ethnic groups, granting them instead considerable cultural and linguistic autonomy. This was most evident in the adoption and implementation of the *Nationalitätengesetz* (nationalities law) in 1867, which specifically allowed for the ongoing cultural and linguistic development of its ethnic groups within a supranational state structure (Schjerve, 2003; Schjerve and Vetter, 2003, 2007).<sup>2</sup>

But perhaps the clearest and most historically significant example of an imperial policy that formally protected the multilingualism of its population is that of the Ottoman Empire (ca. 1300–1923). Under Mehmet II, a formal system of “millets” (nations) was established in the Ottoman Empire in the fifteenth century in order to accommodate the religious, cultural, and linguistic diversity of peoples within its borders. These millets were first established on the basis of the maintenance of religious freedom for the Empire’s non-Muslims. However, over time, the millet system came to foreground the latter’s linguistic protections as well—a development that was further bolstered in the nineteenth and twentieth centuries by various forms of multilingual education (p. 38) (Dolgunsöz, 2014; Dorian, 1998). In combination, the millet system specifically fostered and sustained regional multilingualism within the Ottoman Empire for nearly half a millennium (Gawrych, 1983; Strauss, 2011). As Gawrych concludes, “this regional multilingualism remained a significant force for fostering an atmosphere of tolerance toward both religious and cultural diversity into the twentieth century” (1983: 520–521).

And yet, the demise of the Ottoman Empire in the early 1920s, and the advent of the Turkish state as its formal successor, also highlights how quickly such accommodative multilingual policies could be dismantled, particularly in the modern era of the nation-state (see further discussion later in this chapter). After all, one of the first acts of Turkey’s first nationalist leader, Mustafa Kemal Atatürk, was to enshrine in the new Turkish Constitution of 1923 a highly restrictive approach to other language varieties. This involved abandoning Arabic for Roman script in relation to Turkish, on the basis of Atatürk’s two principal concerns of “modernization” and “secularization” (Kim, 2001; Landau, 1984). But it also specifically involved proscribing the formal use of other language varieties—most notably, Kurdish—along with the enforcement of Turkish-medium education for all. Despite a brief softening of this approach in the 1990s, this highly restrictive approach to language and education largely still pertains in present-day Turkey (Skutnabb-Kangas, 2000; Skutnabb-Kangas and Fernandes, 2008).

## Linguistic Homogeneity, Nationalism, and the Nation-State System

How did this subsequent preoccupation with linguistic homogeneity at the (nation-)state level, the privileging—and, often, rigorous enforcement—of a “national” language, and the related pathologizing of other language varieties (and their speakers) come about? The answers lie in the influence of political nationalism and the modern nation-state system to which it gave rise. This era of nationalism is a recent one, emerging from the specific historical and social developments of modernization and its concomitants—industrialization, political democracy, and universal literacy—in eighteenth- and nineteenth-century Europe.<sup>3</sup> The French Revolution of 1789 is regarded by many commentators as a key catalyst of this new political nationalism (see, e.g. Alter, 1989; Hobsbawm, 2012; Kedourie, 1960). Following from this, France is widely regarded as the archetypal modern nation-state. The establishment of post-revolutionary France by the Jacobin Revolutionaries illustrates clearly the primacy accorded to linguistic homogeneity in the modern nation-state era. France’s relentless pursuit of an ethnically exclusive and culturally and linguistically homogeneous nation-state—a realm from which minority languages and cultures were effectively banished—also illustrates, writ large, the deleterious impact that nationalism has had, over time, on minority languages and their speakers. As Nancy Dorian summarizes it: “it is the concept of the nation-state coupled with its official standard language ... that has in modern times posed the (p. 39) keenest threat to both the identities and the languages of small [minority] communities” (1998: 18). Florian Coulmas observes, even more succinctly, that “the nation-state as it has evolved since the French Revolution is the natural enemy of minorities” (1998: 67). Given this, the genesis of modern France is worth examining in some detail.

### The “French Example”

Prior to the 1789 French Revolution, three broad language groups were present in the territory we now know as France. The Langue d’Oïl, comprising a wide range of dialects, was spoken in the north. Of these, the Francien dialect, spoken in and around Paris, was the actual antecedent of modern French. The Langue d’Oc (Occitan), also comprising a wide range of dialects, was spoken in the south. In central and eastern France, Franco-Provençal was spoken. But not only these—Basque was spoken in the southwest, as was Breton in Brittany, Flemish around Lille, German in Alsace-Lorraine, Catalan in Perpignan, and Corsican (a dialect of Italian and Napoleon Bonaparte’s first language) in Corsica (Ager, 1999). In addition, Latin was the administrative language, at least until the

sixteenth century, although it was largely confined to the church, the university, and the royal administration (Johnson, 1993). Premodern “France,” like so many other administrations prior to the rise of political nationalism, was thus resolutely multilingual.

The French Revolution was to change all that, although it is an interesting irony that it was only during the early stages of the Revolution that the linguistic diversity of France was fully apprehended. A linguistic survey carried out by the abbé Henri Grégoire in 1790 revealed that over 30 “patois” were spoken in France (for political reasons, he was reluctant to accord them the status of languages; see further discussion in this chapter). More pertinently, perhaps, he concluded that as few as three million people—not more than one-tenth of the population—could actually speak French with any degree of fluency (Johnson, 1993).

The initial response to this linguistic diversity was cautious magnanimity. For example, the new Assembly agreed, on January 14, 1790, to a policy of translating decrees into various “idioms” and “dialects” in order to better disseminate Republican ideas among the majority non-French-speaking population (Grillo, 1989). But this was soon to change. In short, it quickly became apparent to the Jacobins that the ideal of the Revolution lay in uniformity and the extinction of particularisms. For the Revolutionaries, regional languages were increasingly regarded as parochial vestiges of the *ancien régime*, the sooner forgotten the better. This was reflected in their pejorative labeling as “patois” rather than as languages. As the French sociologist and anthropologist Pierre Bourdieu observes of this process, “measured de facto against the single standard of the ‘common’ language, they are found wanting and cast into the outer darkness of *regionalisms*” (1991: 54; emphasis in original).

In contrast, French was seen as the embodiment of civilization and progress. Consequently, the adoption of French as the single national language, representing and (p. 40) reflecting the interests of the new revolutionary order, was increasingly regarded as an essential foundation for the new Republic and its advocacy of *égalité*. As the Jacobins came to insist: “The unity of the Republic demands the unity of speech. ... Speech must be one, like the Republic” (cited in Weber, 1976: 72). Bourdieu again comments that this perceived imperative “was not only a question of communication but of gaining recognition for a new *language of authority*, with its new political vocabulary, its terms of address and reference, its metaphors, its euphemisms and the representation of the social world which it conveys” (1991: 48; my emphasis).

The obvious corollary to this process of valorizing French as the new national language also came to be accepted and actively promoted—that the ongoing maintenance of other language varieties was specifically opposed to the aims of the Revolution. Indeed, Barère, in his Report of 1794, went so far as to assert the following:

Le fédéralisme et la superstition parlent bas-breton; l'émigration et la haine de la République parlent allemand; la contre-révolution parle l'italien, et le fanatisme parle le basque. Cassons ces instruments de dommage et d'erreur. [Federalism and superstition speak Breton; emigration and hatred of the Republic speak German; counter-revolution speaks Italian, and fanaticism speaks Basque. Let us destroy these instruments of damage and error.]

(cited in de Certeau, Julia, and Revel, 1975: 299)

These sentiments were also reflected, albeit somewhat less iconoclastically, in the final report of the abbé Grégoire on the linguistic state of the new Republic. This report was eventually published in 1794, four years after the survey had been commissioned, and concerned itself principally with corpus issues—on “perfecting” the French language. However, its overall position on other languages in France is clearly indicated by its subtitle: “Sur la nécessité et les moyens d’anéantir les patois et d’universaliser l’usage de la langue française” [“On the need and ways to annihilate dialects and universalize the use of French”]. It should come as no surprise, then, that Grégoire went on to conclude that

[u]nity of language is an integral part of the Revolution. If we are ever to banish superstition and bring men closer to the truth, to develop talent and encourage virtue, to mould all citizens into a national whole, to simplify the mechanism of the political machine and make it function more smoothly, we must have a common language.

(cited in Grillo, 1989: 24)

The Grégoire Report proved a watershed. Earlier attempts at translation were quickly dispensed with in order to expedite this vision of a brave new world, represented (only) in and through French. More important, the deliberate promotion and privileging of French came to be inextricably intertwined in the minds of the Jacobins with the active destruction of all other languages. But there was still a problem. Such was the linguistic diversity highlighted by Grégoire that it could not be easily or quickly displaced. Even as late as 1863, official figures indicated that a quarter of the country’s population, including half the children who would reach adulthood in the last quarter of the nineteenth (p. 41) century, still spoke no French (Weber, 1976). What to do? The answer lay in a combination of legal enforcement of the language via a series of court decisions requiring the use of French in all legal documents (Grau, 1992) and, more significant, a central role for education.

The use of education as a key, perhaps *the* key, agency of linguistic standardization began as early as 1793. At that time, French schools were established in the German-speaking



Alsace region, while the ongoing use of German was banned (Grillo, 1989). This was to provide the template for the use of French education throughout the nineteenth and twentieth centuries. A central goal of the *hussards noirs*, the Republic's teachers, was to eradicate all regional languages, which were by then regarded as worthless, barbarous, corrupt, and devoid of interest (Bourdieu, 1982). Given the ongoing linguistic diversity, this process took some time. It was not until the establishment of a fully secularized, compulsory, and free primary school system in the 1880s that education really began to have its full effect, principally through the formal proscription of all other languages from schools. But even prior to that time, it had not been for want of trying. A poignant illustration of this is provided by a prefect in the Department of Finistère in Brittany who, in 1845, formally exhorted teachers, "Above all remember, gentlemen, that your sole function is to kill the Breton language" (cited in Quiniou-Tempereau, 1988: 31–32).

This state-led "ideology of contempt" (Grillo, 1989) toward minority languages has resulted in their inexorable decline in France over the last two centuries to the point where less than 2 percent of the French population now speak these as a first language (see Extra and Gorter, 2001, 2008; Héran, 1993). It has also at the same time entrenched deep into the French national psyche a view that the promotion and even simply the maintenance of minority languages (and cultures) are fundamentally at odds with the principles and objectives of the French state (Ager, 1999).<sup>4</sup>

The example of France illustrates clearly the plight of minority—or more accurately, *minoritized*—languages in modern nation-states. Indeed, the effective banishment of minority languages from the public or civic realm is still the ideal to which many modern nation-states aspire. Relatedly, the broader imperative of linguistic homogeneity that underpins this process of exclusion is now so firmly established within modern political consciousness that it is seldom seriously questioned. France is also illustrative, however, of the potential counterarguments that can be developed to accord minority languages both greater protection and public support. First, the history of modern France highlights that the distinctions that are regularly made between languages and dialects (or patois, in the case of France) are inherently political rather than linguistic—indeed, it is almost impossible to distinguish between languages and dialects on a linguistic basis. Second, it illustrates clearly how and why minority languages have come to be so marginalized and pathologized as languages "not fit" for the modern world—as have, more often than not, their speakers as well. And yet, this juxtaposition of national languages as ineluctably linked to modernization and minority languages as antediluvian is simply a product of nationalism. Third, if linguistic homogeneity is recognized as a specific product of the politics of nationalism, it is, by extension, neither inevitable (p. 42) nor inviolate. Other, more inclusive and multilingual conceptions of the nation-state are clearly possible, albeit only when there is sufficient political will to implement them. For this to occur, however,

language policies would have to recognize the rights of minority-language speakers within national contexts. They would need to address directly the issue of language shift and loss that minority-language speakers face by explicitly *revaluing* minority languages in the public realm. And they would also need to be supported, where possible, by commensurate legislation at the supranational level. None of these tasks is easy, not least because of the ongoing sway of nationalism and traditional nation-state organization. However, they are made even more challenging by a wider emphasis on individual human (and citizenship) rights within international law, which also militates against minority language rights.

## Language Rights and International Law

Much of our understanding of human rights within international law has been shaped by the post-World War II political context and, in particular, the (1948) United Nations Universal Declaration of Human Rights (UDHR). The UDHR only supports what the sociolinguist Heinz Kloss (1971, 1977) terms “tolerance-oriented language rights”—that is, the right of *individuals* to preserve their language(s) in the *private*, nongovernmental sphere of national life (much like a diglossic context). The emphases on individuals and the private domain are important here because the UDHR does not specifically encompass a *communal* right to language, or the related right to its *public* support and representation. Kloss (1977) describes the latter as “promotion-oriented language rights.” For Kloss, promotion-oriented language rights regulate the extent to which such rights are recognized within the *public* domain, or civic realm, of the nation-state. As such, they would necessarily involve “public authorities [in] trying to promote a minority [language] by having it used in public institutions—legislative, administrative and educational, including the public schools” (1977: 2). In so doing, promotion-oriented rights are also necessarily predicated on the recognition of not only the individual but also a wider linguistic community within which individuals are situated.

How did this antipathy to promotion-oriented language rights within international law come about? A key explanation lies in the fact that all references to ethnic and national minorities were deleted from the final version of the UDHR.<sup>5</sup> This was, in turn, the result of an emerging and widespread conviction at that time that minority group rights were somehow incompatible with national and international peace and stability. As Claude has observed of these developments,

The leading assumption has been that members of national minorities do not need, are not entitled to, or cannot be granted rights of special character. The doctrine

of (p. 43) human rights has been put forward as a substitute for the concept of minority rights, with the strong implication that minorities whose members enjoy individual equality of treatment cannot legitimately demand facilities for the maintenance of their ethnic particularism.

(1955: 211)

Language rights are especially prone here to ongoing associations with the (unnecessary) promotion of ethnic particularism at the perceived expense of wider social and political cohesion. As the prominent sociolinguist Joshua Fishman ably summarizes,

Unlike “human rights” which strike Western and Westernized intellectuals as fostering wider participation in general societal benefits and interactions, “language rights” still are widely interpreted as “regressive” since they would, most probably, prolong the existence of ethnolinguistic differences. The value of such differences and the right to value such differences have not yet generally been recognised by the modern Western sense of justice... .

(1991: 72)

And yet, what this view conveniently ignores is a long history in international law of just such recognition of language rights, usually within a wider approach of specific cultural protection for minority groups. In addition to the imperial examples discussed earlier, treaties were often employed in the nineteenth century for the protection of minority groups, initially on the basis of religion and later on the grounds of nationality (Thornberry, 1991b). These practices culminated in the general organization of the League of Nations, established in the wake of World War I.<sup>6</sup> The League endorsed a range of bilateral treaties aimed at securing special political status for minority groups within Europe in what came to be known as the Minority Protection Scheme (MPS). The MPS—overseen by its Permanent Court of International Justice (PCIJ)—was primarily concerned with the protection of “displaced” minorities in other nation-states, the result in turn of the reorganization of European state boundaries after World War I (Kymlicka, 2007; Packer, 1999; Wolfrum, 1993). They included two principal types of measures: (1) individuals belonging to linguistic minorities, among others, would be placed on an equal footing with other nationals of the state; and (2) the means of preserving the national characteristics of minorities, including their language(s), would be ensured.

In the most prominent legal ruling on these provisions—the (1935) Advisory Opinion on Minority Rights in Albania—the PCIJ stated that these two requirements were inseparable. It concluded that “there would be no true equality between a majority and a minority if the latter were deprived of its own institutions and were consequently compelled to renounce that which constitutes the very essence of its being a

minority" (see Thornberry, 1991b: 399–403; Oestreich, 1999: 111). On the basis of this judgment, linguistic minorities were confirmed in their right to establish private schools and institutions, a *minimum* tolerance-oriented right. However, where numbers warranted, another key principle in international law with respect to minority protection, the public funding of minority-language-medium schools, was also advanced, a more promotion-oriented right.

(p. 44) As we have seen, however, subsequent developments in international law were rapidly to supersede these treaties and the principles upon which they were based.<sup>7</sup> Minority language and education rights were largely subsumed within the broader definition of human rights adopted by the United Nations since World War II. Human rights were thought, in themselves, to provide sufficient protection for minorities.<sup>8</sup> Accordingly, no additional rights were deemed necessary for the members of specific ethnic or national minorities. Nonetheless, even within this more generalist framework of rights, there have been echoes, albeit weak ones, of the principles of minority protection with respect to language and education. The most notable of these has perhaps been Article 27 of the (1966) International Covenant on Civil and Political Rights (ICCPR), which imposes a *negative* duty on nation-states with respect to the protection of the languages and cultures of minority groups:

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*. (my emphases)

There has since been considerable academic and policy debate as to whether an alternative reading of Article 27 might allow for a more positive duty on nation-states to protect minority languages. Following the influential review of the scope of Article 27 by Capotorti (1979), for example, some commentators have argued that, while the words "shall not be denied" could be read as imposing no obligation on a state to take positive action to protect those rights, an alternative and equally compelling view "is that to recognise a right to use a minority language implies an obligation that the right be made effective" (Hastings, 1988: 19). On this basis, it has been argued that Article 27 can be said to encompass a more promotion orientation to language rights, with attendant state support, rather than the more limited tolerance-oriented right that a solely negative duty implies.<sup>9</sup> As we shall see shortly, the latter is also particularly pertinent for the potential provision of first language (L1) education for linguistic minorities.

It would be fair to say that the debates on the merits of Article 27 as an instrument for promotion-oriented rights remain ongoing (see, e.g., de Varennes, 1996; May, 2011b; Skutnabb-Kangas, 2000). At the very least, we can conclude that Article 27 sanctions a

clear baseline for tolerance-oriented language rights. But even this cautious interpretation does not mitigate a central weakness of Article 27 and, indeed, most international law in this area, including more recent developments (see later discussion). In short, much of the implementation of such measures is still dependent on what nation-states *deem appropriate*. The result is thus left to the vicissitudes of internal national politics, where the provision of minority rights is viewed principally as one of political largesse rather than a fundamental question of human rights. The consequence of this in turn is, more often than not, the adoption of the bare minimum level of rights required (and sometimes not even that).

(p. 45) Notwithstanding this difficulty, the notion of a more promotion-oriented view of minority language (and associated L1 education) rights does appear to be gaining some ground, at least for national minorities—that is, those minority groups with an established historical association with a particular territory. In this respect, there have been a number of recent instruments in international law that, at least in theory, allow for a more promotion-oriented perspective on language and education rights. These instruments are, in turn, a product of a more accommodative approach to minorities in the post-Cold War era (Preece, 1998). One of the most significant of these is the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic or Religious Minorities, adopted in December 1992. This UN Declaration recognizes that the promotion and protection of the rights of persons belonging to minorities actually contributes to the political and social stability of the states in which they live (Preamble). Consequently, the Declaration reformulates Article 27 of the ICCPR in the following way:

Persons belonging to national or ethnic, religious and linguistic minorities ... have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private *and in public*, freely and without interference or any form of discrimination. (Article 2.1; my emphasis)

We can thus see here that the phrase “shall not be denied” in Article 27 has been replaced by the more active “have the right.” In addition, and significantly, the formulation recognizes that minority languages may be spoken in the public, as well as the private domain, without fear of discrimination. That said, the 1992 UN Declaration, unlike the ICCPR, remains a recommendation and not a binding covenant—in the end, it is up to nation-states to decide if they wish to comply with its precepts. In a similar vein, the actual article that deals with minority language education (Article 4.3) qualifies the more general positive intent of Article 2.1 considerably: “States *should* take *appropriate* measures so that, *wherever possible*, persons belonging to minorities have *adequate* opportunities to learn their mother tongue *or* to have instruction in their mother tongue” (emphases added; see Skutnabb-Kangas, 2000: 533–535 for an extended discussion).

Another example where exactly the same question applies can be found in the (2007) United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The UNDRIP was formulated over a twenty-five-year period. This included the development over more than ten years of the (1993) Draft Declaration by the Working Group on Indigenous Populations (WGIP), in turn, a part of the United Nation's Sub-Commission on the Prevention of Discrimination and Protection of Minorities. The merits of the Draft Declaration were subsequently debated for nearly fifteen years, with many UN member states raising substantive and repeated objections to its promotion of greater self-determination for indigenous peoples (see Xanthaki, 2007, for a useful overview). Despite these objections, UNDRIP retained its strong assertion of indigenous rights, *including* specific promotion-oriented language and education rights. Article 14.1 states, for example, that "[i]ndigenous peoples have the right to establish and control their (p. 46) educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning." The key question remains, though: Given many nation-states' reservations about the document, what likelihood is there of its meaningful implementation within those states?

Other developments in pan-European law also reflect these competing tensions between, on the one hand, a growing accommodation of promotion-oriented minority language and education rights and, on the other, an ongoing reticence of nation-states to accept such a view. The (1992) European Charter for Regional or Minority Languages is one such example. It provides a sliding scale of educational provision for national and regional minority languages (but not immigrant languages), which ranges from a minimal entitlement for smaller groups—preschool provision only, for example—to more generous rights for larger minority groups, such as primary and secondary language education. Again, however, nation-states have discretion in what they provide, on the basis of both local considerations and the size of the group concerned. European nation-states also retain considerable scope and flexibility over which articles of the Charter they actually choose to accept in the first place. In this respect, they are only required to accede to thirty-five of the sixty-eight articles, although three of the thirty-five articles must refer to education (Grin, 2003).

A similar pattern can be detected in the (1994) Framework Convention for the Protection of National Minorities, which was adopted by the Council of Europe in November 1994 and finally came into force in February 1998. The Framework Convention allows for a wide range of tolerance-based rights toward national minorities, including language and education rights. It also asserts at a more general level that contributing states should "promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage" (Article 2.1).

That said, the specific provisions for language and education remain sufficiently qualified for most states to avoid them if they so choose (see, e.g., Nic Craith, 2006; Trenz, 2007).

Developments in international law, then, are at once both encouraging and disappointing. The principle of separate minority recognition in language and education is legally enshrined at least as a minimal tolerance-oriented right—that is, when restricted to the private domain. However, more liberal interpretations of tolerance-oriented rights (involving some state support where numbers warrant), and certainly more promotion-oriented rights, remain largely dependent on the largesse of individual nation-states in their interpretation of international (and national) law with respect to minorities. As a result, there are as yet no watertight legal guarantees for the recognition and funding of minority-language and associated L1 education rights.

What is clearly evident though, is growing political pressure from many minority groups themselves, who are increasingly unwilling to accept the ongoing marginalization of their languages and cultures as the price for their inclusion in the civic realm of modern nation-states. The cumulative result has seen the gradual expansion of separate language and education entitlements within at least some states, despite the (p. 47) broader historical and contextual factors that continue to militate against such developments. This is particularly so for national minority groups and is illustrated clearly by the successful re-instantiation in recent times of previously marginalized national minority languages in, for example, Catalonia (May, 2010a, 2011a), Québec (Oakes, 2004; Oakes and Warren, 2007), New Zealand (May, 2010b), and Wales (Mann, 2007; May, 2000; Williams, 2008). It is far less clear for immigrant groups who continue to be broadly excluded from minority language rights measures in international law, and even in national contexts such as the preceding, where some measure of national minority rights and associated promotion-oriented language rights have already been granted (see May, 2012a: Ch. 9). That said, there is growing agreement within international law (and in some national contexts) that significant ethnic/immigrant minorities within a nation-state have a *reasonable* expectation of some form of state support (Carens, 2000; de Varennes, 1996). In other words, while it would be unreasonable for nation-states to be required, for example, to fund language and education services for all minorities, it is increasingly accepted that, where a language is spoken by a significant number within the nation-state, it would also be unreasonable not to provide some level of state services and activity in that language (see May, 2012a: Ch. 5, for an extended discussion).

## Conclusion

What this all clearly highlights is that the ongoing development of promotion-oriented language rights, both in national contexts and in relation to international law, remains very much a work in progress. Certainly, as I have tried to make clear in this chapter, the forces arraigned against their further development are still formidable. The principle of linguistic homogeneity remains a central organizing principle in modern nation-states. Developments in international law that support promotion-oriented language rights are uneven, still delimited, and remain at the mercy of nation-states for their (effective) implementation. There is also the continuing vexed question as to who should/would be eligible for promotion-oriented language rights. National minorities and indigenous peoples are clearly gaining some ground here, as indicated by the development and expansion of their language rights in the national contexts referred to earlier, particularly in the realm of (L1) education. But immigrants continue largely to be excluded from promotion-oriented language rights, even in these contexts and despite (or, perhaps because of) rapidly growing trends of transmigration, and increasing linguistic diversity, in this globalized world.

Sociolinguistics has recently turned to a serious study of these latter contexts—exemplified in the term “the multilingual turn” (May 2014b). However, the focus of this work to date has been on the complexity of individual multilingual repertoires, particularly in urban contexts, not on the language rights of linguistic communities. Indeed, the latter are often specifically disavowed in this work on the basis that they unnecessarily reinforce constructed (and/or artificial) language boundaries—much as the formation (p. 48) of the nation-state system did in distinguishing between national and local languages (see, e.g., Bauman and Briggs, 2003; Blommaert, 2010; Pennycook, 2010). It is beyond the scope of this chapter to examine this question in detail. However, briefly, I have argued elsewhere (May 2012b, 2014a, 2014b, 2014c) that the preoccupation with urban (oral) multilingual repertoires, and a related rejection of language boundaries, is itself problematic. It still reinforces, ironically, a highly modernist dichotomization of urban and rural (often indigenous) language varieties—mimicking, rather than undermining, the language hierarchies discussed in this chapter. It also fails to address adequately the relationship between the actual language uses of multilingual speakers and their access to standardized language varieties, particularly in written form. The latter, as we know, are particularly important for the development of (bi)literacy and educational (and wider social) mobility, and it is surely better to look to “proximal” language varieties for this purpose rather than to reject all standardized varieties *tout court* (May, 2012b). To this end, I argue that the recognition of individual



(private) multilingualism, a welcome development in itself, is not *necessarily* antipathetic to a concomitant recognition of public (communal) multilingualism (see also Busch, 2012). Language diversity on the ground will always deconstruct standardized conceptions of languages, to be sure. But this should not, ipso facto, preclude the possibility of the public recognition of, and support for, minority languages along the lines discussed in this chapter.

The issues canvassed in this chapter have led me to the conclusion that all linguistic minority groups should have granted, *at the very least*, tolerance-oriented language rights under established human rights' principles. In addition, there are clear principles in international law, and from the history of alternative forms of political organization, that provide both precedent and support for the granting of promotion-oriented language and education rights to national minority groups. Such language rights could be extended (potentially, at least) to immigrant minorities on the basis of the notion of "where numbers warrant" (May, 2011a, 2011b). In combination, these principles provide the basis for the further expansion of promotion-oriented rights for linguistic minorities. In so doing, they also provide the means for reconceptualizing modern nation-states in more linguistically pluralistic and inclusive ways, as (some) empires did before them. And it is not just history and the nation-state system that should drive us here. After all, the increasing salience of linguistic diversity in this rapidly globalizing world foregrounds the concurrent need to rethink social and political organization in more overtly multilingual terms at supranational and sub-state levels as well.

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## **Notes:**

(1.) Kymlicka (1995) describes national minorities as those groups that have been associated historically with a particular territory but through conquest, confederation, or colonization (or some combination of them) now find themselves to be sociopolitical minorities. Such groups also include the world's indigenous peoples (see May, 1999; May and Aikman, 2003).

(2.) It has been argued that the Soviet Union provides a twentieth-century equivalent of this "imperial" approach, particularly evident in the formal endorsement of multilingualism among its constituent territories under Stalin's regime. However, closer analysis reveals that the Soviet approach still largely privileged the use of Russian in all formal domains and thus perpetuated highly unequal diglossic contexts for non-Russian first-language speakers. The close association of Russian with the wider goal of creating a homogeneous "Soviet socialist nation" (Lewis, 1972) also resulted in Russian replacing other languages over time. For example, by 1979 about 16.3 million non-Russians had shifted to Russian as their first language (Haarman, 1992; Kheimets and Epstein, 2001).

(3.) Although Blaut (1993) and Mignolo (2000, 2003) argue that the colonialism of the sixteenth and seventeenth centuries, particularly in the Americas, may also have been a key precursor to the rise of nationalism.

(4.) By extension, the overarching role of French, and the related diminution of other languages, are also clearly evident in the history of French colonialism, not least in the very term "La Francophonie" itself (Salhi, 2002; Watts, 2005).

(5.) Article 2 of the Declaration states: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race [*sic*], colour, sex, religion, political or other opinion, national or social origin, property, birth or other status." Consequently, minorities, as such, do not enjoy rights in the Declaration. Various attempts at including a recognition of minorities in the text were strongly opposed at the draft stages, the consensus being that "the best solution of the problems of minorities was to encourage respect for human rights" (Thornberry, 1991a: 11–12).

(6.) Indeed, as Oestreich (1999: 110) observes, examples of the protection of religious minorities can be traced as far back as the early Middle Ages, as we have seen already in relation to the Ottoman Empire's "millet" system. Oestreich also describes a number of prominent treaties that included specific religious protection also evident in the seventeenth and eighteenth centuries (1999: 132 n.10). For a useful historical overview



of minority protections, and the role and influence of the League of Nations, see Duchêne (2008: 47–54).

(7.) The abuse of the MPS by the Nazi regime, whereby Hitler used a supposed concern for the rights of German minorities elsewhere in Europe as the catalyst for World War II, clearly contributed to this move away from minority cultural (and linguistic) recognition. More disturbingly still, as Hutton (1999) convincingly argues, the apparent use of promotion-oriented language rights, in favor of German-language minorities, was also used to reinforce the intrinsic association of German with racialized notions of *volk*, and the “Aryan “race” with the Third Reich. This, in turn, provided a key rationale for Hitler’s subsequent implementation of the Holocaust, on the grounds that German Jews had only an instrumental connection to German and could not thus be counted as German citizens. It clearly follows that promotion-oriented language rights are not in themselves enough but must also/always be linked explicitly to the expansion of democratic justice (Cameron, 1999).

(8.) This has not actually proved to be the case. Indeed, the United Nations itself has since admitted as much: The *Human Rights Fact Sheet on Minorities* (No. 18, March 1992: 1) states, for example: “the setting of standards which create additional rights and make special arrangements for persons belonging to minorities and for the minorities as *groups*—although a stated goal of the United Nations for more than 40 years—has made slow progress.”

(9.) For other examples of this position, see May (2011a, 2011b); Skutnabb-Kangas (1998, 2000); Tollefson (2012).

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