

# The 25th Anniversary of the UN Declaration on the Rights of Minorities: Directions and Relevance for Education

Public seminar, Institute of Education, Higher School of Economics  
Moscow, 30 January 2018



Fernand de Varennes, Dean of the Faculté de droit, Université de Moncton (Canada)  
UN Special Rapporteur on Minority Issues  
Extraordinary Professor, Faculty of Law, University of Pretoria (South Africa)

# Potential – and weaknesses - of the UN Declaration on the Rights of Minorities

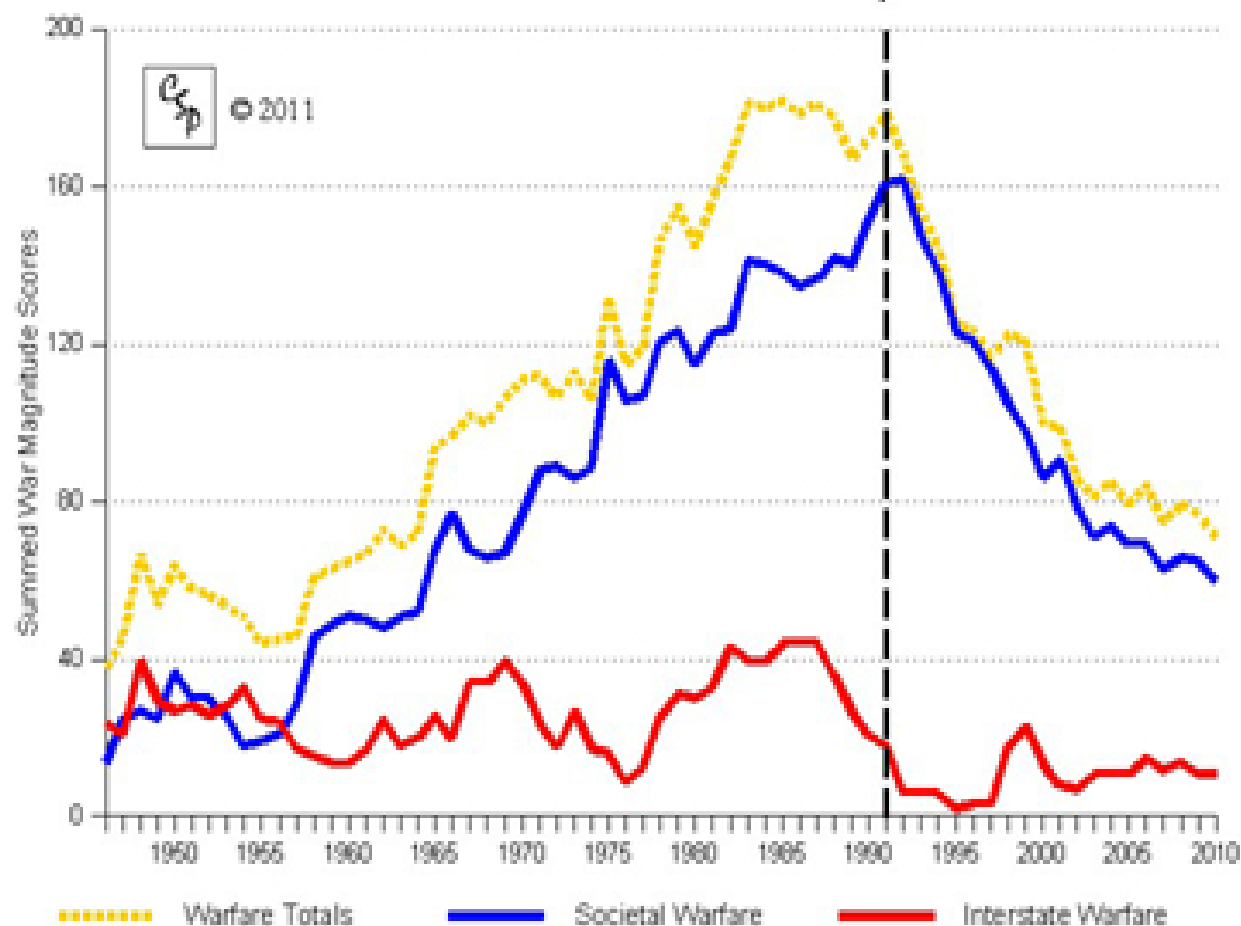
- First, the declaration is part of the international assumption that the protection of human rights is directly and intimately connected to the prevention of conflict (following World War II);
- Second, there was and still is hesitancy as to how far international law should go to restrict state sovereignty in relation to minorities, with resultant uncertainties;
- Third, if these issues are not addressed more directly in the future, they will continue as some of the world's greatest challenges (ethnic conflicts; hate crimes; statelessness; etc.)

1. Why the UN Declaration on the Rights of Minorities in 1992
2. Rights of Minorities in International Law: Uncertainties
3. Directions and Relevance for Education
4. Questions- exchanges

# 1. Why the UN Declaration on the Rights of Minorities in 1992

# Conflicts and Minorities: Observations

**Global Trends in Armed Conflict, 1946-2010**



“55 per cent of violent conflicts of a significant intensity between 2007 and 2009 had at their core violations of minority rights or tensions between communities.”

Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, Report of the Independent Expert on Minority Issues, UN Doc. A/65/287, 12 August 2010.

# Conflicts, genocide and the world's most vulnerable: Minorities



Discrimination, exclusion and persecution most commonly describe the existence of stateless minorities. More than 75% of the world's known stateless populations belong to minority groups.

UNHCR Statelessness Report, November 2017, <http://www.unhcr.org/ibelong/stateless-minorities/>

## Among the world's greatest challenges in terms of human rights, peace and stability:

- Intrastate conflicts, most of which involve minorities (70% according to some studies)
- Genocide and hate crimes, most of which involve minorities
- A disproportionate number of refugees are members of minority communities facing persecution because of their religion or ethnicity
- Stateless individuals, most of whom are from minorities (75%, UNHCR)



## 2. Rights of Minorities in International Law: Uncertainties

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

## Article 1

1. States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.
2. States shall adopt appropriate legislative and other measures to achieve those ends.

## Article 4

1. States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.

[...]

3. States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.

## The Challenges of Uncertainties:

- Education and minority languages
- Nature of their rights, particularly to «human rights»

## 3. 3.Directions and Relevance for Education

# Minority rights not «too complex»: Guide on the recognition and application of language rights

16

## Section IV

### Implementation of specific linguistic rights

This section aims to help policymakers, state authorities and others considering the type of measures that are needed to implement international human rights standards for linguistic minorities, adopt relevant and efficient legislation and policies, and accommodate the needs and interests of various linguistic communities in order to ensure their integration into society. This is done by briefly describing for each area of application of linguistic rights:

- What should be done;
- Why it should be done;
- On what legally binding and other basis it can be done; and
- Good practices.

#### 4.1 Public Education

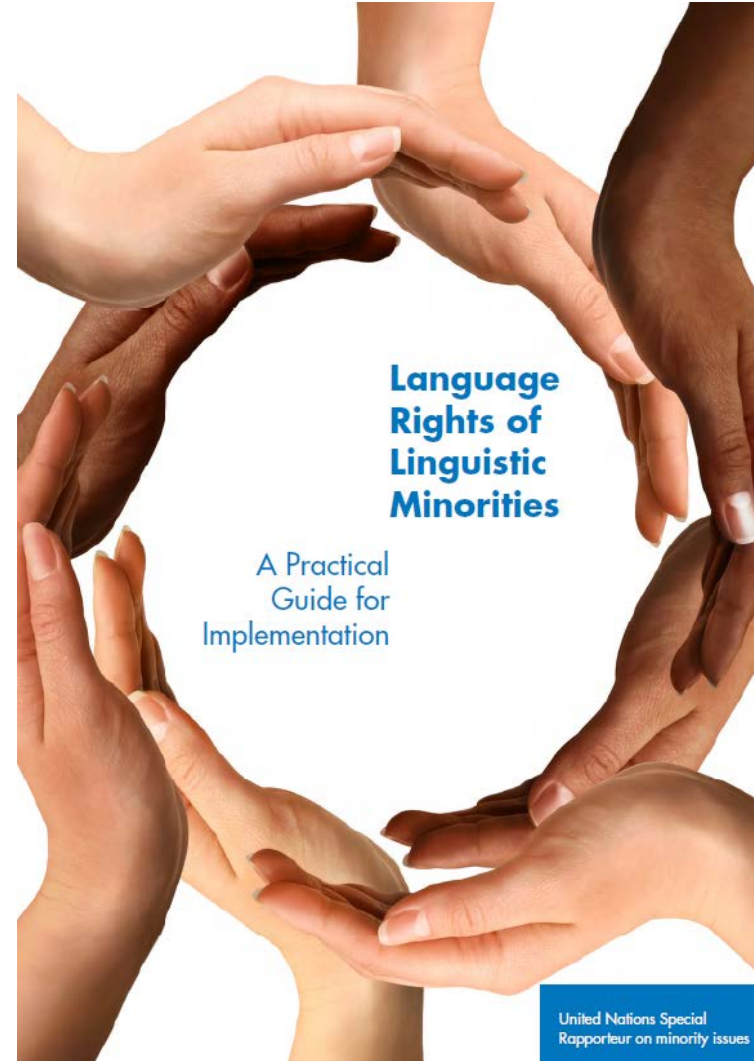
##### *What should be done?*

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

##### *Why it should be done*

The rights of linguistic minorities are human rights that must be respected, including in relation to the appropriate degree of use of minority languages. Education deals with what is perhaps the central linguistic right of minorities, and is also fundamental to the maintenance of linguistic diversity. A language that is not taught is a language that will ultimately vanish.

The benefits of education in the mother language are now fairly well established scientifically through studies of minority children in different parts of the world.<sup>26</sup>



# Language rights of linguistic minorities – in Russian



## Раздел IV

17

### Осуществление конкретных языковых прав

Материал данного раздела предназначен для лиц, ответственных за разработку государственных политик, государственных органов власти и иных лиц. В нем рассматриваются меры, необходимые для того, чтобы осуществлять международные стандарты в области прав человека в отношении языковых меньшинств, принимать соответствующие и эффективные законы и осуществлять соответствующую и эффективную политику, а также учитывать потребности и интересы различных языковых общин, с тем чтобы содействовать их интеграции в обществе. Процесс выполнения этих мер кратко рассмотрен в данном разделе для каждой области применения языковых прав по следующим четырем ключевым вопросам:

- Что необходимо сделать?
- Почему это следует сделать?
- Основываясь на какие юридические обязательства и иные нормативные основания это можно сделать?
- Примеры надлежащей практики.

#### 4.1. Государственное образование

##### *Что необходимо сделать?*

В тех областях, где существует достаточно высокий количественный спрос, государственные образовательные услуги должны предоставляться на языке меньшинства – в должной степени и на соответствующей пропорциональной основе. Это включает все уровни государственного образования от детского сада до университета. Если недостаточный спрос, невысокая концентрация носителей языка меньшинства или наличие иных факторов делают предоставление образовательных услуг на языке меньшинства неосуществимым, государственные органы должны, насколько это возможно, хотя бы обеспечить преподавание языка меньшинства. Также, все дети должны иметь возможность изучать официальный язык (языки).

##### *Почему это следует сделать?*

Права языковых меньшинств являются правами человека и должны соблюдаться. Данное требование в том числе относится и к надлежащему использованию языков меньшинств. Образование имеет дело с языковым правом меньшинств, являющимся, по всей видимости, ключевым и имеющим основополагающее значение для поддержания языкового разнообразия. Язык, на котором не ведется преподавание, в конечном счете исчезает.

Преимущества получения образования на родном языке в настоящее время достаточно хорошо обоснованы с научной точки зрения, используя данные исследований детей из числа меньшинств, проживающих в различных частях мира.<sup>26</sup>

# Special Minorities on Minority Issues

## Priorities:

- 1. Statelessness and minorities**
- 2. Education and the rights of minorities, particularly in relation to language**
- 3. Hate speech and intolerance against minorities**
- 4. Prevention of conflicts through respecting the human rights of minorities**

## Cross-cutting areas:

- 1. Gender issues**
- 2. Clarifying the concept of a minority for the application of the UN Declaration on the Rights of Minorities**

**For communications with the Special Rapporteur: [minorityissues@ohchr.org](mailto:minorityissues@ohchr.org)**

# Recognition of right to education in one's own language in public educational system, UN Committees, 1988-2014

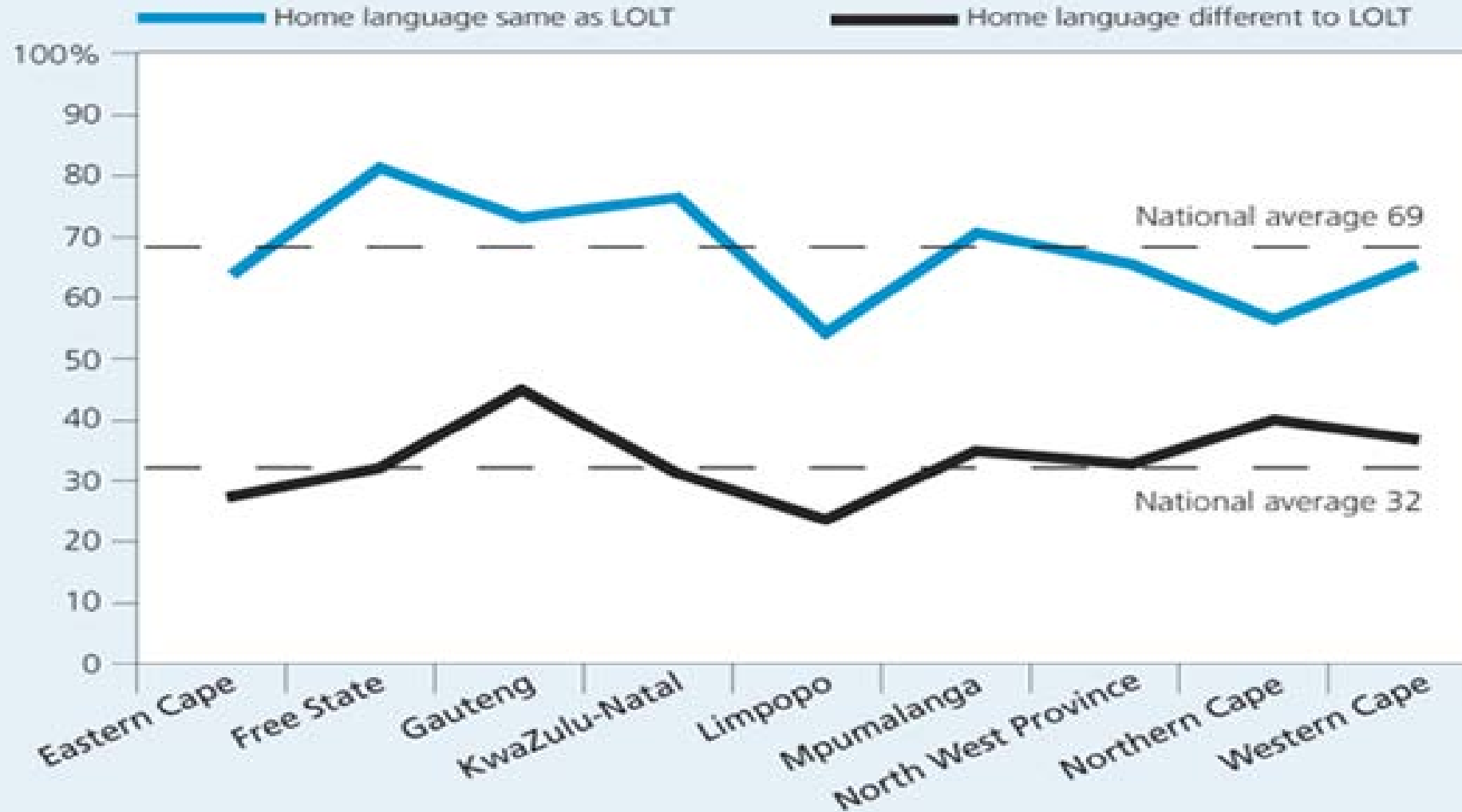
| Committee | Right to education in mother tongue | Right of education and culture | Discrimination in education | Bilingual or multilingual education | Right of an indigenous or minority group |
|-----------|-------------------------------------|--------------------------------|-----------------------------|-------------------------------------|------------------------------------------|
| HRC       | 8                                   |                                | 3                           | 1                                   | 6                                        |
| CRC       | 23                                  |                                |                             | 35                                  | 5                                        |
| CERD      | 9                                   |                                | 8                           | 4                                   |                                          |
| CESCR     | 19                                  | 19                             | 4                           | 5                                   | 5                                        |

HRC = Human Rights Committee; CRC = Committee on the Rights of the Child; CERD = Committee on the Elimination of Racial Discrimination; CESCR: Committee on Economic, Social and Cultural Rights



# Language of Instruction & School Performance in South Africa:

those educated in their own language to the 6th grade level did almost twice as well as those not educated in their own language

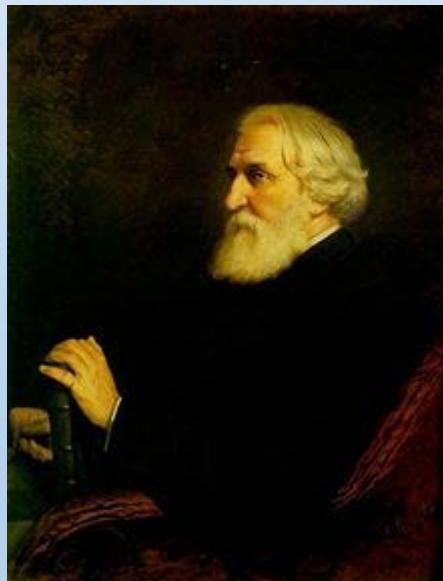


Source: Grade 6 Systemic Evaluation National Report, Pretoria: Department of Education, 2005

**Practical consequences of NOT teaching in the language of minorities -  
And in these examples not respecting the rights of minorities in education**

- *in Burundi*, students only taught in the official language which they did not understand resulted in repetition rates increasing from 28% to 40% in the first two years
- *in Paraguay*, a 1990 survey showed that for children who speak only Guarani at home who were educated in Spanish only had much lower performance in terms of years of completed education
- *in the USA*, a 1967 study revealed that the longer a Puerto Rican child (whose mother tongue is Spanish) remained in New York schools, the more he fell behind: nearly two-thirds of Puerto Rican eighth graders were more than three years behind in reading development
- *in Guatemala*, it was found that the use of minority languages in public education more efficient and cost-effective. The total cost of educating a student through the six-year primary cycle is about 27 per cent more if the language of a minority is not used as medium of instruction, largely because of the difference in repetition and dropout rates'
- not using a minority language in education «devalues» this language as being useless outside of the home
- etc.

...ТЫ один мне поддержка и опора, о великий,  
могучий, правдивый и свободный русский язык! ...  
Но нельзя верить, чтобы такой язык не был дан  
великому народу!



Ив́ан Сергее́евич Турге́нев

## 4. Questions - discussions