

## **Aligning Language Education Policies to International Human Rights Standards**

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Language is not merely a means of communication. Language, thinking and learning are inextricably linked. When children are forced to study through a language they cannot fully understand in the early primary grades, they face a serious learning disadvantage that can stunt their cognitive development and adversely affect their self-esteem and self-confidence for life. This is especially severe in deprived socioeconomic situations where there is little exposure to the school language outside of school. This is further exacerbated when the children's culture, along with their language, is completely excluded from the classroom.

*-Dhir Jhingran, 2009, p. 263.*

The United States has a pretty good record on religious freedoms and rights but not language freedoms and rights. After World War II, the U.S. was in the forefront of human rights and played a pivotal role in forming the United Nations, but increasingly it can be accused of hypocrisy in terms of advocating human rights abroad while violating them both at home and abroad (Mertus, 2004; Roth, 2000). In the United States the ideals expressed by the United Nations and the rising Civil Rights Movement led to a legislative shift from the racist immigration and assimilationist educational policies of the 1950s and before, including the passage of the Bilingual Education Act in 1968 and the Immigration and Nationality Act of 1965, which ended the racist "national-origin" quotas of the Immigration Act of 1924.

However, today in the U.S. there is a renewed interest in restricting both immigration and bilingual education. Official English laws in the U.S. are mainly in response to a recent upsurge in immigration, especially immigration from Spanish speaking countries. Some of these states "Official English" laws and constitutional amendments have been struck down by the courts, but this could all change if a proposed U.S. Constitutional Amendment was adopted making English the official language of the U.S. The proponents of this amendment point to the fact that many other countries of the world have official language laws, which, however, often negatively affect their linguistic and cultural minorities. While often not the target in the U.S., American Indians and other non-Hispanic groups suffer collateral damage from "English-only" laws as they seek the basic human right to maintain and/or recover their cultural and linguistic heritage, a recovery which many American Indian activists see as a key to healing the wounds inflicted by colonialism (Reyhner, in press).

Thirty states now have some type of "Official English" law, with almost half of them passed since 1990 (U.S. English, 2010). While these laws can boil down to what amounts to empty rhetoric, California, Arizona, and Massachusetts have also passed by popular vote "English for the Children" initiatives that pretty much, despite provisions for parental waivers, require English-only instruction in public schools whatever parents' wish for their children (Crawford, 2000; Reyhner, 2001). These laws disregard extensive research that supports both the advantages of bilingualism and teaching students at least initially in the language of their homes (Cummins, 2000; Gándara & Hopkins, 2010). Official English and "English for the Children" laws are what Harvard Law School professor Lani Guinier (1994; see also

Broder, 2000) has called the "tyranny of the majority" and impinge on basic human and minority rights that have been repeatedly acknowledged by the United Nations.

### **United Nations and European Language Rights Initiatives**

The United Nations has been in the forefront of promoting human rights, including language rights (Reyhner, 2008). In 1948 the UN's General Assembly adopted the Universal Declaration of Human Rights. According to the U.S. State Department's web site:

The protection of fundamental human rights was a foundation stone in the establishment of the United States over 200 years ago. Since then, a central goal of U.S. foreign policy has been the promotion of respect for human rights, as embodied in the [Universal Declaration of Human Rights...](#)

Because the promotion of human rights is an important national interest, the United States seeks to:

- Hold governments accountable to their obligations under universal human rights norms and international human rights instruments;
- Promote greater respect for human rights, including freedom from torture, freedom of expression, press freedom, women's rights, children's rights, and the protection of minorities; (U.S. Department of State, 2010, emphasis added).

Article 26 of the Universal Declaration of Human Rights states:

- (1) Everyone has the right to education...
- (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms....
- (3) Parents have a prior right to choose the kind of education that shall be given to their children.

In Article 29 of the UN's Convention on the Rights of the Child entered into force in 1990, "States Parties agree that the education of the child shall be directed to.... The development of respect for the child's parents, his or her own cultural identity, language and values" as well as "for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own." Only Somalia and the United States have not ratified this Convention (UNICEF, 2010).

While the United States continues to drag its heels on signing on to various human rights statements, the UN continues to advance human rights efforts (Mertus, 2004, 2005). It declared 1993 the "International Year of the World's Indigenous People" and then UN Secretary General Boutros Boutros-Ghali wrote in his foreword to the 1994 book *Voice of Indigenous Peoples: Native People Address the United Nations* that half the world's languages stopped being spoken in the twentieth century and,

The modern world will therefore prove to have been a great destroyer of languages, traditions, and cultures. The latter are being drowned by the flood of mass communications.... Today,

cultures which do not have powerful media are threatened with extinction. We must not stand idly by and watch that happen.... Allowing native languages, cultures, and different traditions to perish through "nonassistance to endangered cultures" must henceforth be considered **a basic violation of human rights**. (1994, p. 9, emphasis added)

In 2007 the UN adopted the Declaration on the Rights of Indigenous Peoples on a vote of 143 to 4 with only Canada, Australia, New Zealand, and the United States opposing. Australia has since reversed its position and Canada's Governor General on March 3, 2010 declared that Canada would "take steps to endorse this aspirational document" (Toensing, G., 2010). Article 2 of the Declaration affirms that "Indigenous peoples have the right of self-determination," Article 8 that "indigenous peoples and individuals have the right not to be subject to forced assimilation or destruction of their culture," Article 13 "the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons," and Article 14 "the right to establish and control their education systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning."

In November 1999 UNESCO proclaimed the first International Mother Language Day, and since 2000, the 21st of February has been celebrated as International Mother Language day to promote linguistic and cultural diversity and multilingualism. Similarly, September 26 was proclaimed European Day of Languages by the Council of Europe, with the support of European Union, on December 6, 2001, at the end of European Year of Languages. The UN's General Assembly declared 2008 the International Year of Languages, and UNESCO Director-General Koïchiro Matsuura (2008) affirmed, "Languages are indeed essential to the identity of groups and individuals and to their peaceful coexistence. They constitute a strategic factor of progress towards sustainable development and a harmonious relationship between the global and local context" and that the ninth International Mother Language Day (February 21, 2008) "will have a special significance and provide a particularly appropriate deadline for the introduction of initiatives to promote languages."

With globalization many countries, especially in Europe, are becoming more tolerant of linguistic and cultural minorities within their boundaries as the multicultural nature of the world, including its multilingualism, becomes more a fact of life for their citizens. As Sue Wright (2004, p. 182) notes, "supranationalism [e.g., the growth of the European Union] and globalization are associated with the current spread of minority rights, including language rights." Thomas Hammarberg (2010), Commissioner for Human Rights for the Council of Europe, which includes 47 member countries, states:

Minority language education is absolutely essential for protecting language rights and for maintaining languages. Governments should seek to ensure that persons belonging to minorities have adequate opportunities to learn the minority language or even to receive instruction in this language. Bilingualism should be encouraged for all.

### **One Step Forward and Two Steps Backward**

In 1990 the U.S. Congress passed the Native American Languages Act (NALA) in response to lobbying from indigenous groups worried about the growing support to pass state and federal laws to make English the official language. NALA made it "the policy of the United States to-(1) preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages." Subsequent Acts provide a few million dollars a year for Native language preservation, but this remains a token effort. However, the Bilingual Education Act of 1968, which provided much greater funding for

supporting Native American and other languages in schools, was essentially repealed with the passage of the No Child Left Behind (NCLB) Act of 2001 which replaced the U.S. Department of Education's "Office of Bilingual Education and Minority Language Affairs" with the "Office of English Language Acquisition" (Crawford, 2002). As previously mentioned, at the state level propositions were passed by popular vote in California, Arizona, and Massachusetts severely restricting bilingual education.

Arizona Superintendent of Public Instruction Tom Horne (2003) remarked as he was sworn into office,

for students who come to school not speaking English, the first priority is that they must learn English as fast as possible. Then there is no limit to their ability, as individuals, to achieve academic excellence.... I will keep my campaign promise to enforce the initiative, under which English immersion is to take the place of bilingual [sic].

Horne cites research emanating from his department and conservative "think tanks" such as the Hoover Institution and the Thomas Fordham Institute, but other researchers dispute the success of Arizona students learning English and doing well academically under his administration (see e.g., Gándara & Hopkins, 2010; Wright & Choi, 2006). One can argue that in the United States there is a search for panaceas to address the gap in test scores between "white" middle class Americans and minorities. The idea that if children just learn English "as fast as possible" they will do well in school is not new. The Commissioner of Indian Affairs for the United States J.D.C. Atkins was mandating "English Only" instruction and an end to bilingual instruction in the nineteenth century for American Indians with the same hopes for rapid academic progress, which have yet to materialize despite over a century of essentially English-only instruction for them (Reyhner & Eder, 2004).

The NCLB Act essentially argues that poor schools and the lack of "highly qualified" teachers create the achievement gap between ethnic minority and "white" Americans, but others argue persuasively that the gap is caused by the many children in the United States living in poverty, often without adequate nutrition or health care (Berliner, 2009). Two recent reports (NAACP Legal Defense Fund, 2007?; Advancement Project, 2010) focus on the role of high stakes testing promoted under NCLB as well as zero tolerance student discipline in pushing students out of underfunded and neglected schools, leading them to drop out of school and many eventually ending up in prison, making the U.S. have the highest incarceration rate in the world, with ethnic and racial minorities greatly over-represented in this large prison population (Walmsley, 2003).

Human and indigenous rights activist Tove Skutnabb-Kangas and others add to this litany of social failure by pointing out the role of linguistically inappropriate education in creating the achievement gap faced by many ethnic minority students (Skutnabb-Kangas et al., 2009). The International Council for Science reports:

Universal education programs provide important tools for human development, but they may also compromise the transmission of indigenous language and knowledge. Inadvertently, they may contribute to the erosion of cultural diversity, a loss of social cohesion and the alienation and disorientation of youth....

Actions are urgently needed to enhance the intergenerational transmission of local and indigenous knowledge. (2002, pp. 16-17)

Skunabb-Kangas (2000, p. 492) notes, "many governments applaud . . . human rights, as long as they can define them in their own way, according to their own cultural norms." As of May 1998 she found that the

United States had ratified only 15 of 52 universal human rights instruments as compared with 46 by Norway. This put the United States in the company of Somalia and Saudi Arabia.

## Conclusion

The United Nations, European Union, Council of Europe and various other organizations, including Amnesty International, Human Rights First, Human Rights USA, Human Rights Watch and Teaching Tolerance, are working to advance human rights, often including minority language rights. The United States needs to step up and do more to promote these rights, and it is important for educators inside and outside the classroom to recognize the role that educational and other policies play in promoting or hindering the advancement of human rights and the welfare of their students. Whether it is ensuring health care for all children or their rights to a culturally and linguistically appropriate education, language and other policies in the United States need to be aligned to both the findings of educational research and international efforts to promote human rights.

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