

**International Journal
of
Education Law
and
Policy**

– SPECIAL ISSUE; ROMANIA –



International Journal on Education Law and Policy (IJELP), General Editor;
Jan de Groof, Published by Wolf Legal Publishers in cooperation with the European
Association for Education Law and Policy (ELA).

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Citation: IJELP/2004/special issue Romania.

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INTRODUCTION



Dear Readers,

I am proud to introduce this special issue of the *International Journal for Education Law and Policy* which looks at higher education in minority languages in multi-ethnic states. The inspiration for this volume stems from a seminar on “Integrating Diversity in Higher Education” held at Babes-Bolyai University in Cluj-Napoca, Romania in October 2000. It is also inspired by the fact that Bulgaria, which has the Chairmanship of the Organization for Security and Co-operation in Europe (OSCE) in 2004, has made education one of its priorities. Furthermore, in my experience, higher education for persons belonging to national minorities is a subject that deserves closer attention. We therefore take this opportunity to present some of the material from the conference in Romania together with other articles relevant to the theme of tertiary education in pluri-lingual societies.

As OSCE High Commissioner on National Minorities I often deal with situations where minority education at tertiary level is a source of disagreement. The basic principle supported by international law is that persons belonging to national minorities should have access to education in their own language when they have demonstrated the need for it and when their numerical strength justifies it. As *The Hague Recommendations Regarding the Education Rights of National Minorities* developed by a group of international experts in 1996 point out, “minority language tertiary education can legitimately be made available to national minorities by establishing the required facilities within existing educational structures provided these can adequately serve the needs of the national minority in question”. This is the approach that my predecessor, Max van der Stoep, took in regard to Hungarian education in Romania where he sought more opportunities and

self-administration for the Hungarian “line” of study at Babes-Bolyai University.

As *The Hague Recommendations* further point out, “persons belonging to national minorities may also seek ways and means to establish their own educational institutions at the tertiary level”. This may be either privately funded, like the South East European University in Tetovo (former Yugoslav Republic of Macedonia) – which was established in 2001 with support from the international community – or state-funded, as in the case of the planned Hungarian-language university in Slovakia. The specific remedies should be considered in the context of the societies where minorities live, and articles in this volume offer a number of case studies.

Whatever the circumstances, the principles of equal access and non-discrimination should be respected. As with primary and secondary education, at the highest level minorities should have the opportunity to learn in their mother tongue. In the absence of government funding, the freedom of minorities to establish their own institutions of higher learning should not be restricted.

As the Universal Declaration of Human Rights underlines, the objective of education is the promotion of understanding, tolerance and friendship among nations, racial and religious groups. In this spirit, the intellectual and cultural development of majorities and minorities should not take place in isolation. That is why in higher education it is essential to integrate diversity while encouraging the flourishing of identity and enabling cultural reproduction.

It should be borne in mind that while persons belonging to national minorities may enjoy education in their mother tongue, at the same time they have a responsibility to integrate into the wider national society through the acquisition of a sufficient knowledge of the State or official language. This two-sided message is one that I have repeated to a number of governmental and minority representatives, including: the Latvian and Estonian Governments as well as Russian-speaking minorities living in those countries; in Romania and Slovakia concerning opportunities for students who have

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Hungarian as their mother tongue; to the Moldovan Government in order to improve the teaching of the State language to children from minority communities; in the Gali region of Georgia where I have appealed to the Abkhaz authorities to show flexibility about teaching in the mother tongue; in Turkmenistan where I have encouraged the authorities not to restrict minority language education in their enthusiasm to teach the State language; and in Kazakhstan where I am supporting a project to provide additional Russian language or Kazakh language training for a group of Uzbek final year school students so that they can improve their chances of being accepted to state-funded universities in Kazakhstan where knowledge of these languages is a prerequisite.

In these and similar situations throughout the OSCE area I believe that accommodating minority and majority needs, interests and desires in terms of education in the mother tongue is not mutually exclusive. Indeed it is mutually enriching. Furthermore, students and their parents should realize the self-interest of being effective and employable members of their wider societies, while Ministers of Education, other politicians and members of civil society should appreciate the importance of language as a tool of social integration. That is why, as this special volume points out, it is important to integrate diversity through education within culturally diverse states.

Rolf Ekéus

OSCE High Commissioner on National Minorities

HIGHER EDUCATION AND LINGUISTIC MINORITIES: A CANADIAN PERSPECTIVE

JEAN-MICHEL BEILLARD



UNIVERSITIES IN A BILINGUAL CONTEXT

As a multicultural country with many minorities and two official languages, Canada has devised its own answers to the question of higher education for minorities. They are the result of its geography, its history, its traditions and its laws. The first section of this article will present the general context within which Canadian solutions have evolved.

If any lesson is to be drawn from the Canadian experience, it is that particular contexts have resulted in different solutions, none of them perfect and all of them with built-in limitations and trade-offs.

The assessment of the necessary trade-offs largely depends on who looks at them, and on how one sees the role of a university. Unfortunately, the term “university” is rather ambiguous. In Canada, as in many other countries, some universities offer a large range of undergraduate and graduate programs, do research in a vast array of disciplines, and compete nationally and internationally. Others only teach a few undergraduate programs, engage in limited areas of research, and mostly serve their local community. Yet, all are called “universities”. Not surprisingly, discussions about minorities’ access to higher education are often clouded by the resulting confusion.

Canadian institutions that provide higher education to the Francophone minority vary greatly in their scope of activity. They are either unilingual

French or bilingual. I will present briefly what they have in common, what differentiates them, and what they can and cannot do. Higher education for the Anglophone minority in Quebec will not be discussed. For a number of reasons, the Anglophone minority has little in common with the Francophone minority outside Quebec, the most obvious one being that Anglophones are the majority in all provinces and territories except Quebec. Quebec's three English speaking universities – McGill University, Concordia University and Bishop's University – can thus attract large numbers of Anglophones from the rest of Canada and from the English-speaking world as a whole. The problem is quite different on the Francophone side, where the total pool of students is a major constraint.

The limitations inherent in small numbers will be the object of the second section. By definition, numbers that make up a minority are relatively small, and this has major consequences on the range of university activities that may be pursued. These limitations are not unique to the institutions that provide higher education in French: they apply to all small institutions, be they unilingual English or unilingual French. The difference is that, whereas the former may remain small as a matter of choice, the latter must remain small as a matter of fact.

This is not always well understood. Some Francophones feel that a unilingual French university would be preferable to the existing bilingual ones. I will discuss this proposed model, as compared to the bilingual one, in the third section.

Context is of fundamental relevance when looking at institutions providing higher education to minorities. Even in different contexts, however, some comparisons are possible. As a member of a small task force established by the OSCE's High Commissioner on National Minorities, I had the opportunity to become familiar with some of the challenges facing Babes-Bolyai University as it addresses its multicultural agenda. Given the history of Romania, and more particularly of Transylvania, the case of Babes-Bolyai University is particularly noteworthy. I will say a few words about it in the final section.

THE CANADIAN CONTEXT

Canada is a vast country of almost 10 million square kilometres, with a diverse and unevenly distributed population of some 30 million inhabitants. It is a population made up of the descendants of the two “founding peoples” (the French and the English), of the First Nations (Indians and Inuits), and of a large proportion of “neo-Canadians” from all over the world. English is the mother tongue of about 60% of Canadians, and French of about 23%. But Canada’s linguistic diversity extends far beyond its two official languages: Italian, Mandarin, Arabic, Spanish, Punjabi, Vietnamese and many other languages, often as the mother tongue, are spoken in many Canadian homes. So are the more than 50 languages and dialects used by the various groups in the First Nations.

Diversity in ethnic and linguistic backgrounds is both a potential source of cultural enrichment, and of tension and discriminatory practices. As part of the process of “patriation” of its constitution, the government of Canada introduced a Charter of Rights and Freedoms, entrenched in the Constitution Act of 1982. The then Minister of Justice, Jean Chrétien (today’s Prime Minister) said: “In a country like Canada – vast and diverse, with 11 governments, two official languages and a variety of ethnic origins – the only way to provide equal protection to everyone is to enshrine those basic rights and freedoms in the Constitution.”¹ Among these rights were linguistic rights providing the Francophone and Anglophone minorities with some guarantees to education in their own language.

LANGUAGE RIGHTS AND EDUCATION

As Canada’s two official languages, French and English have “equal rights and privileges as to their use in all institutions of the Parliament and government of Canada”². In Canada, however, education is not a federal

¹ The Honourable Jean Chrétien. *The Charter of Rights and Freedoms, A Guide for Canadians, Preface*. Canadian Unity Information Office, Government of Canada, p. v.

² Part 1, art. 16. (1). In: *Constitution Act 1982*

responsibility, but a provincial one. “In and for each Province, the Constitution Act, 1867, said, the Legislature may *exclusively* make laws in relation to Education...”³ With the new constitution, a section entitled “Minority Language Educational Rights” was introduced as part of the Canadian Charter of Rights and Freedoms. Subject to certain conditions, it guarantees access to education in the minority’s language regardless of the province concerned.

There may be some debate as to whether “Education”, in 1867, was meant to cover higher education. It may well be that provincial “exclusivity” in higher education as we know it today is more a *modus vivendi* than a constitutional rule. I will leave this to the experts. It is clear, in any event, that the federal government plays an important role in higher education, especially with the funding it provides for research through Canada’s three major granting councils⁴. With a few exceptions, however, the federal government’s role is indirect, and education at all levels, is a direct provincial responsibility

Since responsibility for education is a provincial responsibility, one might assume that it would be offered according to the official language of the respective province. However, provincial and linguistic boundaries do not coincide perfectly. Only one province, New Brunswick, is officially bilingual. All other provinces have one official language only, French in Quebec, English in the other provinces. Within each unilingual province, there is some proportion of the population whose language is the other official language: about 13% Anglophones in Quebec, and small percentages of Francophones ranging from 0,4% in Newfoundland to 5% in Ontario. In New Brunswick, on the other hand, the percentage of Francophones jumps to over one-third of the population. Altogether, Francophones outside Quebec number about 1 million. Approximately 500,000 Francophones (or 50% of those living outside of Quebec) live in Ontario.

³ Art. 93, emphasis added

⁴ They are the Social Sciences and Humanities Research Council, the National Science and Engineering Research Council, and the Canadian Institutes of Health Research (previously the Medical Research Council)

It is against this general background that the section dealing with the “Minority Language Educational Rights” in the Canadian Charter or Rights and Freedoms must be understood. Its article 23 stipulates that Canadian citizens “whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside...” or “who have received their primary school instruction in Canada...” in the minority’s language of their province “have the right to have their children receive primary and secondary school instruction *in that language in that province*” (emphasis added). This instruction is to be publicly funded “wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction”. It also states that “where the number of children so warrants, the right to have them receive that instruction in minority language educational facilities [will be] provided out of public funds”.

Article 23 is well known in Francophone minority circles. It has made possible, sometimes as a result of successful legal challenges against provincial laws, the fulfilment of some of their most enduring aspirations. School instruction in French, together with the “ownership” and the management of French schools, had always been perceived by the Francophone minorities as an indispensable condition for their economic and cultural survival. Few would disagree, today, that education-related minority rights have been key elements in the preservation and development of the French language and culture in Canadian provinces outside of Quebec.

An important consequence, with respect to higher education, has to do with the maintenance of a pool of potential students from which French or bilingual institutions can recruit. As is often the case with linguistic minorities, children from the Francophone minority are usually bilingual, so that they eventually may pursue their education in French or in English. A study conducted in north-eastern Ontario indicates that one of the factors influencing their choice for university education in English is their feeling

of inadequacy in the French language⁵. Instruction in French, in a French school environment, should at least partly remedy this situation. Educational minority rights have also helped to increase the participation rate of Francophones in higher education. In most cases, this rate (formerly low) is now comparable to that of Anglophones.

Although the Constitution is silent on minority rights in higher education, post-secondary education in French has long been available, to some degree at least, in several provinces outside of Quebec. This is mostly the result of history: many of the universities, which are provincially subsidised today, have their origins in the private colleges that were established by various religious congregations in the early days of Canada. Following the rapid expansion of demand for university education in the 1950's and 1960's, these colleges (some had already obtained university status) were reorganized to take on their present institutional form.

It is to these various institutions that I turn now.

HIGHER EDUCATION FOR THE FRANCOPHONE MINORITIES

Higher education in French is offered in a variety of institutions, some small, some large, some comprehensive, some with restricted mandates. Following the above-mentioned reorganizations, a number of publicly funded universities were created as autonomous lay corporations. The religious institutions from which they were born kept their confessional status: they were to specialize, from then on, in such disciplines as theology, canon law and other related domains which, in general, have a religious component. I will not deal here with these universities and colleges. They are special purpose institutions, with provincial funding arrangements that are specific

⁵ Wilkinson, D. (1994). Education, Attitudes, and Language of Higher Education: Francophone Students in Northern Ontario. *The Canadian Journal of Higher Education*, 24(1), 30-47.

to them. Some of the comments that follow, however, especially the diversity of institutional models, apply to them also⁶.

Seven institutions of higher learning provide programs in French. As is the case for Anglophone institutions, they vary greatly in size. The University of Ottawa, with about 24,000 students is the largest university in the group. In descending order of magnitude, one finds Laurentian University, and the Université de Moncton, with less than 6,000 students and Glendon College with about 2,000⁷. The “Université Sainte-Anne” in Nova-Scotia, the “Collège Universitaire de Saint-Boniface”, and the “Faculté Saint-Jean”, in Alberta, attract a few hundred students⁸.

Besides their differences in size, these institutions differ in many other important aspects. The Université de Moncton, the Université Sainte-Anne and the Collège Universitaire de Saint-Boniface are unilingual French institutions, with degree granting powers. The Faculté Saint-Jean operates in the minority language, within the otherwise unilingual English University of Alberta. It does not have degree granting powers. All the other institutions are located in Ontario and are bilingual. Both Laurentian University and the University of Ottawa are autonomous universities; Glendon College, which is part of York University, is essentially a Faculty.

⁶ Confessional institutions include the bilingual University of Sudbury in Northern Ontario, Saint-Paul University (also bilingual) and the Francophone Collège dominicain, both in Ottawa. The other institutions are partly financed by the province under special arrangements such as federation or affiliation agreements, but they remain religious institutions. Another, but entirely different special purpose institution, is the Royal Military College, also bilingual. It is responsible for the training of armed forces and is under federal responsibility

⁷ These numbers refer to the aggregate of full time and part-time students. The breakdown for 1999-2000, as reported in Maclean's *10th Annual Ranking of Universities*, November 20, 2000, p.110, is as follows: University of Ottawa, 17 574 full-time, 6,319 part-time; Moncton: 4,397 full-time, 1,211 part-time; Laurentian, 3,707 full-time, 1,952 part-time.

⁸ A survey of some of the characteristics of institutions that provide French education to the Francophone minorities outside Quebec is given in: Tardiff, C. (1999). *L'Institution Francophone Hors Québec*. In: CRCCF, *L'Université et la Francophonie* (pp 104-131). Université d'Ottawa.

As can be seen, these institutions have only one clear characteristic in common: they teach in French to a relatively small number of Francophone students. That being said, the teaching environment differs since in the case of bilingual universities, the majority of the student body is Anglophone (about 60% in the case of the University of Ottawa, 75% for Laurentian University). This is cause for concern among certain Francophone groups. Nevertheless, this is the consequence of only being able to draw on a relatively small number of Francophone students.

THE PROBLEMS OF SMALL NUMBERS

Take the case of Ontario. Franco-Ontarians, it will be recalled, number about half a million. Of these, some 200,000 live in the eastern part of the province, 100,000 in the Centre, another 63,000 in the Centre-North, and 75,000 in the North-East⁹. In terms of the 19 to 24 year old students attending university full-time in 1996, these numbers translate into a total of approximately 8,000 students for the province as a whole, distributed as follows: 4,000 from the East, 1770 from the Centre, 990 from Centre-North, and 850 for the North-East¹⁰. To put these numbers in perspective, the total number of full time university students in Ontario exceeds 230,000, and another 90,000 (increasingly English-speaking) are expected over the next ten years.

PROBLEMS IN MAINTAINING THE DEMAND FOR UNIVERSITY PROGRAMS IN FRENCH

Small as they are, these numbers overestimate the actual registration of Francophones in bilingual institutions. Of the 8,000 mentioned above, over 20% pursue their university education elsewhere. It is unlikely that this pattern will drastically change. These students may seek programs offered

⁹ From the 1996 Census, as reported in: Carrier, D. (1996). *Vers une université Franco-Ontarienne virtuelle*. In: CRCCF, *L'Université et la Francophonie* (p. 207)

¹⁰ Carrier, D. *ibid.* (p. 208)

only in other universities, they may be attracted by better scholarships, by the reputation of some universities in particular fields, they may want to get away from home, etc. Whatever the reason, this leaves a total pool of 6,000 to 6,500 students to be shared by the bilingual institutions concerned.

Difficulties, however, do not stop here: recent developments on the community college front make these small numbers even more vulnerable. Two such developments are important. The first concerns the creation of French community colleges. There are three such colleges: one in Ottawa, one in the Northern part of the province, and one in the South. With college fees being substantially lower than university fees, some Francophone students pursue part of their program in a French college, instead of registering directly at the university. Secondly, this tendency may increase if so-called “university-colleges” start awarding their own degrees¹¹. Diluting the limited number of Francophone students may compromise the economic viability of some programs, with potentially devastating impacts on the university, the community college, or both¹².

This section would not be complete if I did not refer to another source of difficulty in maintaining numbers, namely the problem of assimilation. There appears to be evidence that assimilation, i.e., the use of English as opposed to French by the Francophone minority, is on the increase throughout Canada. One such troubling indication is the change in the “rate of assimilation” which measures the proportion of Francophones who no longer use their mother tongue at home. For Ontario, the rate was 34.7% in 1991 vs. 28.8% in 1981¹³. The rate of assimilation is a major source of concern for the Francophone minority. I mention it in passing, only, because, like any rate, its value varies with the numerator and the denominator. Thus,

¹¹ For more detail and an analysis of this issue, see Dennison, John D. (1992) The University-College Idea: A Critical Analysis. *The Canadian Journal of Higher Education*, 22(1), 109-124.

¹² Doucet, M. L'Université Acadienne: une Université en Milieu Minoritaire. In : CRCCF, *L'Université... op. Cit.* (p. 142).

¹³ From the 1991 census, as reported in Grenier, G. (1996). Une analyse de la performance économique de la population Franco-Ontarienne. In : CRCCF, *L'Ontario Français, Valeur Ajoutée* (p.11). Université d'Ottawa.

despite the increase in the rate, the absolute number of Francophones speaking French at home increased from 336,000 to 340,000 during the same period¹⁴. These absolute numbers, as opposed to rates, are more directly relevant to the questions of critical mass, which I wish to address now.

ISSUES OF “CRITICAL MASS”

Public funding for a university, in Canada and elsewhere, is generally related to the number of its students. Other considerations, such as the type or level of programs, are also taken into account, but numbers are essential. In the absence of special financial arrangements offsetting this relationship, small numbers impose serious constraints on the range of teaching and research activities that may be carried out. As a rule, large universities have a wide variety of programs at all levels and conduct extensive research. Smaller universities tend to be teaching institutions, offering mostly undergraduate programs.

In this respect, larger universities are at an advantage: they benefit from economies of scale¹⁵. Conversely, smaller institutions are at a disadvantage. This is evident, to varying degrees, with Canada’s Francophone and bilingual institutions. Larger universities, regardless of their language of instruction, tend to be better known than their smaller counterparts. In some cases, small Francophone institutions are completely unknown outside their province, and even within it¹⁶. Thus, they lose potential students to larger universities, not only because these have programs not offered in smaller institutions, but because students may not know about the ones they offer. Their research efforts are also considerably hampered. The size of their academic units is

¹⁴ From the 1991 census, as reported in: Grenier, G. (1996). Une analyse de la performance économique de la population Franco-Ontarienne. In: CRCCF, *L’Ontario Français, Valeur Ajoutée* (p.11). Université d’Ottawa.

¹⁵ See, for instance, Dickson, V. Cost determinants in Canadian universities. *The Canadian Journal of Higher Education*, 24(1), 88-99.

¹⁶ Tardiff, C. In *L’Université... op.Cit.* (p. 105).

usually too limited for research that relies on team work or requires significant investments in scientific equipment¹⁷

I will not enter into the debate of whether university research is a *sine qua non* condition for good teaching. Opinions differ greatly on this matter, and studies of the beneficial relationship between the two are, at best, inconclusive¹⁸.

Needless to say, all institutions have their place and play an important role, regardless of their teaching language. There is, nonetheless, a fundamental difference as far as the two linguistic groups are concerned. Many of the programs not offered by a small Anglophone university are available at other universities in the same province. This is not the case for Francophone students in Alberta, Manitoba, Nova-Scotia or New Brunswick: the choice for the student is to change program, or pursue his or her selected program in another province.

The University of Ottawa is the only institution whose size allows it to be a comprehensive, research intensive university. Because of its long tradition as a bilingual institution (its roots go back to 1848), because of its location, and because of its reputation, it has been able to attract students in numbers large enough to maintain and develop undergraduate programs in most academic fields: in the Humanities, in the Social Sciences and Sciences, as well as quasi-professional and professional disciplines such as Administration, Education, Engineering, Law, Medicine and Health Sciences. Both at the undergraduate and at the graduate level, it compares favourably with most other Ontario universities. With over 50 master's and 20 Ph.D. programs in most of the above disciplines, the University of Ottawa ranks second in Ontario, after the University of Toronto. Its range of programs in French, likewise, compares well with that of Quebec universities.

¹⁷ *Ibid.* (p. 106).

¹⁸ Patrick O'Neill, G. (1993). Myths Revisited. *The Canadian Journal of Higher Education*, 23(1), 109-113.

This raises a twofold question: could the University of Ottawa offer a comparable range of programs if it were unilingual French, and does this range of programs apply equally to the Anglophone majority and the Francophone minority?

The answer is “no” to the first part, as could be expected from our discussion of size. The fact that the answer to the second part should be “yes” requires some explanation.

SUPPLY AND DEMAND REVISITED: PROVINCIAL SUBSIDIES FOR PROGRAMS IN FRENCH

Because it caters to both linguistic groups, the University of Ottawa has been able to grow as numbers grew, mostly on the Anglophone side. Its Francophone student body, although large as compared to the other institutions teaching in French, is too small to carry all its programs by itself. In fact, some twenty years ago, the University of Ottawa offered complete programs in both languages in some areas only: the Humanities, the Social Sciences, Administration and Education. The other disciplines, including professional ones, were traditionally taught in English, with only some courses offered in French. This was a cause of concern in many quarters, particularly within the University itself, but the lack of sufficient funding was a major obstacle to the further development of programs in French.

For many years, the provincial government had provided additional funding to bilingual universities under a special envelope meant to cover the incremental costs of bilingualism. This funding, if I may simplify its technical aspects to the extreme, was based on a periodic calculation of the difference between the costs a bilingual institution incurred as compared to what these costs would be if it were unilingual. For instance, where a unilingual university may accommodate a few more students in a given section of a course, a bilingual one might have to open a special section if the language of the students in question is the other language. As a rule, sections in French are smaller than in English, all of which results in incremental teaching and

related costs which a unilingual university would not have. Further costs such as those for supplementary library holdings are also involved.

Helpful as this supplementary funding was, it did not allow for major progress in disciplines taught mostly or only in English. The bilingual grant was an after the fact refund for these costs, and few new courses in French could be introduced to duplicate the English ones. In the 1980's, the provincial government agreed to provide up front, additional funding that would cover the start-up costs of new programs in French as well as those associated with the duplication, in French, of programs existing in English only. Needless to say, funds were not unlimited: plans had to be approved, need shown, feasibility demonstrated, accountability respected and reports submitted. Nevertheless, the potential for a full array of programs in French was there.

The University of Ottawa embarked on a “catch up” process, which, following the implementation of several five-year plans for the development of French programs, would ultimately result in comparable numbers of French and English programs. Not all programs, however, were to be fully duplicated. In some instances, such as physiotherapy and occupational therapy, it was decided to offer the program in French only, as equivalent programs in English existed in other Ontario universities. In some other cases, it was felt that the nature of the program required bilingualism. All in all, however, the emphasis was on parallel offerings.

At this point, two comments are in order. Clearly, the extent of catching up was determined by the number of programs already offered in English. Furthermore, both the decision to catch up and the decision to start new programs could only be taken if the estimated Francophone demand so warranted. After all, once a program in French has been created, the decision to cancel it, for whatever reason, is a difficult one: it will not be found at another nearby university, or not be found in French at all. The University of Ottawa could count on a fairly strong demand: it attracts about 70% of the Franco-Ontarian students, and a significant number of Francophones from other countries and other provinces (particularly Quebec). In total, it attracts some 8,000 Francophone students.

A smaller bilingual university in Ontario, Laurentian University, has a Francophone student body of approximately 1,200. Because of its smaller size, it cannot maintain a wide range of programs in French. It has been able to duplicate many of its English undergraduate programs in the Humanities and Social Sciences, but not in Sciences, or most graduate programs.

The inability to offer programs entirely in French is a troublesome one. Under such conditions, bilingualism is visibly asymmetric. In general, Franco-Ontarians are bilingual, but reliance on their knowledge of English to complete a program is understandably seen as evidence of their minority status: two languages are necessary for the Francophones, only one for the Anglophones. Some Francophone students also see it as an additional complication, since they will have to master the technical terms in two languages instead of one, run the risk of terminological confusions, etc. Other students, on the other hand, welcome this possibility.

To conclude, two main models are used to provide higher education to the Francophone minorities: unilingual French, and bilingual French-English, either with complete or partial parallelism.

A UNILINGUAL FRENCH UNIVERSITY

Two main arguments are advanced in support of a unilingual French institution. First, it is felt that bilingualism cannot serve the Francophone minority as well as a unilingual French university would. This is usually argued on the basis of changing proportions in the linguistic groups attending bilingual universities. The second argument has to do with the need for minorities to “own” and control their educational institutions.

It is true that, with a basically stable Francophone enrolment and an increasing Anglophone one, the proportion of Francophones has decreased. The offer of courses and programs in French, however, depends on absolute numbers, not on proportions. There seems to be, on the part of its proponents, an unstated assumption that the difficulties encountered as a result of small numbers would disappear in a unilingual university. This is

simply unwarranted. As was argued earlier, size determines the extent of university activities, not language. It is also argued that the difference in proportions results in difficult choices for university administrators, who therefore must make many compromises¹⁹. This is somewhat incorrect, but in any event, the problem does not vanish with unilingualism. The unilingual Francophone Université de Moncton faces the same problems, and it looks at the same solutions as bilingual universities when it comes to the maintenance of programs with too few Francophone students: all have to do with increasing absolute numbers²⁰.

There are also serious misconceptions in the view that the Francophone minority should control and/or own its university. The approach is based on the “missing link” argument. Since Francophones are now in control of education in French from kindergarten to college, a French university is needed to complete the educational spectrum²¹. The argument seems logical, and this aspiration is probably a legitimate one. But the limitations of such an institution have to be clearly acknowledged: all the evidence available, the Université de Moncton being a case in point, indicates that it would be fairly limited in scope.

To get around this, it has been argued that although such a university may be modest in size, it would do specialized research and teaching in those areas where the needs and/or the assets of the Francophone community are greatest²². Leaving aside the rather difficult question of establishing what these are, in cases where the desired programs are not available, students would have to go to Quebec or to a unilingual English university. It may be that a combination of some Francophone students attending a unilingual French university, with others having to attend a unilingual English university, is preferable to having all of them attend a bilingual university. There is certainly room for debate.

¹⁹ Faucher, R. Pour une culture universitaire française pleine et entière en Ontario. In : CRCCF, *L'Université...* (p. 230).

²⁰ For a survey of the challenges and proposed solutions, see Doucet, M. *op.Cit.* (pp. 137-152).

²¹ R. Faucher, *op.cit.* (p 240).

²² Gilbert, A. Vers l'Université de la Francophonie. In : CRCCF, *L'Université...* (p. 172).

A consideration is that University researchers tend to identify strongly with other researchers in their discipline, wherever they may be. Their community is usually national and international in nature. They may welcome the notion of a close relationship with the local community, but they certainly do not cherish the idea of being controlled by it. Yet, proponents of a French university argue that it would be dedicated to serving “its” community²³. This expectation is quite consistent with the role of a community college. It is very much at odds with that of the traditional university and of its reward system, based primarily on excellence in research and teaching.

The rather unflattering view has also been expressed that, with such large numbers of Anglophones, bilingual universities were centres of “assimilation”. Serious as it may be, the problem of assimilation has its roots elsewhere. It is a problem throughout Canada, including in New Brunswick. There are indications to the effect that marriages between members of the two linguistic groups play a significant role in this respect. Paradoxical as it may be, assimilation may turn out to be the labour of love. In any event, as far as students are concerned, it is clear that by the time they are old enough to attend university, the damage has either already been done or avoided.

BILINGUAL UNIVERSITIES

It is difficult to provide foolproof evidence of bilingualism as value added. Yet, time and again, former students from my university have reported that they were enriched, both personally and professionally, by their experience in its bilingual milieu. It is, by definition, a milieu that fosters contact between the two linguistic groups, and, in the end, a better understanding of, and a more profound respect for the other culture. Many alumni, from both linguistic groups, have benefited from this ongoing opportunity to communicate with students speaking the other language.

In various surveys conducted by the University of Ottawa, bilingualism consistently ranked as one of the important elements for determining the

²³ *Ibid.* (p. 170).

students' choice. For many years, students from Quebec have come to the University of Ottawa, where they used to be the main component of the Francophone population. They could attend a unilingual French university in their own province. Instead, they opt for a bilingual one, often at significant additional cost. What is true for Francophones (and some Anglophones) from Quebec is also true for Anglophones in Ontario.

It would be naive to pretend that all students who come to the University of Ottawa come because it is bilingual. An important consideration is the perceived quality of programs, and this is as it should be. But the fact is that bilingualism is also perceived as a plus by many students from both linguistic origins.

In various instances, external experts assessing University of Ottawa's programs, particularly in the Humanities, have reported that the programs were enriched by the mix of the Francophone and Anglophone cultural traditions. Bilingualism does provide students with specific opportunities. Thus, the University of Ottawa is the only Canadian institution to offer, in both languages, programs of Common Law and Civil Law. As these two major systems of law increasingly come into contact with globalization, exposure to both systems can only add value to the students' knowledge. The value added of bilingualism was eloquently expressed by colleagues who wrote, some 25 years ago, that "bilingualism constitutes in itself a cultural value, and that in some disciplines and programmes, it is an indispensable condition of academic excellence"²⁴.

With parallelism in program offerings, it might be feared that Francophone students would take courses in French only and Anglophone students in English only. Contacts between the two linguistic groups, if any, would then be limited to those outside the classroom. This does not seem to occur. At the University of Ottawa, a large proportion of students take courses in both languages, the linguistic duplication of programs providing them with an additional dimension to their course choices.

²⁴ (1974) *Regulation on Bilingualism at the University of Ottawa* (p. 3). University of Ottawa.

SUMMARY OF OBSERVATIONS

It may be useful, at this point, to briefly take stock of what has been said in the preceding pages:

1. Public funding for universities is generally related to the number of students, so that a university's budget and its program offerings are a function of its student population. Although smaller institutions may have a comparative advantage in a number of instances, they cannot be comprehensive universities. Instead, they tend to specialize in undergraduate studies with few, if any, graduate programs. This applies whether they teach in the language of the majority, of the minority, or in both languages.
2. The numbers that make up a minority are, by definition, comparatively small. Other things being equal with respect to public funding, a university dedicated to teaching in the minority's language will be subject to the above limitations: it will be relatively small and specialized. The consequences for minority students are important. Unlike students who belong to the majority and who can complement their choice of programs with those offered in their language at different universities, minority students' choices are limited.
3. As with any product, the students' demand for a particular program at a given university will be affected by substitute programs found at other post-secondary institutions, including colleges. In the case of minorities, this fragmentation of demand may have dramatic effects on the economic viability, and finally on the supply of programs.
4. In addition to the relationship between student registration and funding, size matters in a number of ways. Larger institutions, within limits, benefit from economies of scale. They also provide an environment that is more favourable to research in general, and allow for the development of research projects that cannot take place in smaller institutions.

5. The offering of programs in the minority's language results in additional costs for bilingual universities. However, by combining their linguistic resources, bilingual universities can provide programs to the minority in an economically efficient manner.
6. By combining their linguistic resources, bilingual universities can also more easily meet the quality criteria that apply to graduate programs: a number of these criteria, easily met in larger universities, are problematic, at best, in a smaller institution.
7. Bilingualism is seen by some as a cultural value in itself and by others as a threat to their culture. For the latter group, the preservation and development of the minority's language and culture require a separate, unilingual university.
8. In choosing a model for the delivery of programs in the language of the minority, the various advantages and disadvantages should be carefully considered. It is not unusual for a minority to promote the idea of its "own" university. This may be a perfectly legitimate position, but what that university would be, what it could and could not do, together with the consequences thereof, should be clearly understood.

BABES-BOLYAI UNIVERSITY: MULTILINGUALISM AND MULTICULTURALISM

Many of the above considerations are relevant to Babes-Bolyai University (BBU).

A recent brochure describes it as "the oldest and the most comprehensive institution of higher learning in Romania."²⁵ Readers familiar with BBU will know that its history, in many ways, reflects the troubled past of Romania, and more particularly of Transylvania. Although BBU can trace its roots back

²⁵ *Babes-Bolyai – A Multicultural University*. (p.5). The International Relations Office: Babes-Bolyai University & Semn Print.

to 1581, it is, in many important respects, a new university. Its name is the result of the 1959 merger between the Romanian “Victor Babes University”, and the Hungarian university established and named after Janos Bolyai in 1945. For almost 40 years after the merger, the university was to operate under communist tutelage, with many serious consequences for its academic activities.

The Babes-Bolyai University that we know today has little in common with its recent past: it seeks to be open to the rest of the world, wishes to measure the quality of its academic endeavours according to international standards, and fosters multiculturalism as a way of living and of learning. Needless to say, the challenges are numerous.

Today’s Romania is home to 23 different minority groups that represent, according to the 1992 census, about 10,6% of the population. The Hungarian minority, with a little over 7%, is by far the largest. It numbers 1,600,000 persons, most of whom reside in Transylvania. Next come the Roma minority, with about 410,000 members or 1.8% of the population, and the German minority, with about 120,000 persons accounting for slightly more than 0,5% of the total.

Through various bilateral treaties with its neighbouring countries, through the ratification of international conventions, and through internal legislation, Romania has made a number of commitments regarding members of its minorities. They include the protection of basic human rights such as freedom of speech, religion, and generally speaking, non-discrimination in the treatment of minorities. Article 6 of the Constitution of Romania, 1991, specifically guarantees “the right of persons belonging to national minorities to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity”, and that the measures taken to that end “shall conform to the principles of equality and non discrimination in relation to the other Romanian citizens.”

Of direct relevance to our discussion is article 32 of the Constitution, whose sub-section 3 states: “The right of persons belonging to national minorities to learn their mother tongue, and their right to be educated in this language

are guaranteed; the ways to exercise these rights shall be regulated by law.” The Law on Education No.84/1995, with a number of modifications in the following years, is the basic regulation in this respect. It stipulates that under certain conditions, “groups, classes, sections or schools teaching in the language of national minorities may be established...”(Art. 119) and that “In public Higher Education institutions, sections, groups, colleges and faculties providing tuition in the language of national minorities may be created, upon request, according to the present law....”, subject to ensuring that students will acquire the necessary terminology in Romanian (Art. 123). This, in a nutshell, is the context within which BBU functions.

With approximately 24,000 students, BBU compares, in size, with the University of Ottawa. Its program mix is somewhat different, but it means that the benefits outlined earlier for larger institutions are relevant to BBU. So are, of course, the challenges that come with teaching in more than one language.

Prominent among them is the question of numbers of Hungarian and German students, the two minorities for which BBU has developed “lines of study” in their mother tongue. According to the statistics provided by the University, full-time students from the Hungarian minority number 3,900 and represent about 22% of the student population. The 140 students from the German minority amount to about 0,7% of the student body. These numbers, both in absolute and relative terms, are small, especially as regards the latter minority. This notwithstanding, BBU has launched an ambitious initiative of program duplication, resulting in 42 specializations in Hungarians, 12 in German. The corresponding number for Romanian specializations is 96²⁶.

In terms of the previously discussed Canadian context, the comparative status of Romanian versus Hungarian programs is not fundamentally different from what prevailed at the University of Ottawa, before funding was made available for the catch-up process. As is the case with bilingual universities in Ontario, BBU receives additional funding because of the extra

²⁶ *Ibid.* (p. 7).

costs of multilingualism. In its case, it takes the form of different weights attached to the funding of students from the minorities. Bearing in mind that BBU's experience in program duplication is comparatively recent, these parallel lines of study are a significant achievement.

Still, much remains to be done for BBU to fully meet its commitment to multiculturalism. This will be challenging. For various reasons, the development of some programs may prove difficult. This has been the case, for example, with the duplication, in Hungarian, of the programs in Law and in Economics. According to the latest information, this is now done. However, if the experience of the University of Ottawa is of any relevance, I would expect other cases to occur. The establishment of programs in a minority's language depends on a variety of elements, but two of them are indispensable: institutional commitment and adequate funding. The lack of either one hampers progress considerably, and often results in a deterioration of the university's relationship with the community.

Unlike the University of Ottawa, BBU's language of instruction, German excepted, cannot be said to be international languages. The University of Ottawa has been able to attract foreign scholars (including some from Romania) because both of its teaching languages are widely spoken. BBU may have significant challenges in this regard, and the availability of programs in Hungarian obviously depends on its ability to attract Hungarian speaking professors. BBU is also unlikely to be funded to the same extent as the University of Ottawa was for the implementation of further programs, and it is clear that linguistic cross-subsidization has its limits. Finally, in addition to the challenges of multiculturalism, BBU has to address a number of issues that relate to its status as a university that must compete internationally. All of these constraints will make the road to multiculturalism even bumpier.

CONCLUSION

As has been the case in Canada, there have been recurrent calls, by the Hungarian minority, for a Hungarian university. There is, certainly, a major difference with the Romanian context, where such a university existed previously. I will not repeat the comments made with respect to the French university or the benefits that derive from bilingualism, except to say that most of them would apply. Indeed, I would argue that, under the present conditions, the limitations would be even more severe and the loss of benefits considerably higher. Dr. Marga, BBU's rector, is reported to have said that the division of BBU would be disadvantageous to both parties²⁷. I concur with this assessment. This is not to say that one should argue for the status quo: there should always be a constructive debate as to how much more could be done for the minorities, and how it could be done better. To be constructive, the debate must be as informed as possible.

I have attempted in this article to outline some of the difficulties and some of the rewards that are associated with higher education for the minorities. I presented some of them, with specific reference to my experience at the University of Ottawa, during a recent UNESCO seminar held in Bucharest. At the end of the session, a colleague from BBU summed up our respective experiences in a few words: "The problems are the same". So are, I hasten to add, the potential rewards.

²⁷ Woodard, C. (1997) An Affirmative-Action Debate Reflects Ethnic Tensions at a Romanian University. *The Chronicle of Higher Education*, October 31.

PERCEPTIONS OF MULTICULTURALISM

ISTVÁN HORVÁTH



Multiculturalism is a term that has rapidly carved out a place for itself in the Romanian lexicon. It has been used and abused in a number of guises in recent debates on minority educational and cultural policies. This is not solely due to the reputation the term enjoys, nor to its connected set of values contained in the Western political and intellectual discourse¹. It also stems from a need, that is well articulated within the framework of intellectual debates, to find alternative solutions to the various discourses with a nationalistic touch that developed around the problem of cultural diversity management and the way in which the political community should be integrated.

Based on survey and analysis data, this article aims to point out the major issues of the public representations articulated within the problematic context in which the term multiculturalism has been circulating in Romania. The analysis begins with a bird's eye view of the general political and discursive context in which the term has been applied. By sketching the different political and public representations attached to this notion, one will have a clearer focus on the issues surrounding the various attempts to define and re-define multiculturalism.

The approach taken is not meant to tackle the concept of multiculturalism as a cultural diversity management ideology. The legitimacy of the concept

¹ For synthesis of the different debates on redefining the political community see: Haddock, B., Caraiani, O. (1999). Nationalism and civil society in Romania. *Political Studies*, 47 (2).

is not challenged. Rather it is the instrumental use of the term, which is focused upon.

The data presented in the second part of this work are used to illustrate the way in which the population feels about the various thematizations and ways in which issues are raised in relation to the discourse around multiculturalism.

POLITICAL CONTROVERSIES AND REPRESENTATIONS OF MULTICULTURALISM

The term multiculturalism was seldom used in Romanian politics before 1996. Still, it is worth noting the symbolic way that the UDMR (The Democratic Union of the Hungarians in Romania) used it in the context of the elections that took place that year, by including it in the very title of its electoral program: "Trust in the human being and in the multicultural society"². The use of the term increased in 1997, particularly within the framework of public and political debates related to the institutional reform of higher education for minorities. At that time, the UDMR's participation in the government coalition led to the inclusion in the government program of a proposals to introduce legislative reform to allow for institutional development of higher education in Hungarian.

Two distinct and relatively divergent views on the meaning of multiculturalism can be discerned. One supported the need to develop the reform process of education in minority languages within the already existing institutional framework³, involving two types of major changes: the expansion of the specialities by providing teaching in the minority languages⁴,

² (2000) *Romániai Magyar Demokrata Szövetség 1989-1991 Kötet* (pp.227-230).

³ Until 1997, there were three state higher education institutions providing teaching in Hungarian: the Babes-Bolyai University in Cluj-Napoca, The University of Medicine and Pharmacy in Târgu-Mureş, and the Dramatic Art Academy "Szentgyörgyi István" in Târgu-Mureş.

⁴ The Law on Education no. 84 of 1995 limited the organization of higher education in minority languages, allowing only for the specialities meant to train teaching staff for secondary education institutions and specialists in the cultural area, thus excluding the

and the initiation of organizational restructuring procedures meant to provide an enhanced degree of self-management of the teaching in the respective languages⁵. The other standpoint involved advocacy for the creation of an autonomous state university, with teaching in Hungarian, considering that only such an institutional solution could truly reflect the multicultural character of Romanian society⁶. As a result, the term multiculturalism was open to debate, with both practical and theoretical consequences.

During this first stage of *negotiating multiculturalism*⁷, the immediate political stakes were relatively unimportant. Hence, the debate was of a relatively limited extent, and produced no major impact on public opinion.

The situation changed considerably with the commencement of a debate on the establishment of the Petöfi-Schiller University⁸, with teaching in Hungarian and German, a university that was also labeled multicultural.

In this context, the debate had a predominantly (and over a certain period of time, an exclusively) political character⁹, as the main debate focused on defining the content of multiculturalism. According to the project, the Petöfi-Schiller University was to include faculties and departments teaching in the minority languages (that is in Hungarian and in German), without comprising

possibility to organize teaching in the minority languages in economics, technical sciences etc.

⁵ Marga, A. (1998). Higher Education in the Next Century: "Babeş-Bolyai University, Cluj". In: Grigorescu, D. & Păun, N. *European Studies Today. International Conference*, p. 80, Cluj-Napoca, September 29-30, 1997.

⁶ Marga, A. (1997). Reforming the Postcommunist University. In: *Journal of Democracy* 8 (2) 163.

⁷ Magyari, V. E. (1997). Negocierea multiculturalismului. In: *Caietele tranziției*. The Review of the Center for Eastern Studies and of the Cultural Anthropology Institute, 1997/1, pp. 96-103.

⁸ The project of this Hungarian-German university (see the Government Decision no. 687 of 1998) was created within the context of the governmental crisis in the autumn of 1998, when the UDMR warned it would exit the coalition, least the requests concerning a distinct university were fulfilled. As the coalition partners refused, a compromise solution was resorted to, by promoting not a Hungarian University, but a bilingual one.

⁹ The clarification of matters related to the setting up of the Petöfi-Schiller University was entrusted to an expert committee of the Department for National Minority Protection.

any units also, or exclusively, teaching in Romanian. Consequently, the debate centered around the issue of what role the majority language would have in this new institution. Those who insisted on having classes also in Romanian said that only this would make the university truly multicultural. As a result, multiculturalism was invoked by almost all actors who were against this initiative¹⁰.

Subsequent developments tend to confirm this instrumental use of multiculturalism. In 1999, the term multiculturalism was included in the amended Law on Education¹¹, but without much clarification. According to the law, a university teaching in several languages is a multicultural university. There is no provision in the sense that one of the languages must be the Romanian language, and many other issues, such as the organization of such an institution, are not mentioned. Basically, this legal solution was the result of those seeking to calm down the issue politically since the UDMR gave repeated warnings that it would leave the coalition over a lack of resolution on this issue. In this situation (and in order not to offend any of the parties involved) a declaration of principle¹² concerning the promotion of a rather ill-defined idea of multiculturalism was resorted to.

But this did not solve the concrete problems. As a result, the debate on multiculturalism went on. Within the framework of the Babeş-Bolyai University in Cluj-Napoca (the most important higher education institution of a multi-lingual character in Romania that assumed the promotion of

¹⁰ Andreescu, G. (1999). Lentiarea conceptelor viteza evenimentelor. In: Andreescu, G. and Molnár G. (eds.), *Problema transilvană*, (pp.194-198). Bucharest: Polirom.

¹¹ "Multicultural higher education institutions may be set up upon request and according to the law. The teaching languages of these higher education institutions shall be decided upon within the framework of their constitutive law." The law no. 151 of 1999 concerning the approval of the Government Expeditious Ordinance no. 36 of 1997, amending the Law on Education no. 84 of 1995, art. 123 (the first paragraph). See: Law no. 151 of 1999 – Law on the adoption of the Government Expeditious Ordinance no. 36 of 1997 on the amendments to the Law on Education no. 84 of 1995 – *The Official Gazette of Romania* no. 370 of August 3, 1999.

¹² See paragraph 3 "Higher education institutions that comprise multicultural structures and activities shall be promoted, as they enhance the harmonious inter-ethnic cohabitation and the integration at both the national and the European levels."

multiculturalism in a programmatic manner) the negotiation on the institutional mechanisms meant to provide control and influence to the representatives of the different lines of study were (re)initiated in 1999¹³.

Within the BBU context, different interpretations of multi-culturalism re-emerged. The basic disagreement between the representatives of the two standpoints concerns the secondary and quasi-formal nature of the structures providing education for minorities, as compared to the fundamental structure of the University. The first choice of the representatives of the Hungarian teaching body was the establishment of distinct primary structures (departments and faculties), including specializations in Hungarian.

The other standpoint favored the institutionalization of minority representation through the provision of separate seats in the leading bodies of the university, possibly based on other arrangements that allowed for a certain degree of representation and influence, without harming the organization of the university by separate departments and faculties. The idea of setting up primary structures that would be somewhat parallel to the existing ones was not favored. The integrated formula was eventually adopted, and the representatives of the various lines of study gained a little additional influence within the different decision making structures of the university.

The examples cited here show that after 1996, the term multicultural was conferred a central role in the politicized public discourse on higher education in Hungarian, and more broadly, in relation to the political integration of national minorities in Romania.

Invoking multiculturalism represented only a temporary and formal source of compromise between the two standpoints on the issue of higher education in Hungarian. This is particularly evident in the project of the Petöfi-Schiller multicultural University, which proved to be only a temporary political solution, and by no means a viable and long-term one.

¹³ The term *line of teaching* refers to secondary structures (in relation to the organization of the university by departments and faculties) that provide teaching in one of the teaching languages of the university.

It should also be noted that, regardless of the level and stakes of the debates invoking multiculturalism, the ethnic barriers between the representatives of the various standpoints that were briefly described previously were constantly reproduced. In all circumstances, and even if we take into consideration the BBU in Cluj, except for a few examples that lacked continuity and importance, the debate on the content of the multicultural institutional structures was joined by Romanian professors on the one hand, and by Hungarian professors on the other hand. And, although we do not have any account of such relations that were influenced by inter-ethnic strain, the representation of the differences by the media strengthened the image of clear-cut borders that separating ethnic groups.

In the same manner, the debate on and the media coverage of the Petöfi-Schiller project¹⁴, and generally that of the political problems posed by a state university with teaching in Hungarian, where the term multicultural played a predominant part, gave the image of clear-cut fault lines. In the autumn of 1998, the main national daily papers published, in less than a month's time, over 50 accounts connected to this project and describing not only the politicians' protests, but also those of indefinite categories, such as *the majority of the inhabitants of Cluj-Napoca*¹⁵.

When it comes to multiculturalism (and generally when it comes to issues that pertain to inter-ethnic relations) the language of the media portrays society as being divided into separate, highly distinct ethnic and national categories, with mutually exclusive dynamics in their relations. Although this code system does not accurately describe the inter-ethnic relations, it is a *constitutive dimension of these relations*¹⁶. Hence, the dominant image of these relations pre-eminently remains a dichotomous one.

¹⁴ For the media coverage of the Petöfi-Schiller debate, see: Zsigmond, Cs. (1999). A Petöfi-Schiller Egyetem megjelenítése az országos sajtóban. In: *Magyar kisebbség* 5th year, 15 (1).

¹⁵ *Ibid.*

¹⁶ Brubaker, R. (1998). Myths and misconceptions in the study of nationalism. In: Hall, J. A. (ed), *The State of the Nation. Ernst Gellner and the Theory of Nationalism* (p. 297). Cambridge University Press.

Multiculturalism stood for an attempt to provide an alternative vision to this type of representation. Because of the different instrumental uses of political character and because of some debates (where the public could witness, beyond the negotiation of the significance attached to multiculturalism, a mutual questioning of interpretation) multiculturalism did not succeed to impose itself as an alternative to ethnic-nationalism, being assimilated (possibly against the will of the majority of the actors that promoted it in a consequent and conscious manner) to this way of managing cultural diversity. This relates less to the ideological content than to the types of public manifestations invoking multiculturalism, thus reproducing the representations of the relations between Romanians and Hungarians that are characterized by a sharp delimitation and of a negotiation process that was inevitably turned into a zero sum game.

THEMES, IMAGES AND REPRESENTATIONS

THE MAJORITY DISCOURSE

As has already been noted, multiculturalism was employed in connection to education policies, and less in connection to linguistic ones. Still, in its most general sense, multiculturalism is placed in connection with the issue of the Hungarian minority's integration. The following political statements, which are typical for the way multiculturalism is publicly produced and framed, illustrate this point:

The declaration of the minister of education: *"The setting up of this university [Petöfi-Schiller] can be approached only with a strict observance of the legal procedures, and the concept of multiculturalism must necessarily comprise the studying in the official language of the respective state"*¹⁷.

The statement of Ion Iliescu, president of the PDSR: *"The solution suggested by the Government [Petöfi-Schiller] is a highly unsuitable, incorrect and unacceptable*

¹⁷ "The contradictory discussion between A. Marga and his Hungarian counterpart lasted for an hour". In : *Monitorul National*, Wednesday, October 7, 1998.

*one. UDMR is not wanted to give credit to the idea that young Hungarians do not have the opportunity to study in their mother tongue. The multicultural idea already exists and there are such multicultural universities in Oradea, Bucuresti and Cluj. There is no need to invent a solution we already have. The solution of a bicultural university is actually a masked reiteration of separation and segregation*¹⁸.

Some political parties that took the project of the Hungarian-German Petöfi-Schiller University to court strengthen these statements. Part of the charges were based on the paragraph in the Constitution that stipulates the official status of the Romanian language, which, according to them, would not allow for the functioning of higher education institutions with no teaching in Romanian.

One may notice that the use of multiculturalism in this discourse performs two major functions. It confers value to the official language, as compared to the Hungarian language and takes away the legitimacy of the mono- or, in this case, bi-cultural institutional project. The role of multiculturalism in the promotion of social communication is implicitly stressed, such a formula being thought to create favorable frameworks for the minority students to learn Romanian, thus providing a communication space where everyone is able to use this language. The accent is thus placed on the legitimation of a social order where the distribution of power between these cultures is asymmetric, and integration (or the prevention of fragmentation) is given a value that legitimates such a configuration of the relations between cultures.

Language is the most obvious dimension of the cultural difference concerning the issue of integration.

As we may notice from the data in table 1, over 70% of Romanians consider that the use of Romanian by the members of the minority in a public context represents a quasi-compulsory attitude of respect.

¹⁸ *Monitorul National*, Friday, October 2, 1998.

PERCEPTIONS OF MULTICULTURALISM

Table 1.- *It is rude for two Hungarians to speak in Hungarian when Romanians are also present, regardless of the topic of the conversation (RCIRT – Ethnobarometer)*¹⁹

Completely agreed	54.37
Rather agreed	16.87
Did not really agree	9.08
Did not agree at all	13.53
Did not know	6.14

This position concerning the use of the Hungarian language is not the expression of an intolerant attitude of the majority population towards the use of Hungarian. It rather gives the percentage of the population that believes the selection of the communication code in a public context (which is not officially regulated) is not a private and individual option, but subject to the norm of non-exclusion. To put it differently, the expression of a cultural difference cannot result in the exclusion of the persons belonging to the majority.

Table 2.- *I do not like to hear people speaking Hungarian (RCIRT – Ethnobarometer)*

Completely agreed	14.03
Rather agreed	13.09
Did not really agree	21.62
Did not agree at all	42.45
Did not know	8.81

A considerable number of Romanians assess the communication relations with Hungarians as problematic. As Table 3 shows, almost two thirds of the population more or less deeply believes that Hungarians are generally unwilling to speak Romanian.

¹⁹ Part of the "RCIRT – Ethnobarometer" research data presented here have been published in: Culic, I., Horváth, I., Lazăr, M. (2000). *Ethnobarometer*. Cluj-Napoca: The Research Center on International Relations.

Table 3.- *There are many Hungarians who, although they can, avoid to speak Romanian RCIRT – Ethnobarometer*

Completely agreed	48.44
Rather agreed	15.97
Did not really agree	8.79
Did not agree at all	12.52
Did not know	14.30

A central problem with the perception that Romanians have of Hungarians, or more precisely of the use of the Hungarian language, is the idea that it may be (or respectively is often considered to be) a form of exclusion, being, from this point of view, considered a source of inter-ethnic tensions. In this context, over 60% of Romanians (see Table 4) agree that learning the minority languages would lead to an improvement in inter-ethnic relations.

Table 4.- *To what extent do you agree that the following things would lead to an improvement in the inter-ethnic relations: The opportunity for Romanian children to learn the languages of the national minorities in school (RCIRT – Ethnobarometer).*

Completely agreed	41.08
Rather agreed	19.22
Did not really agree	13.90
Did not agree at all	16.30
Did not know	9.50

Over two thirds of the Romanian population (see Table 5) believe that it is acceptable to have knowledge of Hungarian and to potentially use it in contact with native speakers.

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Table 5.- *Romanians who learned Hungarian in order to speak it to their Hungarian acquaintances did a good thing.* (RCIRT – Ethnobarometer).

Completely agreed	37.29
Rather agreed	27.99
Did not really agree	15.37
Did not agree at all	7.54
Did not know	11.81

Still, the support diminishes for the idea that Romanians are expected to learn Hungarian, as a token of accommodation to a predominantly Hungarian environment (see Table 6).

Table 6. *The Romanians in the areas that are almost completely inhabited (only) by Hungarians should have a good command of the Hungarian language.* (RCIRT – Ethnobarometer).

Completely agreed	19.86
Rather agreed	19.38
Did not really agree	26.18
Did not agree at all	25.50
Did not know	9.08

Although the predominant tendency is to consider that a certain level of knowledge of minority languages leads to relaxation in inter-ethnic relationships (Table 4), the promotion of societal bilingualism and not only of a minority one²⁰ as a social communication norm (at least where there is a marked presence of a minority) enjoys significantly lower support (Table 6). This is an apparently paradoxical situation, explained by the fact that the position towards the Hungarian language involves two different levels. On the one hand, there is a symbolic contrast: Hungarian, as an unofficial

²⁰ On different types of bilingualism and multi-lingualism, see: Fasold, R (1987). *The Sociolinguistics of Society* (pp.1-33). Oxford UK & Cambridge USA: Blackwell.

language and thus having an inferior status, is particularly relevant in the strengthening of the official status of the Romanian language, and ultimately of the majority's identity. On the other hand, the language of the minority may be a resource that gives the individual access to communication situations and to a set of social and personal relations from which he feels he is excluded because he does not know the language. Therefore, this paradox is explained through the double dimension, both symbolic and communicative²¹, of the position towards the linguistic difference.

Hence, in the representation of Romanians, speaking Hungarian is not a manifestation that may have negative connotations. Still, any tendency of parity of the official use of the Hungarian and Romanian languages (concerning the official character, the institutional status etc.) is represented as a violation of the symbolic identitary dimension that is articulated in relation to the language.

Such a position may be explained from a social and linguistic point of view, by reference to the type of bilingualism that is specific to the Romanian-Hungarian relational context. The bilingualism of the Hungarians in Romania²² may be considered to be broadly of an additive type, in the sense that learning the Romanian language involves the expansion of the already existing linguistic repertoire and is less specifically a subtractive bilingualism²³ (generally, learning Romanian does not involve a regression of the competencies in the Hungarian language). Therefore, the Hungarians' bilingualism does not involve, at least not on a larger social scale, a marked functional differentiation involving a hierarchical relation between the two languages²⁴. Hence, the asymmetry – in what concerns the official status – of the

²¹ Concerning these two dimensions, see: Edwards, J. (1985). *Language, Society and Identity*. Oxford: Blackwell.

²² On bilingualism in Romania, see: Culic, I., Horváth, I. and Raț, C. (2000). Etnobarometru. In: Nastasă, L and Salat L., *Interethnic Relations in Post-Communist Romania* (pp. 253-359). Cluj-Napoca: Ethnocultural Diversity Resource Center.

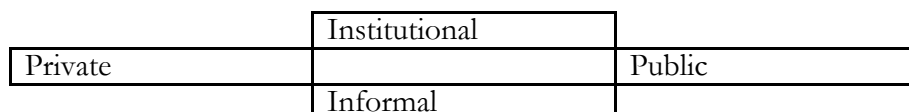
²³ For this typology, see: Edwards, J (1994). *Multilingualism* (p.59). London and New York: Routledge.

²⁴ We are referring to the specific configuration described by the term of *diglossia*, in the broader sense, defined by Fishman, J. For definition, see: Fishman, J.(1972). *Sociolinguistic: A Brief Introduction* (pp. 73-90). Newbury House: Rowley, M.A.

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Romanian and Hungarian languages does not mean that the Hungarian language is assigned a lower social and cultural status, as it is considered that Romanians who can speak it are benefiting from an effective interactional resource in the context of social communication.

By analyzing the perceptions of the majority population we may note a set of inter-related attitudes that can be modeled within a space described by the informal-institutional and private – public axes, respectively.



We will represent the cultural-institutionalized activities that are carried out in the mother tongue, but which are dominantly not considered to have a significant influence on social integration, on the private-institutional dimension (see Tables 7 and 8).

Table 7. *Do you agree that minorities have their own churches?*²⁵

do not know	yes	No
3,6	77.2	19.2

Table 8. *Do you agree that minorities have a media in their mother tongue?*²⁶

do not know	yes	no
6,1	64,3	29,6

²⁵ CURS BOP 1997 December – representative only for the Romanian population. See: CURS BOP (Public Opinion Barometer) – The Center for Regional and Urban Sociology (1997). *National opinion poll, December 4-11, 1997.*

²⁶ *Ibid.*

On the informal-private dimension one observes the dominantly positive position with regard to the (non-compulsory) learning of the Hungarian language by Romanian people (see Table 5). On the informal-public dimension, there is a relatively ambiguous position towards the use of the Hungarian language in public. There is a tendency in this respect for the promotion of regulations (Table 1), although it is highly possible that the primary motivation does not rely on the strengthening of symbolic relations, but rather on the access to different communication situations.

On the public-institutional dimension, there is a predominant rejection of the various types of institutionalized and officialized communication in the Hungarian language, and in the minority languages in general (see Tables 6, 9-10). This appears even in particular matters that pertain to details, but was placed in the very center of the public and political debates during 1994-1998 (see Tables 11-12).

Table 9. *Do you agree that minorities should have the opportunity of having their own schools?*

	Year	do not know	yes	no
IMAS ²⁷	1995	4	16	80
IMAS ²⁸	1996	4	16	80
CURS ²⁹	1997	6.4	25.4	682

²⁷ IMAS, 1996 -representative only for the Romanian population. See: IMAS (1996). *Relațiile interetnice în România*. Also see: Kivu, M. (1999). *O abordare empirică a relației dintre români și maghiari*.

²⁸ *Ibid.*

²⁹ CURS BOP (Public Opinion Barometer), 1997- representative only for the Romanian population. See: CURS BOP (Public Opinion Barometer). The Center for Regional and Urban Sociology (1997). *National opinion poll, December 4-11, 1997*.

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Table 10. *Do you agree that minorities should have the opportunity to speak their mother tongue in their relation with the public administration?*

	Year	do not know	yes	no
IMAS ³⁰	1995	3	13	84
IMAS ³¹	1996	5	13	83
CURS ³²	1997	6.6	13.1	803

Table 11. *Should minorities take the university entrance examination in their mother tongue³³*

Do not know	Yes	no
6,1	9.2	84.7

Table 12. *Should minorities learn Romanian Geography and History in their mother tongue³⁴*

Do not know	yes	no
5.0	11.5	83.5

It is obvious that it is on the institutional-public dimension that the most marked rejection of any claim concerning a change in the status of the Hungarian language is manifested. It should be noted as well that, although extended societal bilingualism is considered to be a compromise solution that would lead to a relaxation in inter-ethnic relations, its actual promotion would involve a partial balancing in the asymmetric relation between the

³⁰ IMAS, 1996 -representative only for the Romanian population. See: IMAS (1996). *Relațiile interetnice în România*

³¹ *Ibid.*

³² CURS BOP (Public Opinion Barometer), 1997- representative only for the Romanian population. See: CURS BOP (Public Opinion Barometer). The Center for Regional and Urban Sociology (1997). *National opinion poll, December 4-11, 1997*

³³ *Ibid.*

³⁴ *Ibid.*

official positions of the majority language and of the Hungarian language. Therefore, bilingualism enjoys only moderate support.

In addition to motivations of a symbolic type, when assessing these trends, we need to take into consideration the reasons pertaining to the opportunity of assertion through the agency of non-institutionalized social communication within a multilingual environment only in the Romanian language. Taking both dimensions into consideration, it would be an exaggeration to consider that the refusal of a mutual solution (that is the promotion of a bi-directional social bilingualism instead of a uni-directional one on the minority's side) is the expression of the majority's linguistic fundamentalism³⁵. It is much more so, especially because there is absolutely no question about a superior attitude of moral or metalinguistic motivation³⁶ in speaking the Romanian language, as compared to speaking Hungarian. When it does not question the official hierarchic and symbolic order of languages, the fact that Romanians speak Hungarian is predominantly evaluated as positive.

The fact that the Hungarian population is ascribed a contesting attitude is possibly the most important element of the set of attitudes and representations concerning this social order. This is not only about symbolically contesting the position of the Romanian language by negotiating a more extensive use of Hungarian in the public area, but also about the assumed defiance of many Hungarians, manifested by avoiding to speak Romanian.

This theme, the Hungarians refusing to maintain the social ties produced by and through communication, is the central element on which the idea that

³⁵ The term has been used in the analysis of the relations between the Hungarians in Slovakia and Slovaks, and refers to the dominant position of the majority population in what concerns the linguistic issue. On the one hand, Hungarians are expected to unconditionally learn the Slovak language, and on the other hand, there is a marked rejection concerning the learning of Hungarian by Slovaks. See: Bordás S., Fric, P., Haidová, K., Huncik, P., Máthé, R. (1995). *Counter-Proof. The examination of the Slovak-Hungarian relationship with sociological and ethnopsychological methods in Slovakia* (p. 105). NAP Publishing House.

³⁶ The appraisal of the qualities of a language (such as clarity, accuracy, vocabulary etc), thus implying its intrinsic superiority as compared to another language.

multiculturalism involves an integrated institutional situation, based. It implies symmetry between cultures, but asymmetry in terms of power.

These are the central themes, ideas and attributes of the linguistic ideology³⁷ developed around the issue of minority education policies and linguistic diversity management. One can notice that priority is given to the theme of integration into the public space, its diversification being a matter of secondary importance and believed to be non-problematic to the extent it does not affect the existing symbolic order of the two languages.

The center of this ideology is Habermas's notion of *public* as a metaphor for (a direct or of a mediated) conversation, elaborated as an emblem and as a basis for the legitimization of a democratic political order that proposes to include *everyone* without considering the respective persons as the repository of a particular value³⁸. The rules and institutions (the official language, the university in its generic acception) in this field of communication are considered to be constitutive, and therefore, contesting attitudes and attempts to re-define them seem subversive.

THE MINORITY'S DISCOURSE

The analysis of the Hungarian community's representation of multiculturalism is perhaps easier as one can benefit from a series of survey results that are more accurately directed to some of the themes under debate in connection to the problems of multiculturalism.

³⁷ On linguistic ideologies, see the introductory synthesis in: Woolard, K. A. (1998). Introduction. Language Ideology as a Field of Inquiry. In: Schieffelin, B. B., Woolard, K. A. and Kriskrity, P. V. (eds.), *Language Ideologies. Practice and Theory*, (pp.3-47). New York, Oxford: Oxford University Press.

³⁸ "Proposed to include *everyone* by being no-one-in particular". See: Gal, S. (1998). Multiplicity and Contention among Language Ideologies. A Commentary. In: Schieffelin, B. B., Woolard, K. A. and Kroskrity, P. V. (eds.), *Language Ideologies. Practice and Theory* (p.326). New York, Oxford: Oxford University Press.

On the other hand, we are confronted with certain difficulties connected to the interpretation of the theme in the public discourse. These are due to the various interpretations (that are highly contradictory) attached to the notion of multiculturalism in the public debate. Besides the negotiations on the content of multiculturalism analyzed so far, the Hungarian public also contributed to a radical change in the use of the term.

During the election campaign of 1996 multiculturalism was used as a way of promoting the equality of the cultures in Transylvania. This developed into specific types of co-habitation and was invoked to support various projects of autonomy. Starting with 1997, there was an anathematization of the Babes-Bolyai multicultural university project, since in the public discourse multiculturalism was represented as a counter-ideology to the project of an autonomous Hungarian university³⁹.

Even in a context where the label of multiculturalism was circulated in order to confer an enhanced public acceptance to the project of a Hungarian-German university, it did not have an equivocal echo, as some contesting leaders inside the UDMR had a markedly reserved attitude towards it. Basically, the term multicultural stood for a counterproposal to the term autonomous.

One cannot overlook certain tendencies that were manifested beyond discourses, partially in connection to the label of multiculturalism. Over the past few decades higher education in Hungarian underwent a significant growth in terms of the specializations provided and the number of places available for students. As a result, the situation changed from one characterized by scarcity, where Hungarians complained about a discriminatory policy of access to the university⁴⁰, to a situation where the competition is no longer about entering higher education, but about gaining access to the publicly

³⁹ Horváth, I. (1999). Multiculturalismul în România: alternativă sau eschivă. In: Culic, I., Horváth, I. and Stan C. (eds.), *Reflecții asupra diferenței* (pp.1-11). Cluj: Limes.

⁴⁰ Joó, R., Ludányi, A. (1994). *The Hungarian Minority's Situation in Ceausescu's Romania* (pp.66-67). Highland Lakes, New Jersey: Atlantic Research and Publications.

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financed study places. The situation has become more focused on money and education than ethnicity and linguistic grievance.

How do language issues manifest themselves in the minority discourse? In pragmatic terms, there is a clear acceptance and confirmation of the usefulness of having a good command of the Romanian language (Tables 13-14). When asked general questions about the usefulness of having a good command of the Romanian language, 98% gave a positive answer.

Table 13. *A good command of the Romanian language can only be useful to everyone* (RCIRT, October 1999)⁴¹

Did not answer	0.69
Completely agreed	81.47
Rather agreed	16.47
Rather disagreed	1.29
Completely disagreed	0.09

Bilingualism is represented as a resource in the daily activities including by those who declared they do not have a very good command of the Romanian language.

⁴¹ This survey was carried out in Hungarian. As we want to simplify, we do not provide the exact wording of the questions as the one in the questionnaire. Without distorting the initial questions, we have tried to catch the idea of the interrogations or of statements the subjects were required to express an opinion on.

Table 14. *It is easier for the Hungarians who have a good command of the Romanian language to find a job.*

(RCIRT, October 1999)⁴²

Did not answer	1.38
Completely agreed	50.78
Rather agreed	33.16
Rather disagreed	11.92
Completely disagreed	2.76

The problem becomes more complex when bilingualism is formulated as a norm deriving from the legal ties the Hungarians, as citizens, have to the Romanian state. Even if acceptance is the general tendency, we can still notice a certain hesitation (Table 15).

Table 15. *As they are Romanian citizens, the Hungarians in Romania should have a good command of the Romanian language.*

(RCIRT, October 1999)⁴³

Did not answer	1.56
Completely agreed	37.34
Rather agreed	43.56
Rather disagreed	14.35
Completely disagreed	3.20

When approaching the level of daily interactions, we can notice the general feeling is that Romanians reject Hungarians who do not have a good command of the Romanian language (Table 16).

⁴² See: RCIRT (October 1999). *Radiografia opiniei publice maghiare din România*, manuscript. The Ion Alușă Documentation Center for Multiculturalism.

⁴³ *Ibid.*

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Table 16. *In general, Romanians reject those Hungarians who do not have a good command of the Romanian language.*
(RCIRT, October 1999)⁴⁴

Did not answer	3.73
Completely agreed	33.62
Rather agreed	30.50
Rather disagreed	25.04
Completely disagreed	7.11

Still, it is remarkable that a significant percentage of respondents are rather reserved in approving the validity of such a perception. In addition, approximately one third of the Hungarian population is reserved in assessing the linguistic policies of the Romanian state as directed against it, although this remains a dominant opinion (Tables 17-18).

Table 17. *There are many circumstances where the authorities use the Romanian language as an oppressive instrument directed against the minorities.*
(RCIRT, October 1999)⁴⁵

Did not answer	9.64
Completely agreed	26.06
Rather agreed	31.80
Rather disagreed	24.76
Completely disagreed	7.73

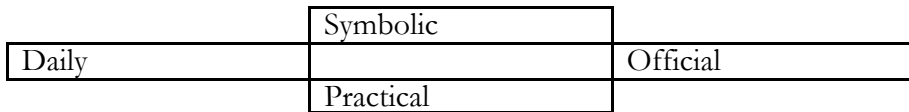
⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

Table 18. *By imposing the use of the Romanian language in many circumstances, the Romanian state is actually trying to assimilate the Hungarians.*
(RCIRT, October 1999)⁴⁶

Did not answer	10.17
Completely agreed	26.32
Rather agreed	28.50
Rather disagreed	25.02
Completely disagreed	9.99

These attitudes and perceptions can be synthesized in a model defined on the symbolic-practical and daily-official axes, respectively.



At the level of the public and political discourse, the re-negotiation of the Hungarian language's status at a declarative level does not implicitly mean that learning the Romanian language is abandoned. And although there were various contesting discourses concerning the linguistic policies of the state, and although before 1996 the Romanian state was even accused of waging a systematic *Kulturkampf* against the Hungarians, things never went so far as to contest the Romanian language.

Hence, even if not in an expressly assumed and promoted manner, the minority's bilingualism is a present dimension of the linguistic ideology of the Hungarian minority in Romania, being expressed, of course, especially in various reactive and defensive contexts.

When analyzed on the daily-practical and on the official-practical dimensions, bilingualism is considered by most of the respondents to be a resource or benefit. On the symbolic-daily dimension we can notice the perception of

⁴⁶ *Ibid.*

tense situations related to the way Romanians react when Hungarians do not have a good command of the Romanian language. Basically, this is about perceiving the existence of a normative pressure at the level of daily encounters that comes either from negative reactions to the use of the Hungarian language⁴⁷, or blame attached to poor performance in the use of the Romanian language in day-to-day or in official circumstances. The situation is even more complex when analyzing the issue in its symbolic-official dimension. On the one hand, there is a relative hesitation in confirming the founding of bilingualism, as an undertaking of a civic obligation, and on the other hand, the dominant trend, which is not also an exclusive one, to assess the linguistic policies of the Romanian state as forms of cultural aggression directed against the minorities.

The Hungarian population broadly accepts bilingualism as being a constitutive part of the social order, especially in the context of pragmatic aspects of social communication. Problems are perceived as related to the various day-to-day and symbolic things that are meant to express and reiterate this order. Broadly, we can conclude that, from the point of view of the population, bilingualism is considered to be legitimate by reference to social practice, but it undergoes a legitimacy crisis in relation to its ideology.

The data concerning the teaching language, that is the options concerning the institutional type of higher education in Hungarian, generally reflect this complex situation.

Concerning the perceived usefulness of education strategies that also include the Romanian language, one can notice a steady unwillingness of the relative

⁴⁷ According to the results of a socio-linguistic survey carried out in 1996, a little bit more than one third (38%) of the Hungarian subjects (Hungarians from Romania) stated that, over the last two years, they have been asked not to speak in Hungarian. See: Kontra, M. (1999). "Don't speak Hungarian in Public!" – A Documentation and Analysis of Folk Linguistic Rights. In: Kontra, M., Philipson, R., Skuntab-Kangas, T. and Várady, T. (eds.), *Language: A Right and a resource. Approaching Linguistic Human Rights*, (p. 84). CEU Press. The data are presented only for an illustrative sake, as the respective survey had an investigation character and the number of subjects that answered the questionnaire was relatively too small (216) to be representative for the whole population.

majority (and the significant approval of approximately one third) of the respondents to pursue all their studies in Romanian (Table 19).

Table 19. *Only those who studied exclusively in Romanian can make a career in Romania.* (RCIRT, October 1999)⁴⁸

Completely agreed	11.69
Rather agreed	17.36
Rather disagreed	12.02
Completely disagreed	46.57
Did not know	12.45

The situation is more balanced in the context where only part of the education is in Romanian, this being considered useful by a little more than half of the population (Table 20).

Table 20. *Only those who studied at least partially in Romanian have a chance to make a career in Romania.* (RCIRT, October 1999)⁴⁹

Completely agreed	21,00
Rather agreed	30.82
Rather disagreed	11.09
Completely disagreed	23.71
Did not know	13.38

Over half of the population believes that higher education in Romanian confers an advantage (Table 21). Still, we need to notice that the percentage of those who cannot express an opinion is high, as their majority does not

⁴⁸ See: RCIRT (October 1999). *Radiografia opiniei publice maghiare din România*, manuscript. The Ion Alușă Documentation Center for Multiculturalism.

⁴⁹ *Ibid.*

have the necessary perspective to perform such an evaluation (as they live in the rural area, have little education etc.).

Table 21. *It could be highly useful for the Hungarians in Romania to study in Romanian at the university.* (RCIRT, October 1999)⁵⁰

Completely agreed	22.52
Rather agreed	26,76
Rather disagreed	13,38
Completely disagreed	15.33
Did not know	22.01

Before proceeding further it is worth noting that there is no question of an education strategy universally accepted by that part of the population that agreed to the potential usefulness of the choice to study in Romanian. The data presented above merely reflect a reference that comes from the assessment of the chances of making a career by using certain education channels that provide teaching in Romanian, and not necessarily a strategic individual option in favor of these channels. Of course, it is not possible to completely eliminate this latter aspect, as it is specific to those who live in areas where Hungarians make up less than 40% of the population. We can also notice (see Table 22) that about 10% of the population believes that – even if the education system provided a full range of education opportunities (at all levels and disciplines)- studying in Romanian would remain more beneficial.

⁵⁰ *Ibid.*

Table 22. *The provision of teaching in Hungarian at all levels and for all types of education would make it impossible to place those who studied in this language at a disadvantage.* (RCIRT, October 1999)⁵¹

Completely agreed	57.41
Rather agreed	16.68
Rather disagreed	6.60
Completely disagreed	3.64
Did not know	15.66

Of course, the original hypothetical wording of the question (Table 22) raises not only formal and methodological problems, but also problems related to the validity of interpretation. Despite the wording, this is not a hypothetical question, but a statement that synthesizes the content of the education project promoted by UDMR, namely support for a complete and autonomous education system in Hungarian at all levels (from kindergarten to university).

One therefore has to take into account that a considerable part of the Hungarian population, and especially the elite, believe the idea of an autonomous education system carries a relevance that goes beyond education, functioning as a metaphor for the political and moral order associated with the co-habitation of Romanians and Hungarians⁵².

We can notice the same thing when analyzing the next series of data (Tables 23-25) in relation to the information on the usefulness of studying in the Romanian language (Tables 20-21).

On the one hand we can notice a relative acceptance of some education strategies that include studying in Romanian, and on the other hand, major support for a separate university (Table 23).

⁵¹ *Ibid.*

⁵² In this respect, also see the analysis in: Magyar, V. E. (1999). A kolosyvársz egzetem és a romániai magyar identitáspolitika. In: *Replika*, 37, 1999.

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Table 23. *The setting up of the Bolyai University/ an autonomous state university with teaching in the Hungarian language should not be given up.* (RCIRT, October 1999)⁵³

Completely agreed	79.25
Rather agreed	11.01
Rather disagreed	1.78
Completely disagreed	1.44
Did not know	6.53

When defining the problem in terms of the importance of the institutional formula, as compared to the provision of education services in the Hungarian language, the support for a pragmatic provision of education services is evident (partly because of the wording, that implied a sensible degree of desirableness) (Table 24).

Table 24. *The existence of teaching in Hungarian at the university level for all the specializations is more important than the institutional framework where this education is organized (in an autonomous or in a multicultural university).* (RCIRT, October 1999)⁵⁴

Completely agreed	61.64
Rather agreed	20.49
Rather disagreed	3.56
Completely disagreed	2.96
Did not know	11.34

When returning to the issue of the multicultural formula, we can observe that it is rejected by a relevant majority of respondents, but also the existence of a confusion – or the lack of a dominant equivocal opinion – reflected in the high percentage of those who declared they could not answer (Table 25).

⁵³ See: RCIRT (October 1999). *Radiografia opiniei publice maghiare din România*, manuscript. The Ion Aluauș Documentation Center for Multiculturalism.

⁵⁴ *Ibid.*

Table 25. *The idea of a multicultural university is a compromise that should not be accepted* (RCIRT, October 1999)⁵⁵

Completely agreed	25.74
Rather agreed	17.53
Rather disagreed	11.85
Completely disagreed	13.55
Did not know	31.33

Although paradoxical at first glance, these tendencies illustrate the fact that, in what concerns education and, similarly, the case of bilingualism, the Hungarian population holds opinions that can be interpreted in different levels of significance.

On the one hand, there is an official and symbolic dimension, where the dominant tendency is of identification with the political projects of setting up an autonomous university. On the other hand (in the daily-practical referential context) there are absolutely no homogenous attitudes and representations concerning the assessment of choices related to the language and institutional framework of the higher education services. This heterogeneity of choices concerning the usefulness of education in Romanian actually reflects the existence of several minority cultures of mobility, understood as strategies employed (or believed to be suitable) in order to strengthen the negotiation position in various social interactions, where the ethnic origin and the fact that one is part of a minority are relevant⁵⁶.

The fact that at least a part of the Hungarian population ascribes positive attributes to education and institutional environments that are heterogeneous from the linguistic point of view does not contradict the declarative support for the community's choice that favors an institutional separation based on

⁵⁵ *Ibid.*

⁵⁶ The concept of minority culture of mobility has been elaborated in order to describe the strategies employed by the second generation of immigrants to the US in order to culturally adapt themselves, but we believe it applies to other circumstances as well. See: Neckerman, K. M., Carter, P., Lee, J. (1999). Segmented assimilation and minority cultures of mobility. In: *Ethnic and Racial Studies*, 22 (6), 945-965.

ethnic criteria. This is not so much an answer to the symbolic pressure of the minority elite, but rather an adjustment to a continuously changing situation that offers open possibilities to redefine some aspects in the symbolic power distribution, without the conviction that a real opportunity exists for a major change in the importance of the Hungarian language in the process of public communication.

CONCLUSION

The issue of an autonomous university with teaching in the Hungarian language became a highly symbolic issue effecting relations between Romanians and Hungarians, that goes beyond the well-defined area of higher education.

Multiculturalism was invoked in an attempt to redefine the framework of this debate on the university, where institutional hegemony and segregation were the mutually opposed scenarios promoted by two confronting nation building projects⁵⁷. The ways and contexts in which the term was appropriated and circulated by the majority of the actors involved makes one question the effectiveness of such an approach.

At the day-to-day level, the dominant representation by Romanians is that of a public sphere where the norms of manifestation and the basic element of order come through the vision of a citizenship that is closely correlated to nationality. They perceive the integration of Hungarians as being problematic under any frameworks that question this order.

Concerning the Hungarians, there are various strategies through which they are adapting themselves to a social environment where the Romanian language is perceived as a legitimate cultural acquisition, and one that can be usefully applied. On the other hand, the autonomous university works

⁵⁷ On the Hungarian minority as a minority that strategically aims at carrying out a nation building project, see: Kántor, Z. (2000). Kisebbségi nemzetépítés. A romániai magyarság mint nemzetépítő kisebbség. In: *Regio* 3/2000, 219-241.

as a symbol carrying the value of a community program, as a cornerstone in a process of re-negotiating the symbolical integration of cultural difference.

LEARNING INTEGRATION: MINORITIES AND HIGHER EDUCATION

WALTER KEMP



NATIONS AND UNIVERSITIES

Few people dispute the importance and right of minorities studying to learn their mother tongue, but things often get complicated when it comes to universities. Because universities are regarded as centers for preparing today's youth for the world into which they will graduate, they have an importance that goes beyond their academic significance. They also have a symbolic function, there are financial implications, questions can arise about state versus private funding, and there can be controversy about academic standards versus political correctness. This is particularly the case in multi-ethnic societies. This article will demonstrate why this is so and look at a number of examples, particularly Babes-Bolyai University (BBU) in Cluj-Napoca, Romania, and the South East European University (SEE) in Tetovo, Macedonia.

Minorities and majorities usually agree that universities are symbolically significant and play a vital role in terms of cultural reproduction. But for that reason, minorities want to have tertiary education in the mother tongue whereas the majority may see this as a red flag, a breeding ground for nationalism.

In societies where they make up a sizeable part of the population, either in real numbers or as a significant percent (say 20%), minorities often make the case that they should be entitled to university-level education in their

mother tongue. The argument is made that minorities have a right to education in their mother tongue, that they pay taxes and therefore – if there is a reasonable demand – they should have a university. Otherwise, so the argument goes, they would be victims of discrimination, their young people would either be insufficiently educated, or forced to study in a kin-State (thereby contributing to brain-drain). Furthermore, universities provide the pool of young people who can teach in minority-language schools and become the elite who carry on the culture and identity of the national group.

Majorities respond that minorities have a limited right to education in their mother tongue, but that does not extend to higher education. Moreover, whatever their rights, at some point they have to be integrated into the wider society. If they have their own kindergartens, elementary, secondary and high schools will they ever have an adequate knowledge of the State language? If they then go to university and study in their mother tongue, will they be in a position to find jobs in the society in which they live – especially in jobs that require proficiency in the State language? Besides, is there not the danger that tertiary level education in the mother tongue for minorities will deepen cultural and linguistic fissures within multi-ethnic and pluri-lingual societies? If one talks about integrating diversity, where, in the case of linguistically exclusive institutions, is the incentive and means to integrate?

This debate is far from new, indeed it defined the early histories of some of Europe's most established universities like those in Bologna and Paris where students were organized around so-called "nations". While these "nations" soon became clubs that had more to do with socializing and cliques (religious or social) than one's birthplace, they nevertheless exerted considerable influence in issues of university administration. Later, with the spread of nationalism, universities had to contend with rival claims. At Charles University in Prague, the national awakening of the nineteenth century led to a split in the university along ethnic and linguistic lines. Between 1882 and 1939 the university had two separate "nations" (Czech and German) operating alongside each other.

In contemporary Europe, the issue of minorities and higher education is still a hot topic. Let us consider two examples.

BABES-BOLYAI UNIVERSITY, ROMANIA

Babes-Bolyai University in Cluj-Napoca, Romania, has been something of a political football throughout its long history. Its fate has been a microcosm of Transylvania's rich and often turbulent history.

The university traces its roots to the sixteenth century when Istvan Bathory, Prince of Transylvania and King of Poland, set up a Catholic University in Cluj in 1581 with the aid of Jesuits. For more than a century its very existence became a battleground for religious interests, closed by the Protestants and reopened by the Jesuits on a number of occasions in a see-saw battle which reflected the religious and political struggles for power during the period. When the region fell under the control of the Habsburgs, Empress Maria Theresia established a German University (in 1776), which Emperor Joseph II later turned into a Latin Lyceum.

During the revolution of 1848, the Romanians took exception to the fact that, although they made up a significant proportion of Transylvania's population, they did not have a university of their own. They asked either to have a separate section of the existing University, or permission to open their own University. A proposal was put forward to set up a multi-cultural university. But after the *Ausgleich* of 1867 – which gave significantly increased powers to the Hungarian half of the empire – it was decreed that the new University in Cluj⁵⁸ (which now fell under the jurisdiction of the Hungarian authorities) would teach exclusively in Hungarian.

In 1918 Transylvania became part of the Romanian State. Although there were discussions about having two separate institutions in Cluj, the political tenor of the time was such that more nationalistic voices prevailed. The resultant King Ferdinand the First University established in 1919 and offering studies only in Romanian, became the symbol of Romanian statehood in Transylvania. Hungarian studies were relocated to Szeged (in the south of Hungary).

⁵⁸ Established in 1872 and later called Franz Joseph University.

During World War Two (pursuant to the 1940 Vienna Award between the Russians and Germans), Transylvania was given back to Hungary. The Romanian University was moved to Timisoara and Sibiu and the Hungarian University moved back to Cluj.

After the war, the Romanian University returned to Cluj and in 1948 it was named the Victor Babes University after a famous Romanian bacteriologist. At the same time a Hungarian language university called Bolyai University (after Hungarian mathematician Janos Bolyai) was established on 1 June 1945. In the post-war period, the two universities worked in parallel. However, with increased centralization and the development of national communism, Hungarian staff and students became more assimilated. In 1959 the two universities were merged. Positions increasingly became filled by Communist Party officials, and the freedom of the Hungarian (and indeed Romanian) intelligentsia was limited. In the 1970s and 80s the number of Hungarian staff and students dropped considerably.

After the collapse of communism and the end of the Ceausescu regime, the University re-evaluated its position and tried to revive its academic and multi-lingual traditions. Under the guidance of Rector Andrei Marga (who was also, conveniently, Minister of Education from 1997-2000) a number of Hungarian programmes were reintroduced and in 1994 a German line of study was introduced.

But the developments of the mid-1990s did not occur in a political vacuum. Romania's Hungarian minority became politically active, while some members of the majority became increasingly extremist. The issue of higher education in the Hungarian language became highly politicized.

State-funded education – including higher education – in Hungarian was an important plank in the political platform of the Hungarian Democratic Federation of Romania (UDMR – to use the Romanian acronym). They were dissatisfied with the Law on Education that was adopted in June 1995.

Indeed, it was described as “more discriminatory, more anti-Magyar and anti-minority than the similar laws and regulations of the Ceausecsu system”.⁵⁹

As part of an education reform programme that also tried to be sensitive to minority concerns, the Law was amended through an emergency ordinance (no. 36) in July 1997. But while this addressed many of the UDMR’s concerns about mother tongue education, it did not satisfy its desires concerning higher education. They noted that the percentage of Hungarian speakers in higher education was dropping, not because of lack of demand but because of lack of opportunity.⁶⁰ It was also symbolically important, and politically sensitive within the UDMR: moderate leader, Bela Marko, could not afford to appear weak on this issue due to a challenge from hard-liners, like Laszlo Tokes, within his own party. For their part, the Government did not want to appear weak on this emotive issue because it was concerned about losing votes to increasingly vocal right-wing parties.⁶¹

The UDMR, which was now part of the Government coalition, ratcheted up the pressure on its coalition colleagues. When efforts to further amend the Law on Education (in line with what the UDMR perceived as an agreement within the Government) were rejected by the Education Commission in the Chamber of Deputies, the UDMR called for the Minister of Education’s dismissal. UDMR’s Representatives Council proposed withdrawing from the Government, but the party’s Chairman, Bela Marko, concluded that more could be gained from staying within the coalition than sniping from the sidelines and/or triggering the collapse of the Government.

While this political crisis raged, developments were made at Babes-Bolyai University to improve opportunities in line with the amended Law on Education. While the University Senate appeared hesitant to grant separate faculties, they increased the number of courses taught in German and

⁵⁹ As cited in Shafir, M. (2000). *The Political Party as National Holding Company: The Hungarian Democratic Federation of Romania*. In: Stein, J. P. (ed.), *The Politics of National Minority Participation in Post-Communist Europe* (p.113). New York: EastWest Institute.

⁶⁰ For the UDMR’s argumentation see Takacs, Sc. (ed.) (1998). *Plan for the Distribution of the Hungarian Higher Educational Institutions in Romania*. Cluj-Napoca: UDMR.

⁶¹ See Shafir, (pp. 107-115).

Hungarian, the number of new students from minority communities rose, and a process was started to increase the decision-making autonomy of the various linguistically based “lines” of study.

By this point, however, the political climate had become so polarized that a breakdown in Hungarian-Romanian relations looked possible. As a result, the OSCE High Commissioner on National Minorities – whose mandate is to take early action to prevent inter-ethnic conflict – became closely involved in the issue.

In February 1998 he visited Babes-Bolyai University to learn more about the status of tertiary education in minority languages. He urged the Government to support the University’s multi-cultural approach. Concerning the Law on Education, he recommended that the Government not exclude the possibility of a State-funded university with education in a minority language. He suggested that the possibility for the creation of such an institution be left to a commission that would analyze whether preservation of the cultural identity of a minority would require such an institution and which subjects it should teach.

The debate dragged on, and in August 1998 the UDMR threatened to leave the Government by the end of September if no agreement was reached on the issue of tertiary education. As a result, a Commission was established to study the feasibility of a Hungarian language State university. The emphasis of the Committee’s work soon shifted to initiating procedures to establish a Multicultural Hungarian- and German-Language State University, the so-called Petöfi-Schiller University.

However, the debate over Petöfi-Schiller split the Commission along ethnic lines (the Romanians refused to sign the Commission report) and the legality of such an institution was challenged by two opposition parties for being unconstitutional. There were also heated debates about the extent to which courses would be taught in Romanian in addition to German and Hungarian. The idea foundered, but the bitterness that the issue raised on all sides did not subside.

Eventually, some legal space was created by amendments to the Law on Education in June 1999. Article 123 (1) was changed to create the possibility that “at State higher education establishments it is possible to organize, according to the law, upon request, sections, groups, colleges and departments with teaching in the language of ethnic minorities . . . Upon request and under the law it is possible to set up multicultural higher education establishments.” While this fell short of the UDMR’s demands for a State-funded Hungarian language university, it opened the way for the greater use of minority languages in existing multi-cultural institutions of higher learning.

The OSCE High Commissioner, at the time Max van der Stoel of the Netherlands, tried to exploit this space to increase opportunities for Hungarian students to study at the university level in their mother tongue. If a separate institution was not politically possible, then one could at least improve the situation within existing institutions. Babes-Bolyai University (BBU) in Cluj seemed the most likely candidate. Therefore, van der Stoel, together with a small group of experts (comprised of three authors contributing to this journal – Professors Beillard, DeGroof and Schöpflin as well as myself) visited BBU a number of times to see what could be done to strengthen the Hungarian line of studies. The goal, as van der Stoel put it, was to “put some wind in the sails” of the idea of multi-culturalism.

In February 2000 the High Commissioner submitted a report to Minister Marga (also Rector of BBU) which included a number of recommendations. These included a clearer mission statement concerning multi-culturalism (including the development of a strategy for its implementation), a revision of the university’s decision-making structure in order to make it more transparent, accountable and representative (particularly giving more autonomy to the Hungarian line of study), adaptation of the university’s curriculum to reflect the multi-cultural character of the University, and a commitment to improve the quality of staff. Particular attention was given to expanding opportunities for courses in Hungarian in the faculties of law and economics. Changes along these lines were introduced in a revised University Charter in May 2000.

QUALITY EDUCATION VERSUS THE UNIVERSITY FETISH

One of the lessons of the Romanian case is that education, particularly higher education, can become politicized to the point where one concentrates more on the symbolism of the university than on the underlying issue of quality mother tongue education. As a result, the symbolic and political imperative of creating a separate university became a fetish for some within the Hungarian community in Romania. Particularly among extremist politicians there was no apparent concern for accreditation committees, education standards, or an awareness of the needs of the academic community. The goal was simply to have a campus, or at least a building, which would be a State-funded Hungarian University.

More moderate politicians agreed that a good start would be to expand opportunities available in existing institutions and that this could be sufficient if students could study a broad range of courses in their mother tongue. They would not need to be under a physically separate roof, but Hungarian professors should have a say over entrance exams and student numbers, curriculum, and even organize separate faculties and departments. However, these moderates argued that this approach had born no fruit and that hard-line Romanians (in the University Senate, local government and Parliament) were irrationally opposed to expanding opportunities for Hungarian language education. Thus, they were being pushed into the arms of extremists within their own party who advocated a separate Hungarian university.

For their part, the Hungarian professors at BBU seemed divided. Most agreed that more needed to be done to strengthen the Hungarian line of study. But not all were keen on having a new separate university as they were wary of teaching in an institution with low academic credentials. There was also some resentment of their academic demands being hijacked for political ends. In addition, there was a feeling of collegiality with fellow staff on the basis of the subjects that they taught. While merely anecdotal, I was struck by conversations with some Hungarian professors at BBU who said, “we have more in common with Romanian-speaking physicists and mathematicians here at the University than we do with Hungarian-speaking politicians

in Bucharest”. I have heard the same sentiment expressed by some Hungarian professors at Constantine the Philosopher University in Nitra, Slovakia, that also has a Hungarian line of study (mostly for teacher training). They argued that Hungarian politicians in Slovakia were fixated on the idea of separate faculties and even a separate university rather than speaking with Hungarian professors and students about their educational needs. (The Slovak Government – which includes the Hungarian Coalition Party – has since committed itself to the establishment of a State-funded Hungarian language university in Komarno).

And the students? Unless they are politically active, it is my experience that they want a good quality education in an institution with good facilities (particularly dormitories, libraries, internet facilities) and in an environment where they feel comfortable using their mother tongue and socializing with their peers. This need not require an independent, ethnically homogenous institution. If one wants high quality education in the mother tongue, one needs to ask how that can best be achieved. Otherwise, the debate deals in abstractions and can lose sight of the core issue. As Van der Stoel warned in his remarks to a conference on multi-culturalism which took place at Babes-Bolyai University in October 2000, “too often debates about this and other Universities get bogged down in political considerations. . . before one kicks around a University like a political football, one should stop and ask what the goal is and who the players are. That consideration should also apply to politics within the University”.⁶²

There is, of course, the possibility of a State-funded minority language university as in the oft-cited case of the Swedish Åbo Akademi in Finland or, perhaps soon, a Hungarian University in Slovakia. There is also the possibility of privately-funded institutions, like the Sapientia University in Cluj which is largely financed by the Government of Hungary (and is, to some extent, the embodiment of frustration among some Hungarians in Romanian at not having a state-funded University).

⁶² Integrating Diversity: In Everybody’s Interest: address to a conference on *Integrating Diversity in Higher Education: Lessons from Romania*, Cluj-Napoca, Romania, October 6, 2000.

There is no unequivocal international norm. As other contributions to this journal make clear, in international law there is no express right to higher education, much less in a particular language. However, taking into consideration the letter and spirit of a number of international standards, the Hague Recommendations Regarding the Education Rights of National Minority, which were compiled in 1996 by international experts under the auspices of the OSCE High Commissioner on National Minorities, say that “Persons belonging to national minorities should have access to tertiary education in their own language when they have demonstrated the need for it and when numerical strength justifies it.” As to what form this should take, the Recommendations state that “minority language tertiary education can legitimately be made available to national minorities by establishing the required facilities within existing educational structures provided these can adequately serve the needs of the national minority in question.” The Recommendations cover all bases by saying, “Persons belonging to national minorities may also seek ways and means to establish their own educational institutions at the tertiary level”. This point is further clarified to the extent that “in situations where a national minority has, in recent history, maintained and controlled its own institutions of higher learning, this fact should be recognized in determining future patterns of provision.”⁶³

So, at least among independent experts, higher education in minority languages, *per se*, does not seem to be in doubt. The debate comes to how this should be achieved. In large part, the outcome depends on the art of the politically possible and to finding the necessary resources. Where these possibilities are restricted or opportunities denied, access of minorities to higher education in their mother tongue can become a source of conflict. Macedonia is a case in point.

⁶³ *The Hague Recommendations Regarding the Education Rights of National Minorities*. The Hague, October 1996, paragraphs 17 and 18.

EDUCATION AND CONFLICT IN TETOVO

The former Yugoslav Republic of Macedonia (as it is officially called) is a multi-ethnic State which has a sizeable Albanian community heavily concentrated in the northwestern part of the country bordering southern Kosovo and northeastern Albania. In recent years, higher education for the Albanian speakers has been a source of conflict and has been affected by conflict. It is a classic example of what happens when higher education gets mixed up with politics.

Before the break-up of Yugoslavia, many Albanians living in Macedonia studied at the University of Pristina. Even when Serbia and Montenegro and Macedonia became independent States, a considerable number of Albanians studied in Pristina. But this became increasingly difficult when Slobodan Milosevic closed down the University's Albanian line of studies in the early 1990s.

In 1994, an Albanian-language University opened in Tetovo. It attracted students and professors from Kosovo as well as Albanians in Macedonia. This Tetovo University, or "Mala Recica" as the locals call it, was considered by the Government to be illegal because it was neither accredited nor was there the possibility, under Macedonian law, to establish a university that would provide tuition in minority languages. As a result, the Government often threatened to close down the university while, for the Albanians, the issue became a rallying cry for self-government. Eventually a *modus vivendi* was reached where the Government tolerated the university's existence, but refused officially to recognize it.

The OSCE High Commissioner, Max van der Stoep, became involved in this issue because it looked like it could be a source of conflict between the country's ethnic Macedonian and Albanian communities. He stressed to representatives of both communities that international instruments recognized the right of persons belonging to national minorities to establish their own educational institutions, but that this right must be exercised within the framework of, and in conformity with, national legislation. The first step,

therefore (as in Romania), was to change the national legislation to accommodate better minority needs.

In 1995, Van der Stoel suggested that a number of changes could be made to accommodate the minority's position, for example enabling the development of private institutions supported by the international community. The law in force did not allow for such institutions to be publicly funded. In this vein, he proposed the creation of a private Higher Education Center for Public Administration and Business that would offer courses in Albanian, Macedonian and English. He also suggested that more needed to be done to improve pedagogical training for Albanian teachers and that opportunities in this field should be expanded at existing faculties in Skopje and Bitola.

In 1996 the Government provided a draft of a new Law on Higher Education to the Council of Europe's Higher Education and Research Committee. This draft was revised in 1997 after consultations with Council of Europe experts. The Council issued a detailed opinion, which led to further changes in 1998. But these changes, in the view of the Council and the High Commissioner, were still too restrictive. The Government – now under increasing international as well as domestic pressure – promised further revisions.

Progress was slow and hampered by a deterioration of inter-ethnic relations on a number of issues including the use of flags, local self-government, relations between the police and minorities, participation in public life and representation in the civil service, and the use of the Albanian language in public institutions. In 1998, Van der Stoel sought to cool tensions over these issues and reiterated his appeal to a new Macedonian Government to improve mother tongue education for Albanian children and youth. He also continued to press for changes to Macedonian legislation in line with international standards and best practice.

In 1999 the Macedonian Government introduced a new draft Law on Higher Education for consultation with international organizations. However, it still prohibited the creation of any institution with a curriculum in a language other than Macedonian or so-called “world languages”. No distinction was

made between institutions funded privately or by the State. The ethnic Albanian members of the drafting committee claimed that this did not go far enough, while the ethnic Macedonian members said that their room for manoeuvre was restricted by the Macedonian Constitution (although the Constitution makes no reference to higher education). Article 48 states that “Members of the nationalities have the right to instruction in their language in primary and secondary education, as determined by law. In schools where education is carried out in the language of a nationality, the Macedonian language is also studied”.⁶⁴

In order to break the deadlock, the High Commissioner, together with international education experts, held a meeting with local interlocutors in Skopje on 27 February 2000. A compromise formula was eventually hammered out that created a new legal framework that would enable an acceptable measure of higher education in the Albanian language. Furthermore, the Government agreed to give full recognition to non-state funded higher education institutions that seek and qualify for accreditation by fair and objective criteria.⁶⁵

But new obstacles emerged. One was the existing “Tetovo University” under the hard-line leadership of Fadil Sulejmani who would not budge from his insistence on recognition of his institution as an Albanian-language State University. Since his radical views were not representative of a majority of Albanians and since it proved impossible to work constructively with him, van der Stoep decided to work around him.

In April 2000 planning began for the establishment of an internationally funded, private Institute of Higher Education that would cater mainly to Albanian-speaking students. The University would be multi-lingual and multi-cultural (providing courses also in Macedonian and “world languages”, particularly English), but would concentrate on providing quality education in Albanian. It was envisioned that the university would be divided into two

⁶⁴ *Constitution of the Republic of Macedonia (1991)*, Article 48, paragraph 4.

⁶⁵ See SEE Foundation Zurich. *Annual Report 2001*, (p. 3).

main sections: teacher training and business management/public administration. A business plan was drawn up and donors were approached.

Meanwhile discussions continued with a view to ironing out remaining difficulties in relation to the Law on Higher Education. In May 2000, a meeting of national and international experts was held in Vienna. Within and outside the meeting, the debate raged about nomination and status of teaching staff, tenure requirements, credit recognition and transfer for students, who had studied at the unrecognized “Tetovo University”, as well as the number and type and faculties, and the issue of funding.

But in the end, a deal was reached. On 25 July 2000 a new Law on Higher Education was adopted by the Macedonian Parliament. Article 95 states that “education at private higher education institutions may also be performed in the languages of national minority members or in world languages”. Article 198 allows persons who attended education within various “civic initiatives” (i.e. Tetovo University) to continue their studies at existing higher education institutions, and, after an assessment of the knowledge acquired, to request enrolment at the appropriate year of study. This was a significant breakthrough, and acknowledged as such by the international community and media.⁶⁶

The challenge now was to take advantage of this opportunity and build a new university, as quickly as possible. In September 2000 the business plan for a “South East European University” (SEEU) was completed. (Many people, particularly locals, unofficially refer to it as the “Van der Stoel University”). A site for the university was located in Tetovo (on land donated by the Government), and construction firms were contracted. Pledges – to cover the foreseen budget of approximately 25 million EURO (which later increased to 35 million) – were made from a number of OSCE States (notably the United States, and the Netherlands) as well as the European Commission and the Soros Foundation. The first sod was turned in February 2001 and construction began almost immediately.

⁶⁶ See Kemp, W. (2001). *Quiet Diplomacy in Action: the OSCE High Commissioner on National Minorities* (pp.194-195). The Hague: Kluwer Law International.

The project was thrown into doubt by the outbreak of violence in Macedonia in March 2001. Some of the heaviest fighting was in and around Tetovo, and construction – already underway – was temporarily halted. Nevertheless, as the education issue was considered to be one of the roots of the conflict, the decision was made to forge ahead with the university project in order to demonstrate that inter-ethnic accommodation was possible. The SEE University admitted its first students and opened its doors in October 2001 with an enrollment of approximately 900 students.

In autumn 2003 the SEE University began its third year of operation. It has a steadily growing student body (3700 in 2003/2004 of whom 15% are not ethnic Albanians), an international and national academic staff of 150, and a campus that includes dormitories, a library, IT services, language labs, and teaching facilities for faculties of Law, Business Administration, Public Administration, Communications Sciences and Technologies, as well as Pedagogical and Methodological Training. The University is also fostering links with national, regional and international academic institutions (like the University of Pristina and Indiana University). In addition, it is trying to improve co-operation with the other Albanian University in Tetovo, and to with leading Macedonian universities in Skopje and Bitola.

UNIVERSITIES AS A MEANS OF INTEGRATION DIVERSITY

While universities in multi-ethnic societies are sometimes the source of conflict, they can also be a means of improving inter-ethnic relations. Because extremism is often based on ignorance, education can break down stereotypes and improve awareness of other cultures. This is achieved both by learning and by living, for example by students from different backgrounds sharing the same classes and facilities. Hence the High Commissioner's support for multi-ethnic, pluri-lingual institutions. As the current

High Commissioner, Rolf Ekeus has put it, “an integrated, multi-lingual University is a vital aspect of an integrated, multi-lingual society”.⁶⁷

If one assumes that all contemporary societies are multi-ethnic to some degree, then Universities should be geared towards preparing students for such an environment. This suggests multi-culturalism rather than cultural ghettoization, expanding opportunities for education of all groups within society rather than limiting them. This sentiment was at the heart of a speech made by Max van der Stoel to a conference on Integrating Diversity in Cluj-Napoca, Romania in October 2000 (which was the inspiration for the special issue of this journal):

“Because society is dynamic, there can be no ‘model’ of multi-culturalism. One does not achieve multi-culturalism; one adapts one’s societal frameworks to accommodate it. Those frameworks allow pluralism to flourish while maintaining the integrity of the State. . . [E]merging out of a century marred by exclusion, intolerance, and fear of “otherness”, it should be clear to all of us that integrating diversity is a major imperative of our times. Education, because of its role in socializing and teaching the sense of common culture, has a leading role to play.”⁶⁸

On that occasion, Van der Stoel appealed to the staff and students of the University to seize the opportunity that they had in order to be a force for good rather than a victim of conflict. As he put it: “You stand at the threshold of new opportunities for this country in an age of globalization, closer European integration and a new era for South-Eastern Europe. You are also the embodiment of the multi-cultural character of this country and play an important role in educating its leaders of tomorrow. . . Although the world is getting smaller, the extent of its diversity is becoming more apparent. Let us celebrate this diversity, internationally and within this country, and let us ensure that it has the freedom to grow. This means

⁶⁷ Ekeus, R. (2001). Address at the inauguration of the SEE University, Tetovo, Macedonia, November 20, 2001.

⁶⁸ Integrating Diversity: In Everybody’s Interest: address to a conference on *Integrating Diversity in Higher Education: Lessons from Romania*, Cluj-Napoca, Romania, October 6, 2000.

extending the international perspective of the University, while making it truly representative and reflective of the cultural pluralism of Romania”.⁶⁹

Van der Stoel expressed similar sentiments at the opening of the South East European University in Tetovo in November 2001. He said: “This new University will do its utmost to improve inter-ethnic relations and promote ethnic harmony, and thus contribute to peace and stability in Macedonia. Each ethnic group has its own specific interests, but they also have a common interest in promoting a peaceful and prosperous Macedonia. . . We want to be a genuinely international University, which will be especially aware of the European vocation that Macedonia has chosen”.⁷⁰

To conclude, the debates over higher education for minorities in Romania and Macedonia highlight the theoretical and practical dimensions of multiculturalism. The discourse shows how educational issues can become politicized, particularly when it comes to the symbolic importance of higher education. The way that the issues were resolved demonstrates that it is possible to accommodate legitimate minority interests in a way that strengthens rather than destabilizes multi-ethnic societies. These are important lessons when it comes to learning integration.

⁶⁹ *Ibid.*

⁷⁰ As cited in SEE University Foundation *Annual Report, 2001*, (p. 13).

MULTICULTURAL EDUCATION IN ROMANIA

ANDREI MARGA



LIBERALISM AND MULTICULTURALISM

Against the background of liberalisation made possible by the historical upheaval of 1989, ethnic minorities in Central and Eastern Europe claimed the recognition of their cultural identity and cultural autonomy. The modern state, based on the observance of individual rights and liberty, must face today, on an unprecedented scale, the issue of integrating cultural diversity. As Charles Taylor remarked in *The Politics of Recognition* (1994), the politics of equal dignity, based on the generalization of citizens and liberty, is being “challenged” by the new politics of difference from ethnic minorities asserting their identity. The current task of European democrats living in multicultural environments has therefore become the preservation of equal dignity while promoting the free expression of cultural diversity. This has practical implications when it comes to education policy within pluri-lingual societies. Romania is a case in point.

Undoubtedly, an in-depth analysis of multiculturalism would plunge us into an Euro-American debate on the foundations of the modern state. This is not the place for such an incursion⁷¹. I would only like to highlight the influence that the debate on multi-culturalism – stimulated by the views of people like Louis Boudin, Michael Walzer, Charles Taylor, Ronald Dworkin,

⁷¹ Marga, A. (1998). Liberalismul astăzi (Liberalism Today). In: Marga, A., *Filosofia unificării europene (The Philosophy of European Unification)*. Cluj-Napoca: Apostrof.

Michael Sandel, Jurgen Habermas, and many others – has had on my thinking.

There are, I believe, some fundamental reasons why we need to enhance our appreciation for multiculturalism. The first one concerns the specific situation of Central and Eastern Europe, where modernisation is not possible without rehabilitating relationships among the ethnic majority and minorities. The second reason related to the fresh emergence of education not only from the traditional project of the national European State, but also from the free initiative of the civil society. Finally, the third concerns the connotations of globalised knowledge and performance, by virtue of which market competitiveness is ensured by high quality, and not by high volume, and which stimulates cultural competition.

MULTICULTURALISM IN PRACTICE AT BABES-BOLYAI UNIVERSITY

Without entering into details, let me succinctly present a number of theses which underline my views on multiculturalism, particularly in the context of the debate on the structure of Babes-Bolyai University. Firstly, bridging the politics of equal dignity and the politics of difference remains a problem in the multiethnic societies of Central and Eastern Europe. Bearing that in mind, the politics of difference is realistic if conceived as a consequence of the politics of equal dignity. Solutions based on force (physical or public) are counterproductive and should be rejected from the outset. As basic assumption is that accommodation is possible. It may take time: institutionalisation of multiculturalism presupposes step-by-step negotiation of the arrangement between the parties involved. A legal approach should be supported by a broader understanding of the meaning of positive justice. Furthermore, collective cultural identity should be acknowledged without diminishing a legal order based on individuality. In short, what is necessary – particularly in Central and Eastern Europe – is to promote the view according to which cultural differences, far from being boundaries to one's identity, represent an incentive toward performance and a source of richness.

A major challenge is therefore the transition from ethnic nationalism to civic nationalism, and from historic patriotism to constitutional patriotism.

Multiculturalism has a complex connotation, starting with the contact with multiple cultures, passing on to the cultivation of different languages, continuing with the possibility of complete studies in these languages, and ending with the exercise of administration and decision-making. As a state institution, in Romania, Babes-Bolyai University (BBU) embodies this complex connotation most comprehensively.

I have discussed elsewhere the specific challenge of institutionalizing multiculturalism at BBU⁷². Suffice it to say that once this process was under way the debate could no longer remain in the abstract. What was undertaken at Babes-Bolyai University was not only the inclusion in the curriculum of some courses and seminars in other languages. We have developed the organization of specialities by full studies in Romanian, Hungarian, German, and other languages. And something more: students and teaching staff from all study lines have their representatives in the departments, faculties, and leading university bodies. That means not only representation of Romanians, Germans and Hungarians in the academic administration, but a decision-making mechanism enabling the views of each line of study to be promoted. The recent Charter of Babes-Bolyai University⁷³ offers all of these groundbreaking solutions and stands as a significant benchmark in the development of European universities.

EDUCATION IN MINORITY LANGUAGES IN ROMANIA

The developments at BBU should be considered in the broader context of the expansion of opportunities for studies in minority languages in Romania. The legal space for multicultural education was widened by the adoption of

⁷² Marga, A. (1998). Experiencing Multicultural Organisation: The Case of Babeş-Bolyai University. *Higher Education in Europe*, 23(1). Abingdon: Carfax Publishing Ltd.

⁷³ (2000). *Charter of Babeş-Bolyai University*. Cluj-Napoca: University Press. (Versions in English, French, German and Hungarian available at www.ubbcluj.ro)

a new Law on Education in 1999. This builds on a tradition of enabling study in minority languages in primary and secondary schools. For example, of the 27,512 schools and high schools in Romania operating during the 1999-2000 school year, 2,388 taught in Hungarian, 1,323 in Slovak, 1,066 in Serbian, 892 in Ukrainian, 277 in German, and so on⁷⁴. Out of the 274,439 members of the teaching staff, 12,473 taught in Hungarian, 515 in German, 32 in Ukrainian, 146 in Serbian, 147 in Slovak and so on. At present, there are no legal restrictions imposed on the organization of teaching classes in minority languages.

The diversified structure for teaching and using minority languages at the pre-university level is also evident in Romania's public universities. Full studies in Hungarian are organized in 42 diploma-earning specialities at "Babes-Bolyai" University, diploma courses are available in Hungarian in three specialities at the University of Medicine and Pharmacy in Targu-Mures, and also for two specialities at the Theatre Academy in Targu-Mures. Teacher training is provided in Hungarian in Satu Mare, Targu-Mures, Odorheiu Secuiesc and Aiud. Complete studies in German are organized in 11 specialities at BBU, two specialities at the "Politechnica" University in Bucharest, one each at the Academy of Economics in Bucharest and the polytechnics in Timisoara and Cluj-Napoca. German is also studied at the universities in Iasi, Sibiu, and Suceava. Full studies in German are provided by teacher training colleges in Sibiu and Cluj-Napoca. Ukrainian is offered at the universities in Bucharest, Cluj-Napoca, and Suceava. As a further example of the multi-cultural character of Romania's higher education system, it should be noted that during the 1999-2000 academic year, out of the total of 39,043 students (at the diploma level) in Cluj-Napoca, 3,745 were Hungarians, and 142 were Germans. In Timisoara, out of the 27,393 students, 1,411 were Hungarians and Oradea had 13,699 students, of which 2,117 were Hungarians.

The elected rector of the Theatre Academy in Targu-Mures is a Hungarian professor. There have been requests addressed to the University of Medicine

⁷⁴ (2000). *Ethosul învățământului pentru minoritățile naționale* (Ethnos of the Education for National Minorities). Bucharest: Ministry of National Education.

and Pharmacy in Targu-Mures, offering full studies in Romanian and Hungarian, to reflect further on developing their administrative structures to enrich the University's multicultural character. "Petru Maior" University located in the same city has been requested to organize, in addition to its full studies in Romanian, full studies in Hungarian.

A persistent issue, raised for decades, in relations between national minorities and state authorities in Romania has been access to university studies. During the 1980s, the issue became acute, given that the number of study places in public universities had been cut back and the possibilities for academic studies in the minority mother tongue had diminished.

In recent years, the situation has improved significantly. This relates to overall improvements in access to education, not only for students from minority communities. In 1998, the number of budgeted study places in universities increased and the universities themselves became autonomous and were authorised to establish their own tax-paying number of seats⁷⁵. Universities were empowered with the autonomous organisation of admission examinations⁷⁶. Distance education, introduced in 1999, was also placed within the jurisdiction of autonomous universities⁷⁷. In 1998-99,

⁷⁵ (1998). Notificarea Ministrului Educației Naționale (Notification by the Minister of National Education) No.19776 of 22 December 1998. *Buletinul Informativ al Ministerului Educației Naționale (Informative Bulletin of the Ministry of National Education)*, 1998(1).; *Ordonanța Guvernului României (Ordinance of the Government of Romania)* No. 54 of 14 August 1998.

⁷⁶ (1998). Notificarea Ministrului Educației Naționale (Notification by the Minister of National Education) No. 19776 of 22 December 1998. *Buletinul Informativ al Ministerului Educației Naționale (Informative Bulletin of the Ministry of National Education)* 1998(1).; (1998). Criterii generale privind organizarea și desfășurarea examenului de admitere în învățământul universitar de stat (General Criteria on the Organisation and Development of the Admission Examination to State University Education). *Buletinul Informativ al Ministerului Educației Naționale (Informative Bulletin of the Ministry of National Education)*, 1998(4).

⁷⁷ (1998). Ordinul Ministrului Educației Naționale (Order of the Minister of National Education) No. 3454 of 23 March 1998. *Buletinul Informativ al Ministerului Educației Naționale (Informative Bulletin of the Ministry of National Education)*, 1998(7).; (1998). Ordinul Ministrului Educației Naționale (Order of the Minister of National Education) No. 4879 of 27 October 1998. *Buletinul Informativ al Ministerului Educației Naționale (Informative Bulletin of the Ministry of National Education)*, 1998(30).; (1998). Ordinul Ministrului Educației

university colleges were opened in 25 locations, outside the consecrated university centres. In 1998, universities were empowered to apply the franchising mechanisms in their relations with external partners⁷⁸. In today's Romania, university autonomy includes financial autonomy as well, and, from a legal standpoint, it is at the level of European standards and practice⁷⁹. In short, following these and subsequent steps, the issue of access to university studies, as well as other practical related problems, were solved.

Access to education also improved at the high school level. The number of places in public high schools increased following the 1999 reorganization, aiming to attain a ratio of 65% and 35% between the numbers of students in high schools and vocational schools respectively. In 1999, facilities were granted to vocational school graduates, who can continue their high school studies entering directly the eleventh grade. Such graduates also enjoy a series of facilities when taking the admission examination in technical colleges and faculties. In 2000, the "vocational baccalaureate" became a reality in Romania⁸⁰. In 1999, public high schools were empowered to organize tax-paying classes, in addition to their state-subsidised classes⁸¹. Following the establishment of the National Council for the Evaluation and Accreditation

Națională (Order of the Minister of National Education) No.5673 of 24 November 1998. *Buletinul Informativ al Ministerului Educației Naționale (Informative Bulletin of the Ministry of National Education)*,1998(32).; (1998). Ordinul Ministrului Educației Naționale (Order of the Minister of National Education) No. 5181 of 10 December 1998. *Buletinul Informativ al Ministerului Educației Naționale (Informative Bulletin of the Ministry of National Education)*,1998(33).

⁷⁸ (1998). Ordinul Ministrului Educației Naționale (Order of the Minister of National Education) No. 3396 of 12 March 1998. *Buletinul Informativ al Ministerului Educației Naționale (Informative Bulletin of the Ministry of National Education)*,1998(6).

⁷⁹ (1998). Ordonanța Guvernului României Nr. 66 din 21 August 1998 privind finanțarea instituțiilor de învățământ superior de stat, aflate în coordonare la Ministerul Educației Naționale (Ordinance of the Government of Romania on the financing of state higher education institutions co-ordinated by the Ministry of National Education).

⁸⁰ (2000). Ordonanța de urgență a Guvernului României privind modificarea și completarea Legii învățământului 84 / 1995, republicata, Nr. 30 / 2000 (Emergency Ordinance of the Government of Romania on the modification of and addition to the Law on Education No.84 / 1995, republished).

⁸¹ (2000). Ordonanța de urgență a Guvernului României Nr. 80 / 2000 (Emergency Ordinance of the Government of Romania).

of Pre-University Education in 1999⁸², private high school education emerged and the number of such high schools is on the rise. As a result, today Romanian families and their children enjoy the types of opportunities and choices concerning education that are available in other European countries.

Nevertheless, there is still sometimes criticism and suspicion of the idea of multiculturalism in education. This is perhaps because mono-culturalism is regarded as a historically tested norm while multiculturalism is considered just an idealistic program. While I cannot elude the strength of this argument, I believe that the strength of other arguments may help to reduce it. Take the case of Romania. No university exclusion endured in Transylvania either in 1872, when Hungarians excluded Romanians, nor during Ceausescu's regime, when Romanians excluded Hungarians. In both cases, the mono-ethnic structures did not and could not endure. No country in Central and Eastern Europe can modernise if it lets itself be penetrated by forces which have as their *raison d'être* the alienation of either the majority or minorities. I therefore remain faithful to the opinion, as admirably put by Eugene Ionesco, that Romanian-Hungarian reconciliation and co-operation are the keystones not only of Romania, but of the whole of Europe.

NEW OPPORTUNITIES FOR MINORITY LANGUAGE HIGHER EDUCATION

To clear up any misunderstanding, it is worth repeating that the multicultural solution embraced by "Babes-Bolyai" University was conceived as an equal

⁸² (1998). Ordinul Ministrului Educației Naționale (Order of the Minister of National Education) No. 4336 of 17 August 1998. *Buletinul Informativ al Ministerului Educației Naționale (Informative Bulletin of the Ministry of National Education)*, 1998(21).; (1998). Ordinul Ministrului Educației Naționale (Order of the Minister of National Education) No. 4611 of 22 September 1998. *Buletinul Informativ al Ministerului Educației Naționale (Informative Bulletin of the Ministry of National Education)*, 1998(24).; (1998). *Ordonanța Guvernului României Nr. 87 din 25 August 1998 privind înființarea Comisiei de Evaluare și Acreditare a Invațământului Preuniversitar (Ordinance of the Government of Romania on Setting up of the National Commission for the Evaluation and Accreditation of Pre-university Education)*.

opportunity for all and not as the action of some people to administratively restrict the will of others. The proof is evident in a number of ways. Since 1993, the university in Cluj-Napoca has recorded no ethnic discrimination claims. As a matter of fact, never have so many Romanians studied in so many subjects at a major Transylvanian university. Nor have Hungarians ever studied in such numbers and such a range of subjects. There have never been more opportunities to study in German. The history of Jewish people and the Hebrew language have never before been offered for study at the current level. There have never been so many opportunities to study modern languages at the University as there are today. This diversity is also reflected in the fact that between 1998 and 2000 the position of acting rector has been held by an ethnic Romanian, Hungarian and German.

Multiculturalism can strengthen inter-culturalism. By inter-culturalism I mean the linking up of cultures. In an enlarging Europe, inter-culturalism may spread with the development of new means of co-operation and the broadening of contacts, including in the field of education.

In the post 1989-years, the countries of Central and Eastern Europe tended to seek co-operation with counterparts in Western Europe. Regional co-operation was a lower priority. Recently, interest in regional co-operation has been increasing as Central European countries are rediscovering the advantage of neighborly links as a means of consolidating, rather than opposing, closer European integration.

This is evident in terms of co-operation in the field of education. In Central Europe, regional co-operation has passed beyond its traditional forms of student exchanges, mutual visits, meetings of experts, and so. It has developed forms of common activities and equivalence studies. For instance, Romania has concluded agreements on equivalence of credits with Hungary, Slovakia, Bulgaria, Moldavia and other countries in its geographic proximity⁸³. Such agreements help in the equivalence of school and university qualifications beyond the boundaries of each state, which stimulates the incredible mobility of youth. Also, Romania has made it possible to co-

⁸³ Marga, A. (1999). *Educația în tranziție* (Education in Transition). Cluj-Napoca: Dacia.

operate with other countries in the design of textbooks, even in fields usually deemed sensitive, like History and Geography⁸⁴. Under new arrangements, distance learning connects students and teachers, high schools and universities from different countries. School and student tourism, supported by public authorities and private foundations, connects the young generations in different countries to an unprecedented degree.

To conclude, what happens at Babes-Bolyai University – thus far the country’s most developed multi-cultural institution – now that its new Charter has been adopted? Multicultural organization has rather a short history. To strengthen it, time counts. In point, the immediate agenda of “Babes-Bolyai” University includes: implementation of its recent 2000 Charter; organization of the Department for Multiculturalism; publication of the tri-lingual student newspaper, *Universitas Claudiopolitana*; the establishment of a Master’s Degree programme in multi-culturalism; preparation of application for funding from the European Union; establishment of the *Universitas Claudiopolitana* Foundation for attracting sponsorship; setting up an independent body to evaluate progress in multi-culturalism; assessment of “Babes-Bolyai” University’s competitiveness by the Association of European Universities; founding the University Ecumenical Center; and designing and promoting programmes for inter-culturalism.

The aim is to continue to develop the concept of multi-cultural education at Babes-Bolyai University, in Romania, and to continue to foster links with the broader academic community in order to learn from, and be enriched by, each other’s diversity.

⁸⁴ Gârbea, D. (1999). *Evoluții recente ale conceptului și practicii de recunoaștere și echivalare a diplomelor de studii în Europa* (Recent developments in the concept and practice of recognition and equivalence of study diplomas in Europe). Bucharest: Niculescu.

UNIVERSITIES, MULTI-CULTURALISM AND DEMOCRACY

GEORGE SCHÖPFLIN



LANGUAGE AND LINGUISTIC DIVERSITY

Every language is unique and each language is the repository of unique values. Languages exist in various dimensions – philological, cultural, political – but crucially, what they all do is to encompass different ways of understanding the world.¹ Languages in this sense are a vital resource for sustaining diversity and if we accept the legitimacy of bio-diversity, then the same should apply to glotto-diversity. What is at the heart of diversity is that different human collectivities create different moral, cultural and social orders.² They respond differently to different challenges and can find the way through the thickets of natural and man-made constraints by accepting alternatives. Without alternatives, the world becomes monochrome and, just as crops become vulnerable in a monoculture, so language groups can grow introverted and stagnant if they are never presented with alternatives.³

But there is a problem here that has to be addressed. In the modern world we face, if anything, too much diversity. The mounting complexity of modernity, especially of late modernity, is such that the central need would

¹ Steiner, George, *Errata: an Examined Life* (London: Weidenfeld, 1997).

² Wuthnow, Robert *Meaning and Moral Order: Explorations in Cultural Analysis* (Berkeley, CA: University of California Press, 1987).

³ Scott, James C., *Seeing like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press, 1998).

seem to be the creation of order and not the celebration of diversity. Both propositions are valid. Human communities need both diversity and order and that is the vital task of politics, to ensure that the two are kept in a dynamic equilibrium. Multi-culturalism is one dimension of this equilibrium.

The particular problem of multi-culturalism arises from the perception that two or more cultures sharing the same territorial space are felt to be too many. This is very much a problem of modernity. Pre-modern societies had quite considerable diversity but very little dynamism, so that the cultural diversity of that time did not matter very much.⁴ This is an important point, because many people are inclined to overlook the distinction and to make the conceptually confused argument that what worked in pre-modern societies should also work today. The kind of comment that claims that two communities lived side by side for centuries, but now are at odds, then leads this analysis to say that they were stirred into antagonism by “evil people”, a proposition that entirely ignores the radical transformation that the world has experienced over the last two centuries. In pre-modernity, culture could be kept separate from political power. Today it cannot be.

What is equally central to the argument here is that diversity is about the competition not merely of making the world, of understanding the world differently, but even more of different moral orders. Every community tries to establish a particular – indeed unique – concept of the world, that it claims is the only way of seeing the world and to invest that world-view with a moral monopoly.⁵ Furthermore, as one of the key instruments of trying to establish its uniqueness, communities will attempt to control the language in which their moral order is expressed. They will create a definition of reality that is accepted by the members of that community as a plausibility structure. Once it has come into being, the community in question will defend it precisely because it is making a claim to be the bearer of moral values. And every community, large or small, wants to be recognised as a bearer of moral

⁴ Armstrong, John *Nations before Nationalism* (Chapel Hill NC: University of North Carolina Press, 1982).

⁵ Berger, Peter *The Sacred Canopy: Elements of a Sociological Theory of Religion* (New York: Doubleday, 1967).

values and to be accepted as a community of moral worth. And this is the core of the problem – we believe, we have to believe in the uniqueness and unique validity of our own system of moral values, and this has the result that we look with scepticism at the moral orders created by others. And when that other moral order directly challenges ours, we become indignant or angry or threatened. The competition of plausibility structures is always a difficult area and, once we add the dynamism of modernity to the mixture, it can – it does not have to but it can – become explosive.

MULTI-CULTURALISM

It is to prevent such explosions – the ones that can derive from inter-cultural, multi-lingual, inter-communal, inter-ethnic relations – that various devices have come into being and these are known broadly by the name of multi-culturalism. The origins of the concept are very much in the Anglo-Saxon world, in the United States and the United Kingdom, and to some extent it bears the marks of these antecedents. The underlying idea is straightforward – to create an overall culture and the corresponding institutions by which all cultural communities living within a particular territory, usually that of a state, to find ways of articulating themselves and to preserve their cultural values. Where the Anglo-Saxon ideas differ from those used elsewhere is that they operate essentially in one language, English, and have very little idea of what is needed when multi-culturalism is, in fact, multi-lingualism.

As already argued, a language articulates a set of moral values and those who speak it will seek to preserve it. They will not be open to arguments of convenience, for example that they should abandon their languages and switch to the language of the majority. They argue that, on the contrary, in a democratic society as citizens of the state – and as taxpayers – they have the same entitlements as the majority and that includes the right to the cultural reproduction of their language or languages. To achieve this, they have to convince the majority, which will have been the primary agent in the creation of the state, that a democratic state cannot be sustained solely on the basis of majority ethnicity and that minorities are just as important in the formation of the state as the majority.

Democratic theory and practice in Europe today generally accept this position, even if it is occasionally attacked by some who adopt a kind of universalist stance, who conflate demands for the right to use one's language with ethnic excesses. The problem with the multi-lingual variant of multiculturalism is that communication across cultures is much harder when different languages are involved. When everyone in a particular political community speaks what is the same language – language in the philological sense – it is relatively easy to negotiate difference and to accept diversity. Sometimes, indeed, the difference is simply ignored or screened out, it is regarded as marginal.

This neglect, benign or otherwise, cannot be sustained when two languages are in contact, because the speakers of both communities will be only too conscious of the complexity of dealing with members of the other community when their communication skills are continuously tested. The hard truth is that speaking more than one language is much harder than being monolingual. And, I need hardly add, speaking another language is not the same as knowing the culture which is expressed in that second language. This is the central point of diversity, that in another community things are done differently. For many, that difference – precisely because the difference is ultimately about different moral systems – can be offensive or threatening or dangerous. And that's where the culture and institutions of multi-lingualism enter, to play a stabilising role in giving security to all the communities involved.

At the political level it is vital that all the communities concerned should have a certain level of awareness of the needs of the other community. It will generally be counterproductive if they take things for granted. And the solution is communication, particularly at the elite level. Elites play a highly complex and distinctive role in multi-culturalism, one of which they are not necessarily fully conscious. They have to be active in the reproduction of their cultures and to do it in such a way as to avoid making inroads into the sensitivities of the other. Note that "other" can refer to either the majority or the minority.

Importantly, elites have to be ready to practise self-limitation. Self-limitation is a standard and necessary condition of democracy. It means not only obeying the laws, but also respect for the spirit of the laws. It means thinking ahead of the consequences of what one is doing and, if necessary, trying to preempt some of the unintended consequences of action. Crucially, it means acquiring some insight into how the other community constructs its view of the world and avoiding initiatives that would damage that. However, this is a counsel of perfection. It happens all too often that one community does not see that a particular course of action would cause damage of this kind. The solution, then, is to empower the minority in order to give it real or symbolic power to communicate to the majority that it is trespassing in a vital area, an area that the minority regards as threatening its cultural reproduction.

Why should minorities be placed in such a seemingly privileged position? Precisely because they are minorities and are, therefore, inherently in a weaker position. It can be seen as an application of the principle of checks and balances, of what should be the normal give-and-take of democracy. That proposition makes it sound easy. It is not. The politics of inter-ethnicity and multi-lingualism is among the hardest of political art forms for the very reason that has been argued here, that at the end of the day a language is the articulation of a system of moral norms and very few people are prepared to compromise what they see as right and wrong. By contrast, material issues, like the economy and class status, are relatively easy.

THE STATE AND MULTI-LINGUALISM

My next proposition may well cause eyebrows to be raised. I am going to suggest that the state itself has an interest in securing the smooth, trouble-free operation of multi-lingual life. Indeed, the state has an interest in promoting all the languages spoken within its territory. This sounds paradoxical if not actually idiosyncratic. The received assumption of the nation-state can be reduced to the equation “one state, one nation, one language”. There was a logic in this assumption, and one that still has its adherents, and the logic was dictated by the needs of modernity. One of the central features of modernity in Europe was the rise of the modern state.

This institution has been and still is extraordinarily effective in creating order and coherence, in providing stability and meaning in an increasingly complex and contradictory world and, in the best case scenario, making power accountable and thereby predictable. When it works this way, the modern state is very successful indeed in domesticating power and thereby banishing fear.

But there is a cost. To attain its objectives, the modern state had to condense power, to make the population capable of being rationalised by making them “legible” in the sense of making everyone conform to bureaucratic norms.⁶ One of the most contradictory features of the modern state is that it is built on a modern bureaucracy – Max Weber’s legal-rational administration – and bureaucracies operate by constructing a bureaucratic order. At this point we are back with the central dilemma of modernity – how much order and how much diversity should the modern state permit? With respect to diversity, the answer until very recently was “not much”. But events have moved on and here the collapse of communism proved to be one of the great hinges of history, one that permits us to see that the solutions of the pre-1989 period were already inappropriate then and are increasingly so today. It is no exaggeration to claim that what contributed massively to the collapse of communism was that it offered no answers to the very complexity that it helped to create – an unexpected irony of history, if ever there was one.

Today, the state is faced with a major challenge, that of continuing to sustain the bureaucratic order and simultaneously giving diversity maximum room. The dilemma is that whereas previously the state very largely had the last word, this is no longer necessarily so and it is far from certain that the kind of order established by the state is acceptable to all. The outcome is both a higher degree of uncertainty and equally much greater scope for the expression of civil society and its initiatives.⁷

In all this complexity, the state has various interests. If it is to retain its legitimacy, it must sustain the civic order and this requires it to act as

⁶ Scott, James C., *op.cit.*

⁷ Bauman, Zygmunt *In Search of Politics* (Cambridge: Polity, 1999).

guardian of a neutral legal order. When it comes to minorities, the role of the state is to ensure that all minorities – social as well as ethnic – enjoy the same rights that derive from citizenship as the majority. Only by creating the conditions in which minorities feel secure as citizens will the state secure its own cultural reproduction as legitimate in the eyes of the entire population. Furthermore, the state has a more distant interest in the political health of civil society – the abiding problem of the modern state is that it runs the constant danger of becoming the captive of its own bureaucratic norms and it needs the challenge of civil society to be aware of alternatives. From this perspective, the challenges posed by the existence of minorities supports the state in avoiding bureaucratic reductionism as long as the state is prepared to respond in a reasonably open fashion.

It follows from the above that the state has to have a degree of self-awareness, a capacity to identify its long term interests over short term convenience and to accept that it must support the growing diversity of society. This is seldom easy. But if the state is to satisfy the citizens – all citizens not just those of either the majority or the minority – it must become flexible in its responses to civic initiatives. In this connection, the neutrality of the state as between different parts of society is vital. Without neutrality, even if neutrality can never be absolute, the state will not be able to sustain its role as the protector of civil society, but will become partial and thus in danger of entanglement in its own partial rationality, its bureaucratic rationality or even worse, a bureaucratic rationality that is the exclusive possession of one language group. When it comes to multi-lingualism, therefore, the state must abandon all ideas that the state language is neutral. It is not, because as argued no language is neutral, every language is the bearer of moral norms that are specific to the group that uses the language in question. The task of the state is to maintain the dynamic equilibrium of modernity. Thus the state must secure the conditions for the development of all the languages used on its territory, at any rate to the degree that the speakers of that language demand it.⁸

⁸ McCrone, David *The Sociology of Nationalism* (London: Routledge, 1998).

There is a further issue here concerning the nature of the state. The modern legal-rational state achieved its aims by high levels of condensed power and established a bureaucratic order that was intensive and extensive. This modern state operated by insisting on creating substantial structures that administered rationality or claimed to. Size was seen as a guarantee of efficiency. That particular type of state is now being eroded and it is being replaced by a more flexible, more fluid kind of state, and which necessarily operates through smaller structures and institutions. The private sector in the most developed areas of the West is steadily abandoning the large-scale concern and going over to smaller enterprises; the state is to some extent mirroring this. Integration is increasingly taking place through a complex mixture of state action, market relations and the impact of technology, which is global, state-wide and local, empowering all levels. The traditional state must adapt or accept failure.

THE STATE AND MINORITIES

In general, states can afford to be generous in this respect. Not least, a state which is generous to its linguistic and cultural minorities will generally find that these minorities will evolve a consciousness and identity that is linked closely to that state, that their political and civic identity will be overwhelmingly constructed around the state and that the minorities' relationship to a kin state, if any, will be weaker. The examples of Finland and Switzerland come to mind here.

The attitude of the state towards the linguistic diversity on its territory must have two further dimensions – the cultural and the institutional. The cultural dimension in this context refers to the corporate culture of the state itself, to the way in which it carries out its tasks, the particularities of the application of bureaucratic order (eg. strict implementation or informal), the pattern of consistency in rule making and so on.⁹ This is an exceptionally difficult area, for here the cultural expectations of the majority and minority can differ greatly. The best practice that the state can adopt is to permit the

⁹ Douglas, Mary How Institutions Think (Syracuse NY: Syracuse University Press, 1986).

minorities or minority to take decisions at the level where the social knowledge of the minority is most effective. Where there is a serious conflict between majority and minority norms, some form of arbitration accepted as neutral by both is the best way forward.

The institutional framework of the state must similarly reflect the linguistic diversity of society. This can be tiresome from the perspective of the partisans of centralised bureaucratic governance, who tend to see all deviations as dangerous and threatening, but accepting the reality of the diversity not only coincides with democratic and civic norms, but is also supportive of long term stability and legitimacy. And there is a further aspect of institutional diversity that demands attention. Majorities find it quite extraordinarily difficult to understand that minorities want access not only to the material and institutional goods of the state, but also to the symbolic dimension of state power.¹⁰

Minorities want to be able to express their language in the public sphere, to make a public statement that the space in question belongs to them too. When they can do so, this strengthens their sense of security enormously, quite disproportionately to the effort or expense involved. Majorities seldom realise that minorities will even tolerate a relatively meagre level of participation in the material goods of the state if their symbolic articulation is accepted. Correspondingly, majorities tend to dislike this public articulation of the minority presence because it can be interpreted as a challenge to their undisputed power in the territory. In reality, in a democratic system that power has to be shared and that is what access to the symbolic dimension of the public sphere represents.

UNIVERSITIES

Universities are a very special case of a state institution and it is this special status that helps to explain why ethnic majorities find it so extraordinarily difficult to permit the setting up of minority language universities. In effect,

¹⁰ Mach, Zdzislaw Symbols, Conflict and Identity (Albany NY: SUNY Press, 1993).

there is only one fully independent minority language university system in Europe, the Swedish language Abo Akademi, in Finland, though there are quite few multi-lingual ones. On the face of it, the founding and running of a university should be a matter of educational policy, resources and the demand from the minority – something to be settled at the institutional level of politics. A minority of a certain size, an adequate level of literacy and of urbanisation should have no problem with providing the intellectual infrastructure for a multi-faculty university, though clearly it will not be able sustain certain rarefied areas of research. There are several minorities in Europe which match these criteria, hence the question must arise as to why there are so many more minorities than minority language universities.

The function of a university is customarily seen in terms of the quest for the truth, the expansion of knowledge and understanding and of educating the next generation. In reality, a university is much more than this. Given the enormous significance of and emphasis placed on cultural reproduction, on the prestige of high culture – the continuous development of a language in which high culture can be articulated – and the attainment of moral worth through access to high culture, the university is also a very significant locus of symbolic power.

Control of culture – values and aspirations, the way in which order and coherence are created, the perceptions of the world and its meanings – is of central importance to the modern state and the university is major factor in the production of culture. Not least, although modernity and reason claim to be universal, in practice they are expressed in a particular language and the status of that language, therefore, becomes of vital resource in the power structure of the state. No state likes competition at this level of its power, its effectiveness in ensuring that its control over the society is unchallenged, so that some states believe that they have an active interest in sustaining a linguistic monopoly over their territory, as far as they can.

The minority language is direct competitor, therefore, to the state and the minority language university demands an overt recognition of the state's plural nature. The minority language university symbolises a minority's separate political status and enables it to sustain its cultural reproduction.

Its existence sends a signal that its culture must be given full equality in the state. It gives direct access to symbolic capital for the minority. It provides access to high culture and a collectivity with a recognised high culture cannot be so easily ignored politically by the state as one that lacks it. Hence the university is a symbolic marker of moral worth both at home and abroad, so that equal access to power cannot be denied the minority. Once a linguistic minority has been granted the right to establish a university, the majority is simultaneously recognising the co-equal status of the minority language in all aspects of the country. Co-equality, therefore, implies that members of the minority are not, in fact, a minority at all (other than in the numerical sense), but a full constituent community in the state. In a word, they are fully equal citizens.

At the institutional level, the graduates of a minority university will demand jobs in the state and other bureaucracies on the same basis as majority community graduates and will want to work largely in their language. The implication of this argument is very far-reaching. It signifies that the minority in question is of equal moral and symbolic status to the majority, hence must have access to the symbolic goods of the state, which means that it has the status of a partner. This adds up to a very significant transformation in the position of the minority and can constitute the first step towards a consociational system, rather than a majority-minority one. But then that is what both democratic theory and cultural stability would suggest.

A multi-cultural and multi-lingual university can be regarded as a subtle variant of the minority university and one that conforms to current notions of multi-cultural and multi-lingual education. Although a multi-cultural university may lack some of the symbolic benefits that minorities expect the university to provide, as long as the university's commitment to multi-culturalism is real and as long as this commitment is expressed at all levels – symbolic as well as educational – the loss will not be serious. And there will also be gains. The real gain is in educational policy. The hard reality is that states throughout the world are finding that the cost of higher education is rising inexorably and that they are less and less willing to shoulder this cost without any further scrutiny. Whereas once upon a time, when university education was the preserve of the few, of up to 10 percent of any one

generation, this is no longer the case. Democracy requires the state to make provision for mass education and when the state does so, it wants value for its money – for the taxpayers’ money ultimately – and from that perspective, the unit costs of a university are very high.

Furthermore, while a university is there to reflect and examine the ever-growing complexity of the world, a minority university tends to run the risk of becoming cut off and being unable to generate the critical mass that will let it offer the service that its students expect. Universities are not immune to the dangers of conservatism and the dynamism of a multi-cultural institution, however difficult it may be in some ways, offers some guarantees that minority education will be up to date with the mainstream. A further advantage of a multi-cultural university is that it can become the vital institution where the elites of the different communities gain some knowledge of the other. In the long term, this knowledge is central to multi-culturalism – it is a key form of social knowledge – in as much as it allows members of the elites access to the high cultural universe of the other community.

However, there are also some key conditions before a multi-cultural university can function effectively. It must at all times be conscious of its multi-cultural identity and mission. It cannot become the preserve of one cultural community. It must operate by the rules of the best practice of multi-culturalism, which generally means a degree of goodwill on both sides and a readiness to avoid the kind of reductionism that interprets everything in mono-cultural terms. There must, therefore, be a corporate culture of transparency and accountability; decisions must be taken openly and procedures must be accessible to all. And multi-culturalism must be accompanied at all times by multi-lingualism, both within the activities of the university and in the public sphere. No one will pretend that multi-culturalism is an easy way of running an institution, but the advantages unquestionably outweigh the disadvantages.

INTREGRATING DIVERSITY: IN EVERYBODY'S INTEREST

MAX VAN DER STOEL



The following are excerpts from a speech by the then OSCE High Commissioner on National Minorities, Max van der Stoel, at the seminar "Integration Diversity in Higher Education; Lessons from Romania", which took place at Babes-Bolyai University in Cluj-Napoca, Romania on 7 October 2000.

Rector,
Ladies and Gentlemen,

. . . The purpose of this seminar is to discuss the topic of multi-culturalism generally, but specifically in the context of higher education in Romania. I thought that it would be most appropriate if a seminar on this theme would be held here at Babes-Bolyai University as this institution is steadily strengthening its reputation as an important center of multi-lingual and multi-cultural higher learning. . .

I would like to begin my remarks today by publicly expressing my satisfaction for the decision taken by the Senate in July [2000] to amend the University Charter. I think that this was an important step forward in codifying progress that had already been made and in setting objectives for the years ahead. I know that this decision was not considered ideal for many professors of the Hungarian line of study. Nevertheless, I think that changes have been introduced which go a considerable way to meet your concerns. I note, for example, that the amount of autonomy exercised by the various lines of study has been increased. This will allow the linguistic lines to develop and

safeguard their respective interests and control decisions that directly affect them. I am also encouraged by the fact that the number of courses in minority languages will be increased, particularly in the faculties of economics and law. I hope that targets will be included in the University's strategic plan to clearly lay out a timetable for expanding the number and range of courses in minority languages. These new opportunities for study should increase the percentage of the student population from minority communities and, down the road, widen the pool of potential young faculty who will be able to teach courses in Hungarian and German.

I would also like to note that commitments have been included in the revised Charter which explicitly refer to the fact that Babes-Bolyai University provides a framework for multi-cultural and multi-lingual contacts and offers equal training opportunities in Romanian, Hungarian and German. I encourage the University to continue on the path that it has taken in the past few years to strengthen all lines of study in order to achieve this goal of co-equality, keeping in mind of course the high academic standards for which this University is renowned.

I stress the importance of academic standards because too often debates about this and other Universities get bogged down in political considerations. Too often people on all sides of the argument lose sight of the main issue, which is education – a quality education. In my work I am sensitive to the desire of minorities to have higher education in their mother tongue and the symbolic importance that is attached to a University. Yet in meeting students in various Universities in a number of countries I have heard again and again that their main priorities are to have qualified teachers, a wide choice of subjects, good learning materials, a pleasant learning environment and facilities like Internet access. Whether this is achieved in a multi-cultural or unilingual environment, a private or a public institution, is a secondary consideration. Therefore, before one kicks around a University like a political football, one should stop and ask what the goal is and who the players are. That consideration should also apply to politics within the University.

With that in mind, I am encouraged by unequivocal language in the Charter that stresses the University's apolitical character. I see that steps have also

been taken to seek peer review, and considerable emphasis is given to upholding high standards of education. I hope that curriculum development will also reflect the University's multi-cultural character.

Of course discussions concerning education, especially minority education, are never far removed from politics. Often, part of the problem in such discussions is that "multi-culturalism" means different things to different people. I am aware that there have recently been many discussions concerning multi-culturalism in Romania. But I think that more could be done to look at what issues lie behind this rather vague concept.

Allow me to begin the discussion by outlining some of my views on multi-culturalism. To me, multi-cultural society is a matter of fact. There are very few ethnically homogenous States, and even those have immigrant communities. The traditional concept of nation-State where a distinct national group corresponds to a compact territorial unit seldom exists. The last century has given us plenty of evidence that efforts to forge mono-ethnic States are conflict ridden and doomed to failure. One must therefore start from the premise that almost all States in the modern world are multi-ethnic or multi-national, made up of different cultures: therefore multi-cultural. Nevertheless, the myth of the nation-State remains strong and majority cultures often seek to impose their identity. In a multiethnic environment the imposition of uniculturalism, through assimilation or otherwise, often comes at the expense of human rights and threatens minority identities. This causes friction. In an effort to avoid marginalization, minorities re-double their efforts to preserve and protect their identities. Positions on both sides harden.

How can we avoid or overcome such situations?

The foundation is a strong basis of human rights. Democracy, based on the rule of law, is the fundamental framework for protecting human rights, including the rights of persons belonging to national minorities. Sometimes additional legislation is necessary to protect minority concerns. These rights do not privilege persons belonging to minorities, but act to ensure equal respect for their dignity, in particular their identity. They serve to bring all members

of society to at least a minimum level of equality in the exercise and enjoyment of human rights and fundamental freedoms.

Recognition is also vital. People on all sides of the issue have to acknowledge each other, respect the opinion of their counterparts and recognize the equal rights and value of all individuals.

Such recognition is the basis for dialogue. Through dialogue, all participants can form a greater understanding of each other's interests and concerns. Through dialogue, they can find common ground and reconcile possibly conflicting positions.

Closely related to this point is participation. States should not only protect minority rights, but they should also establish specific arrangements for national minorities. Such arrangements enable minorities to maintain their own identity and characteristics while including them in the overall life of the State. It also means that minorities can participate in decisions that directly affect them. In the liberal democratic tradition, the more inclusive a political system, the more representative it is. I think that the participation of the Hungarian Democratic Union of Romania within the Government during the past few years is a good example of the mutual benefits of such inclusiveness.

Accommodating minority interests should not be interpreted as political correctness or pandering to special interest groups. Nor should it be diminished through tokenism or short-term concessions. Instead, there should be a genuine commitment to protect the ethnic, cultural, linguistic and religious identity of national minorities and create conditions for the promotion of that identity. After all, we live in a world of diversity. In order to be representative, democratic government and administration require structures and modes of societal interaction that satisfy the needs of all members of society. Since very few populations are ethnically homogeneous, it is almost inevitable that every State will have at least one minority. Depending on the size and concentration of the minority or minorities, this can affect questions like use of language, education, culture and participation in government. Fair and practical standards to protect

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minorities are therefore essential. So too are mechanisms to include minorities in public life. This is not only a question of implementing international standards. It is good governance.

The basic logic of integrating diversity is that everybody's opinion matters and that all members of society are equal. All of us define ourselves in different ways. Because we are all unique, we need to be allowed the freedom to express ourselves and to protect and promote our identities.

Another way of looking at it is what happens if we refuse to integrate diversity. Minorities are not going to go away. Governments may try to assimilate them, but this often causes a backlash. It also impoverishes society. In the same way that bio-diversity enriches our environment, cultural diversity strengthens the fibres of society. Minorities can be ignored or marginalized, but that merely strengthens their sense of isolation and makes them feel as though the State does not represent their interests.

Therefore, the best way to create a harmonious, prosperous and dynamic society is to realize the merits of pluralism and seek to integrate diversity. When integrating groups within society we must pursue equality, not in terms of sameness, but in terms of meaningful opportunities. This requires an attitude of mutual respect on the part of both the majority and minorities. It also requires a rejection of extreme nationalist views and policies. From open minds come open societies.

To summarize, the keywords, as I have already identified them, are human rights, recognition, dialogue, participation, inclusiveness, and equality of opportunity. The goal must be to find ways for people to express and enjoy their uniqueness while being conscious of, and contributing to, a greater collective, common understanding.

This process is not static. Cultures change, societies evolve, demographics shift. As a result, the configuration of a state, and relations within it, are constantly changing. Because society is dynamic, there can be no "model" of multi-culturalism. One does not achieve multi-culturalism; one adapts

one's societal frameworks to accommodate it. Those frameworks allow pluralism to flourish while maintaining the integrity of the State.

This University is a good example. The decision that you have recently made here to amend the Charter and further develop multi-cultural and multilingual education shows the ability and willingness of Babes-Bolyai University to evolve. I hope that opportunities for higher education in minority languages can be expanded at other Universities in Romania, especially in subjects not taught at BBU.

To conclude, emerging out of a century marred by exclusion, intolerance, and the fear of "otherness", it should be clear to all of us all that integrating diversity is a major imperative of our times. Education, because of its role in socializing and teaching the sense of common culture, has a leading role to play. This University, which has been shaped by the tides of history, can play a leading role in demonstrating how that can be done. You stand at the threshold of new opportunities for this country in an age of globalization, closer European integration and a new era for South-Eastern Europe. You are also the embodiment of the multi-cultural character of this country and play an important role in educating its leaders of tomorrow.

In these times of change, we are all expanding our horizons. Although the world is getting smaller, the extent of its diversity is becoming more apparent. Let us celebrate that diversity, internationally and within this country, and let us ensure that it has the freedom to grow. This means extending the international perspective of the University, while also making it truly representative and reflective of the cultural pluralism of Romania.

MINORITY EDUCATION RIGHTS IN EUROPE

JOHN PACKER¹



I. INTRODUCTION

A frequent part of various disputes over minority education, including higher education, is the assertion and claim of rights – often *human* rights. While the catalogue of rights stipulated in international instruments has grown steadily since World War II, its content and scope is still not well known – not even by those who pursue their interests and articulate their claims in such terms. Thus, it is desirable that existing standards be clearly and broadly understood if debates, deliberations and determinations are to be informed and well grounded. This seems especially so for important public domains and emotive issues such as education and, more so, minority education which involves aspects of cultural identity vital to many groups, in addition to the general formation of responsible individual citizens (in the broad sense of the term).

With a view to informing policy- and law-makers, this article surveys the body of minority education rights applicable in Europe² (where they are most

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² For the purposes of this paper, the notion “Europe” is understood in the largest political sense, referring to an international society of values articulated through various intergovernmental arrangements within the area of the Organization for Security and Co-operation in Europe (OSCE) – running East from Vancouver to Vladivostok and comprising all the States of the former Soviet bloc and NATO together with the non-

developed). As this is an already substantial set of standards, this article will mainly describe and recite the provisions of existing instruments without reference to a growing jurisprudence.³ It will also proceed in a logical order of entitlements from the basic freedom of, and rights to, education in general through to higher education in particular. This last area has implications also for primary and secondary education in terms both of teacher-training and of preparation for scholarly pursuit at tertiary level in minority-related matters.

II. THE NATURE AND AIM OF MINORITY EDUCATION RIGHTS

The nature of the rights to be discussed take the form of standards composed through international relations and law which create entitlements for rights-holders (human beings) against the State which has jurisdiction (whether on the basis of territory or personal/citizen affiliation). “Minority rights” form, as a category, part of the corpus of human rights; they are additional to all other human rights and are “special rights” insofar as they are enjoyed by a limited category of human beings (i.e. persons belonging to minorities). Human rights relating to education include both generally applicable human rights (i.e. entitlements extended to all human beings, without discrimination) and special rights to be enjoyed only by persons belonging to minorities.⁴

aligned and neutral States of continental Europe.

³ For a general treatment of the right to education, see *The right to education; Towards education for all throughout life* (Paris: UNESCO Publishing, 2000). On minority education rights, see P. Thornberry & D. Gibbons, “Education and Minority Rights: A Short Survey of International Standards”, *International Journal of Minority and Group Rights*, Vol. 4, No. 2 (1996/97), pp. 115-152; for an up-to-date analysis, see P. Thornberry, “Education Rights and Minorities” in Z. Machnyikova, J. Packer and S. Ratner (eds.), *Contemporary Issues in the Protection of Minorities in Europe* (Kehl am Rhein: N.P. Engel Verlag, forthcoming).

⁴ On the issue of who exactly belongs to a minority, see: J. Packer, “On the Definition of Minorities” in K. Myntti and J. Packer (eds.), *The Protection of Ethnic and Linguistic Rights in Europe*, Turku/Abo: Abo Akademi University (1993), pp. 23-65; and J. Packer, “Problems in Defining Minorities” in D. Fottrell & B. Bowring (eds.), *Minority and Group Rights in the New Millennium*, The Hague: Kluwer Law International (1999), pp. 223-274.

From the perspective of the composite of relevant international standards, I have elsewhere summarized the aim of generally applicable human rights relating to education as follows:

The essential content of all education in a free and open society is directed towards the formation of mature adults capable of responsible citizenship. This means to equip young people to become free agents able to choose and pursue their own interests and to contribute to a vibrant society.⁵

The aim of special rights relating to education only to be enjoyed by persons belonging to minorities is to achieve equality with persons belonging to the (sometimes amorphous) majority insofar as education affects matters of dignity (including, importantly, cultural, linguistic and/or religious identity) and life-chances. This is to say that, through normal majority decision-making relating to matters of education, the choices of the majority (e.g. language of instruction and curriculum) will necessarily disadvantage and may prejudice the opportunities for equal dignity of persons belonging to minorities. Special minority rights, therefore, aim to correct this effect by making accommodations for the diversity of interests and desires which exist in every society. Importantly, the particular scope of diversity which is to be accommodated is limited to matters of culture, language and religion; we are not concerned with just any interests or with the desires of any kind of minority.⁶

These aims, of both human rights in general and minority rights in particular, fit within and follow from the overall aim of international human rights law: to contribute to peace and security between States and, thereby, to facilitate economic and social development for all. This follows the linear logic that respect for human rights establishes a just order within States which is

⁵ Ultimately, it is to facilitate freedom with a view to attaining peace, security and security; see J. Packer, "The Content and Aim of Minority Education from the Perspective of the International Instruments", *International Journal of Minority and Group Rights*, Vol. 4, No. 2 (1996/7), p. 171.

⁶ See Article 27 of the International Covenant on Civil and Political Rights; see also J. Packer, "On the Content of Minority Rights", in J. Raikka, *Do We Need Minority Rights? Conceptual Issues*, The Hague: Kluwer Law International (1996), pp. 121-178.

necessary for peace and security between States, and that on this basis social and economic development may be pursued within and among States.⁷

The rights in question are not merely matters of theoretical conjecture. They are part of an existing and remarkably consistent catalogue of international standards which constitute accepted norms of behaviour (containing both prescriptions and proscriptions) elaborated and adopted by States as matters of contemporary international relations. The body of standards arises from varying sources, both legal in nature (treaties and custom) and non-legal/political in nature (declarations, accords, plans of actions, etc.). They include varying degrees of precision and detail, ranging from super norms through principles to rules (including jurisprudential clarifications). In general, the standards are articulated and accepted as minimums of behaviour, but they do sometimes (as is the case for educational standards) direct States towards maximalist ends: to achieve the most possible, to do the best. Moreover, it is in the nature of human “rights” that they impose duties upon States, whether or not the rights-holders necessarily seek their rights or otherwise bring or indicate claims (whether needs or desires).

The broader commitment of all OSCE participating States, unequivocally expressed in the 1990 Charter of Paris for a New Europe, is to democratic governance and market economies dedicated towards the free and full development of all societies. Key among the substantive and institutional elements necessary to facilitate and fulfill this objective is the Rule of Law and respect for human rights, including the rights of persons belonging to minorities. Due to its particular history, it is perhaps not surprising that Europe, first through the OSCE and then through the Council of Europe, has led the way in elaborating standards for the protection of minorities. This began notably with the 1990 Copenhagen Document of the (then) CSCE Meeting on the Human Dimension (encompassing human rights and humanitarian concerns). Among these first elaborated minority rights are provisions addressing specifically educational matters.

⁷ See Preamble and Article 1 of the UN Charter, and also the “decatalogue” of the Helsinki Final Act.

It is, of course, a separate and subsequent question whether or not a particular State is bound by a particular provision of some instrument. This is a question of the specific application of international obligations and commitments. However, it must be underlined that OSCE standards are political commitments binding upon all OSCE participating States. Actual application of the body of relevant standards will turn upon the particular mix of obligations and then also entail consideration of relevant domestic law (constitutional and ordinary legislation, together with jurisprudence and administrative practice). Specific application must also, of course, respond to the particular features of the situation, including the claims (needs and desires) of rights-holders and consideration of the resource limitations of the State. So, what State X can and must do in terms of policy and law, in application of the relevant standards, is always a specific and unique calculation.

Perhaps distinctive of the OSCE with its commitment to democracy is the evolving notion of “good governance”. This notion – following from the premise of equality and the principle of non-discrimination – is helpful in directing policy- and law-making in democratic societies committed to equal respect of the human rights of all, implying that the State must do its utmost for each and everyone... not just for the cultural or linguistic or religious majority (*inter alia*, not just for the so-called State-forming nation), and not just for those persons who voted for those presently in government. Indeed, it suggests that the State should especially concern itself with those belonging to minorities, i.e. those who do not share the interests or needs or desires of the various majorities but may be subject to or affected by them as a result of majority decision-making. The notion of good governance stands in stark contrast to the normal discourses of human rights and of minority discourses more generally. Effectively, “good governance” reshapes discussions away from minimalist approaches about “the least” the State must do (or may wish to do) and challenges the State to pursue a maximalist approach responding to the question: Given the possibilities and the aim of maximizing freedom for all, why would the State not do what people need and want? From this perspective, policy- and law-making in the democratic State committed to human rights for all becomes a matter of problem-solving. Valid excuses on the part of governmental authorities may include the absence of resources

or concerns about fairness (notably equal opportunities for others), but these are to be established by reference to facts. Invalid responses from States would be arguments that the State and/or majority does not care to act or to share the resources of the (whole) State amongst the (whole) population, including persons belonging to minorities.

III. SUMMARY OF RELEVANT RIGHTS

Rights relating to education which may be relevant for persons belonging to minorities include, as noted above, both generally applicable human rights and also special minority rights. I will begin by selecting and summarising the generally applicable human rights which are relevant, moving from the universal level (i.e. those elaborated in the context of the United Nations) and then turning to the European level. A summary of the relevant additional/special minority rights will then follow, also moving from the universal level to the European level.

A. HUMAN RIGHTS RELEVANT TO EDUCATION

(i) *A “right to education”*

A generally applicable right to education is articulated at the universal level. Article 26(1) of the 1948 Universal Declaration of Human Rights (UDHR) provides as follows:

Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

This right is similarly articulated in the first sentence of Article 13(1) of the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR), as follows: “The States Parties to the present Covenant recognise the right of everyone to education.” More recently, the same right has been stipulated in the first phrases of Article 28(1) of the Convention on the

Rights of the Child (CRC), as follows: “States Parties recognise the right of the child to education...” As in the case of Article 26(1) of the UDHR, the entitlement to free education, at least at primary level, is assured according to Article 13(2)(a) of the ICESCR and Article 28(1)(a) of the CRC as well as Article 4(a) of the 1960 UNESCO Convention against Discrimination in Education and Paragraph 7 of the 1959 UN Declaration on the Rights of the Child.

The right to education includes further entitlements to technical, professional, vocational and, more generally, secondary education according to the provisions of Article 26(1) of the UDHR, Article 13(2)(b) of the ICESCR and Article 28(1)(b) of the CRC. Article 28(1)(d) of the CRC goes one step further by requiring States to “make educational and vocational information and guidance available and accessible to all children”.

Participation in such education is not a freedom. The international standards (Article 26(1) of the UDHR, Article 13(2)(a) of the ICESCR, and Article 28(1)(e) of the CRC) make clear that it is the duty of the State to ensure such a minimum of education by stipulating its “compulsory” nature, implying steps to be taken against truancy, etc.

At the regional level in Europe, the first sentence of Article 2 of the First Additional Protocol to the 1950 European Convention on Human Rights and Fundamental Freedoms (ECHR) expresses, in a negative formulation, that “No persons shall be denied the right to education.” Only in the revised (1996) European Social Charter is it clarified in Article 17(2) that such education is to be free (at both primary and secondary levels) and that States are “to encourage regular attendance at schools” (which is not to say require attendance).

(ii) *A particular kind of education*

International standards make abundantly clear that the right to education (and the commensurate duty upon States) is not a matter of just any kind of education. Importantly, the international instruments stipulate the requirement of a fundamentally liberal education, as follows:

Article 26(2) of the UDHR

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

Article 13(1) of the ICESCR

... [States Parties] agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

Paragraph 7 of the UN Declaration on the Rights of the Child

The child [...] shall be given an education which will promote his general culture and enable him, on a basis of equal opportunity, to develop his abilities, his individual judgement, and his sense of moral and social responsibility, and to become a useful member of society.

Article 29(1) of the CRC

States Parties agree that the education of the child shall be directed to:

- a. the development of the child's personality, talents and mental and physical abilities to their fullest potential;
- b. the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- c. the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which he or she may originate, and for civilizations different from his or her own;
- d. the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship

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among all peoples, ethnic, national and religious groups and persons of indigenous origins

Article 5(1)(a) of the 1960 UNESCO Convention against Discrimination in Education

1. The States Parties to this Convention agree that:
 - a. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; it shall promote understanding, tolerance and friendship among all national, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

The revised European Social Charter also addresses the issue of the kind of education, similarly stipulating in Article 17(1) a fundamentally liberal education as follows:

With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

1. (a) to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;

Moreover, with a view to ensuring protection against poverty and social exclusion, Article 30 of the revised European Social Charter provides as follows:

[States] Parties undertake:

- a. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, education....

(iii) *A right to parental choice*

Notwithstanding the clear prescription of a particular (liberal) kind of education, the international standards affirm the right of parental choice with regard to both (at least some) content and form of education. To this extent there is provided also a *freedom* of education. Article 26(3) of the UDHR provides simply: “Parents have a prior right to choose the kind of education that shall be given to their children.” This not very precise stipulation is given more content in Article 13(3) of the ICESCR which provides as follows:

The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

Similarly, Article 5(1)(b) of the UNESCO Convention provides as follows:

It is essential to respect the liberty of parents and, where applicable, of legal guardians, firstly to choose for their children institutions other than those maintained by the public authorities but conforming to such minimum educational standards as may be laid down or approved by the competent authorities and, secondly, to ensure in a manner consistent with the procedures followed in the State for the application of its legislation, the religious and moral education of the children in conformity with their own convictions.

The institutional form of education may be either integrated or separated, and public or private. Specifically, Article 13(4) of the ICESCR provides that “no part” of the right to education and its associated required elements “shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.” Emphasis is to be placed upon the conditions prescribed for possible private educational

forms, i.e. that the State shall assure minimum standards (relating, presumably, to curriculum).

Parental choice is also secured at the level of European standards. According to the second sentence of Article 2 of the First Additional Protocol to the ECHR, “In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.”

(iv) A right to equal access to higher education

While there is nowhere stipulated a right to higher education (which would entail significant burdens on the State and also requirements of performance which might be difficult to fulfill), for such higher education as the State may choose to make available there is a requirement of equal access according to Article 26(1) of the UDHR and Article 13(2)(c) – the latter of which provides expressly that “higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education”. Such education as may be made available at the tertiary level would of course have to respect and be consistent with the requirements of education in general.

(v) A duty of the State to develop an educational system

Article 13(2)(e) of the ICESCR requires that “the development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.” The specific content of this provision admits to an evidently wide variety of possibilities aiming at progressive achievements. It also has particular implications for higher education insofar as any system directs towards educational progression.

(vi) *A prohibition of discrimination*

Of fundamental and often critical importance is the requirement of international standards to ensure that there is no discrimination in the enjoyment of the rights referred to above. This is expressed through the non-discrimination clauses contained in the noted instruments, which apply generally to all the substantive provisions. Beyond these requirements, there are specific and free-standing standards of non-discrimination relating to education expressed in dedicated instruments, in particular Article 5(e)(v) of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination which provides:

States Parties undertake to prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(e)(v) the right to education and training

The UNESCO Convention against Discrimination in Education is more comprehensive and merits quoting at length, as follows:

Article 1

1. For the purposes of this Convention, the term “discrimination” includes any distinction which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:

- a. Of depriving any person or group of persons of access to education of any type or at any level;
- b. Of limiting any person or group of persons to education of an inferior standard;
- c. Subject to the provisions of article 2 of this Convention, of establishing or maintaining separate educational systems of institutions for persons or groups of persons; or
- d. Of inflicting on any person or group of persons conditions which are in compatible with the dignity of man.

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2. For the purposes of this Convention the term “education” refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given.

Article 2

When permitted in a State, the following situations shall not be deemed to constitute discrimination, within the meaning of article 1 of this Convention:

....

- b. The establishment or maintenance, for religious or linguistic reasons, of separate educational systems or institutions offering an education which is in keeping with the wishes of the pupil’s parents or legal guardians, if participation in such systems or attendance at such institutions is optional and if the education provided conforms to such standards as may be laid down or approved by the competent authorities, in particular for education of the same level;
- c. The establishment or maintenance of private educational institutions, if the object of the institutions is not to secure the exclusion of any group but to provide educational facilities in addition to those provided by the public authorities, if the institutions are conducted in accordance with that object, and if the education provided conforms with such standards as may be laid down or approved by the competent authorities, in particular for education of the same level.

Article 3

In order to eliminate and prevent discrimination within the meaning of this Convention, the States Parties thereto undertake:

- a. To abrogate any statutory provisions and any administrative instructions and to discontinue any administrative practices which involve discrimination in education;
- b. To ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions;
- c. Not to allow, in any form of assistance granted by the public authorities to educational institutions, any restrictions or preference based solely on the ground that pupils belong to a particular group.

Article 4

The States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to circumstances and to national usage will tend to promote equality of opportunity and of treatment in the matter of education and in particular:

- a. To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law;
- b. To ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the conditions relating to the quality of the education provided are also equivalent;
- c. To encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed entire primary education course and the continuation of their education on the basis of individual capacity;
- d. To provide training for the teaching profession without discrimination.

At the regional level in Europe, Article 12(3) of the Council of Europe's 1995 Framework Convention for the Protection of National Minorities (the Framework Convention) requires that "The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities."

(vii) *The duty to teach tolerance*

While the vast majority of curriculum is left for States to choose, formulate and deliver (so long as it serves the directed aims of education as required by the standards), the teaching of tolerance is specifically stipulated. This standard may be implied (and even partly expressed; see Article 29(1)(d) of the CRC) at the universal level, but it is provided *expressis legis* at the regional level of Europe in a number of provisions beginning with the 1991 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE which states in paragraph 42.2 the following:

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[Participating States] recognize that effective human rights education contributes to combating intolerance, religious, racial and ethnic prejudice and hatred, including against Roma, xenophobia and anti-Semitism.

As cited below, the standard is expressed in more prescriptive terms in Article 6(1) of the Framework Convention for the Protection of National Minorities and in Article 7(3) of the European Charter for Regional or Minority Languages.

B. MINORITY RIGHTS RELEVANT TO EDUCATION

Universal standards (i.e. Article 27 of the International Covenant on Civil and Political Rights and the almost identically worded Article 30 of the Convention on the Rights of the Child) ensure the rights of persons belonging to minorities to use their own language, practice their own religion and enjoy their own culture. It is fundamental for linguistic, religious and cultural communities to be able to maintain and develop their interests in these matters through, among other things, the active transmission of the elements and values of language, religion and culture between generations. Understandably, therefore, the content and form of education is of critical concern to such groups. The State is obliged not only to permit such maintenance and development, but also to facilitate it with regard to certain entitlements which are also enjoyed by persons belonging to majorities.

At the universal level, Article 5(1)(c) of the UNESCO Convention against Discrimination in Education provides as follows:

It is essential to recognise 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 of the teaching of their own language, provided however:

- i. That this right is not exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole and from participating in its activities, or which prejudices national sovereignty;

- ii. That the standard of education is not lower than the general standard laid down or approved by its competent authorities; and
- iii. That attendance at such schools is optional.

The more recent 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities elaborates some of these elements in paragraphs 3 and 4 of Article 4, as follows:

3. States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or have instruction in their own language.
4. States should, where appropriate, take measures in the field of education in order to encourage knowledge of history, traditions, language and the culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.

At the European level, the idea that persons belonging to minorities should have knowledge of the wider society is reflected for persons belonging to majorities in commensurate provisions for them which impose some obligations on the State also to address the content of their education beyond mere tolerance, specifically extending to inter-cultural understanding, as follows:

1995 Framework Convention for the Protection of National Minorities

Article 6

1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education . . .

Article 12

1. The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.
2. In this context the Parties shall *inter alia* provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.

Not exactly an instrument conceived in terms of protecting minority rights, the 1992 European Charter for Regional or Minority Languages nonetheless contains many relevant provisions, including the following:

Article 7 – Objectives and Principles

3. The Parties undertake to promote, by appropriate measures, mutual understanding between all the linguistic groups of the country and in particular the inclusion of respect, understanding and tolerance in relation to regional or minority languages among the objectives of education and training provided within their countries and encouragement of the mass media to pursue the same objective.

These standards concerning inter-cultural knowledge and understanding address the need to promote peaceful relations between groups with differing views. However, there is also the fundamental concern that persons belonging to minorities should be able to transmit between generations views which differ from the majority, i.e. minority views. This has been spelt out most clearly in Europe, beginning within the OSCE context. In particular, paragraph 68 of the 1986 Concluding Document of the Vienna Follow-up Meeting of the CSCE committed participating States to “ensure that persons belonging to national minorities or regional cultures on their territories can give and receive instruction on their own culture, including instruction through parental transmission of language, religion and cultural identity to their children”.

Following from this basic commitment, subsequent standards of the OSCE and the Council of Europe have added detailed content to this entitlement, as follows:

Paragraph 32.2 of the 1990 OSCE Copenhagen Document

[Persons belonging to national minorities have the right] to establish and maintain their own educational ... institutions, or associations, which can seek voluntary financial and other contributions as well as public assistance, in conformity with national legislation.

Article 13 of the Framework Convention

1. Within the framework of their education systems, the Parties shall recognise that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.
2. The exercise of this right shall not entail any financial obligation for the Parties.

Paragraph 34 of the 1990 OSCE Copenhagen Document

The participating States will endeavor to ensure that persons belonging to national minorities, notwithstanding the need to learn the official language or languages of the State concerned, have adequate opportunities for instruction of their mother tongue or in their mother tongue . . . In the context of the teaching of history and culture in educational establishments, they will also take account of the history and culture of national minorities

Article 14 of the Framework Convention

1. The Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language.
2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate

opportunities for being taught the minority language or for receiving instruction in this language.

3. Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.

The European Charter for Regional or Minority Languages elaborates the options in greater detail. But, it is in the nature of this Charter that the provisions are options for which the State is obliged only to ensure a minimum choice (i.e. not all). Still, they indicate, from the perspective of good governance, what the tendency of public policy should be in this important area. The following provisions are, therefore, worthy of quotation in full.

Article 8 – Education

1. With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

- a.
 - i. to make available pre-school education in the relevant regional or minority languages; or
 - ii. to make available a substantial part of pre-school education in the relevant regional or minority languages; or
 - iii. to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or
 - iv. if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;
- b.
 - i. to make available primary education in the relevant regional or minority languages; or
 - ii. to make available a substantial part of primary education in the relevant regional or minority languages; or
 - iii. to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

- iv. to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;
- c.
 - i. to make available secondary education in the relevant regional or minority languages; or
 - ii. to make available a substantial part of secondary education in the relevant regional or minority languages; or
 - iii. to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
 - iv. to apply one of the measures provided for under i to iii above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;
- d.
 - i. to make available technical and vocational education in the relevant regional or minority languages; or
 - ii. to make available a substantial part of technical and vocational education in the relevant regional or minority languages; or
 - iii. to provide, within technical and vocational education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
 - iv. to apply one of the measures provided for under i to iii above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;
- e.
 - i. to make available university and other higher education in regional or minority languages; or
 - ii. to provide facilities for the study of these languages as university and higher education subjects; or
 - iii. if, by reason of the role of the State in relation to higher education institutions, sub-paragraphs i and ii cannot be applied, to encourage and/or allow the provision of university or other forms of higher education in regional or minority languages or of facilities for the study of these languages as university or higher education subjects;
- f.
 - i. to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages; or
 - ii. to offer such languages as subjects of adult and continuing education; or

- iii. if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;
 - g. to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;
 - h. to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;
 - i. to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.
2. With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.

IV. CONCLUSIONS

It seems apparent that there are numerous and varied international standards relating to minority education rights in Europe. While they vary in terms of specificity, their interpretation and application is to be presumed to be consistent not only with themselves as a category, but with the corpus of international human rights law from which it springs. Important controlling principles include equality and non-discrimination. On this basis, and following the normal rules of treaty interpretation, it is quite possible to deduce further standards and to effect a broad yet consistent application in diverse situations.

In policy friendly terms, and at the request of the OSCE High Commissioner on National Minorities, a group of internationally recognized independent experts elaborated in 1996 *The Hague Recommendations regarding the Education Rights of National Minorities*. These guidelines venture into areas, such as higher education, where in fact there is no expressed right for anyone, much less of a particular kind. Still, drawing from the combined effect of applying the principles of non-discrimination, equal opportunities, and good governance,

in addition to the inter-play between the right to education and other rights, it is possible to make conclusions and policy-relevant propositions even in relation to higher education. Indeed, looking up towards higher education, one can discern appropriate policies for primary and secondary levels as they lead to higher education. Thus, one should think and act in terms of educational systems. On this basis UNESCO's *World Education Report 2000*⁸ focuses on the importance of equality, diversity and choice. This is stated to be especially relevant for minorities, for whom the Report advocates "a world of learning 'choices' as much as one of learning 'needs'".⁹ Making such an education of choice available for persons belonging to minorities and for persons belonging to majorities is a great challenge in many societies, but it is possible to do if the standards recounted in this article would be consistently, broadly and creatively applied.

⁸ *World Education report 2000: The right to education; Towards education for all throughout life* (Paris: UNESCO Publishing, 2000).

⁹ *Ibid.*, p. 86.

EXPANDING OPPORTUNITIES FOR MINORITIES IN EDUCATION IN THE NEW EUROPE

JAN DE GROOF, GRACIENNE LAUWERS



The fall of the Berlin Wall in November 1989, created the possibility of achieving the enlargement of the democratic Europe. Any European country may apply to become a member of the Union if it complies with the fundamental principles laid down by the Copenhagen European Council (having stable institutions which guarantee democracy, the rule of law and human rights, including the rights of persons belonging to national minorities).

The minimum standards of protection for minorities¹ are the rights recognised by the various international instruments adopted within the United Nations, the Organization for Security and Co-operation in Europe, and the Council of Europe. The Court of Justice explicitly includes the basic rights guaranteed in the European Court of Human Rights jurisdiction, in addition to the community constitutional traditions of the Member States. It states that basic rights must be protected by the Member States on penalty of measures being taken against any Member State that continues to default

¹ No matter how difficult it turns out to be time and time again at international level to find a conclusive definition of the concept of “minority”, the instruments of international law make clear that the minority issue can no longer be considered as belonging to the exclusive domain of the power of national states. At the same time we must avoid the words of Emile NOËL: “Il faut constater que la Communauté (Européenne) n’a rien fait – et d’ailleurs ne pouvait juridiquement rien faire – pour contribuer au règlement des problèmes de minorités que connaissent plusieurs de ses Etats ...”, being proved true again.

and includes a crucial warning to new states applying for membership. The general equal treatment provision as a separate right falls within the same trend of making things more explicit (Art. 6a).

It is against this background that governments and educational institutions must contribute in guaranteeing the education-related rights of minorities. Education rights are the touchstone par excellence and the situation in the educational field often reflects (possible) ethnic and cultural tensions within a country. Experience has shown that finding solutions to inter-ethnic accommodation in education-related issues can be found through a combination of the following diverse principles, which must be given explicit expression in the framework of constitutional and educational law: a) implementation of the *equality principle*, especially in relation to educational opportunities; b) the experience of multiculturalism as a positive *opportunity*, not as a threat to national sovereignty; c) belonging to the *international community, a fortiori* (in time) to the European Union involves obligations on both sides. Conflict prevention, organised at international level will also pay particular attention to the legal status of minorities in education.

The culturally diverse European societies are confronted with minority groups demanding respect for their identity and accommodation of their cultural differences². The education system should accommodate minorities and the state has the duty to work out standards that apply to state and private schools. Each state has shaped its own concept of multi-culturalism in education. The 1996-report of the *European Association of Education Law and Policy*, analysed in several reports the interplay between multi-culturality and the legal status of minorities in the educational framework.³

² According to Laczko and Gurr the world's 184 independent states contain over 600 living language groups and 5000 ethnic groups. In very few countries can the citizens be said to share the same language or belong to the same ethnic group. Iceland and the Koreans are commonly cited as two examples of countries which are more or less culturally homogeneous.

GURR, T., *Minorities at Risk: A Global View of Ethnopolitical Conflict*, Institute of Peace Press, Washington, DC, 1993. LACZKO, L., "Canada's Pluralism in Comparative Perspective", in *Ethnic and Racial Studies*, 1994, 17/1: 20-41.

³ DE GROOF J. and FIERS J. (ed.), *The Legal Status of Minorities in Education*, Leuven, 1996, 435 p.

Romania can be considered a multi-ethnic state. According to the population census held on 7 January 1992, Romania has 22,760,449 inhabitants⁴. In 38 districts the population of Romanian ethnic origin is in the majority. In two districts in the centre of Romania, Covasna and Harghita, the population of Magyar ethnic origin is in the majority⁵. Throughout its rich history, it has

⁴ According to the report submitted by Romania pursuant to article 25 paragraph 1 of the framework Convention for the Protection of National Minorities of 24 June 1999, the ethnic composition of the population of Romania, based on the free consent of persons to disclose their ethnic origin, is as follows:

Ethnic origin	Number	Percentage
Total	22,760,449	100
Romania	20,350,980	89,4
Magyar & Szekel	1,620,199	7,1
Gypsy	409,723	1,8
German, Swabian and Saxon	119,436	0,5
Ukrainian	66,833	0,3
Russian – Lipoveni	38,688	0,2
Turkish	29,533	0,1
Serbian	29,080	0,1
Tatar	24,649	0,1
Slovakian	20,672	0,1
Bulgarian	9,935	0,3
Jewish	9,107	
Croatian	4,180	
Czech	5,800	
Polish	4,247	
Greek	3,897	
Armenian	2,023	
Other	8,420	
Not stated	1,047	

⁵ District of Covasna

Ethnic origin	Number	Percentage
Total	232,592	100
Romanian	54,517	23,4
Magyar and Szekel	174,968	75,2
Not stated	27	less than 0,1

District of Harghita

Ethnic origin	Number	Percentage
Total	347,637	100
Romanian	48,812	14
Magyar and Szekel	249,269	84,6
Other	4,556	1,3
Not stated	9	less than 0,1

witnessed many changes in fortune and boundaries. Transylvania, in particular, is a region of considerable ethnic diversity.

Ethnicity has been a source of conflict also in Romanian history. Under Communism, minority rights, like all human rights, were severely curtailed in Romania⁶. After the December 1989 Revolution the rights of persons belonging to Romania's national minorities were significantly increased with the democratisation of Romanian society⁷. Since then, Romania has adopted the majority of the relevant international instruments of the Council of Europe⁸, the Organisation for Security and Co-operation in Europe⁹ and the United Nations Organisation¹⁰ and has accepted the jurisdiction of the

⁶ The dramatic restriction of the exercise of civil, political, economic and social rights by Romanian citizens before 1989 affected also Romanian citizens belonging to the majority population.

⁷ The new Constitution of Romania was adopted in 1991. It devotes an entire chapter to human rights and fundamental freedoms and contains provisions which guarantee persons belonging to national minorities the right to the preservation, expression and development of their ethnic, linguistic and religious identity. The constitutional provisions were accompanied by legislative and practical measures aimed at constantly furthering the rights of those persons.

According to the population census held on 7 January 1992, in 38 districts the population of Romanian ethnic origin is in the majority. In two districts in the centre of Romania, Covasna and Harghita, the population of Magyar ethnic origin is in the majority.

⁸ After the breakdown of the communist regime, Romania signed and notified the Council of Europe Framework Convention for the Protection of National Minorities and concluded Treaties with Hungary (1996) and Ukraine (1997), which contain separate articles on the protection of persons belonging to national minorities.

The Convention for the Protection of Human Rights and Fundamental Freedoms (20 June 1994); Protocols Nos. 1 to 10 to the Convention for the Protection of Human Rights and Fundamental Freedoms (10 June 1994); Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, on the restructuring of the control mechanism established by the Convention (11 August 1995); The Framework Convention for the Protection of National Minorities (11 May 1995).

⁹ Romania is a Contractual Party to all the documents of the OSCE adopted by that organisation since the Helsinki Final Act signed on 1 August 1975.

¹⁰ Romania is a Party to the principal legal instruments and international documents adopted within the UN relating to human rights: the Universal Declaration of Human Rights of 10 December 1948; the International Covenant on Civil and Political Rights of 16 December 1966 (1974); the International Covenant on Economic, Social and Cultural Rights of 16 December 1966 (1974); the Convention Against Discrimination in Education of 14 December 1960 (1964); the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965 (1970); the

Commission to receive complaints and also the jurisdiction of the European Court of Human Rights. On 1 February 1995 the Association Agreement between Romania and the European Union entered into force.

Why should politics respect the demand of minorities for protection of their culture and promote the diversity of cultures in education?

Globalisation has gone hand in hand with an increased sense of nationhood. Several cultural societies in Europe have experienced a sharp rise in nationalist sentiment and the item of repartition of state competences, for instance through 'regionalisation and decentralisation', is not neutral in that perspective¹¹. The bonds of language and culture are so strong for most people because of its importance for people's self-identity. For a minority culture to survive and develop in the modern world, some recognition or accommodation of the language and the heritage of different ethnic groups must be provided and their cultural heritage maintained. The fact that Europe becomes more pluralistic has in no way diminished the intensity of people's desire to live and work in their own culture¹².

Educational policy and educational institutions, which are crucial in exercising an ascendancy over new generations' mentalities and behaviours, should incorporate the cultural diversity in the educational content and require children to learn about other cultures and about minorities through mandatory education. Educational institutions should also take positive steps to root out discrimination and stimulate the "multiculturalism" policy of education.

Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities.

¹¹ SCHADE A., A research topic in education law and policy : the development of regionalism and federalism in Europe and their impact on educational policy and administration, in *European Journal for Education Law and Policy*, Volume 4, nr. 1, 2000, p. 35-39.

¹² CONNOR, W., "Nation-Building or Nation-Destroying", *World Politics*, 1972, 350-1; 1973, 20.

MINORITY LANGUAGE, EDUCATION AND THE BELGIAN EXAMPLE

On the one hand, the commitment to ensure a common language is essential to include minorities in the mainstream of economic, academic, and political life of a country. Public schooling is often only provided in the majority language and the minorities' mother tongue is spoken at home. Language rights are, on the other hand, considered essential to the identity and survival of cultural minorities¹³. If the minorities language is only spoken at home but public life is mainly provided in the majority language, it will be very difficult for the minority language to survive in modern industrialized societies. Any language which is not a public language becomes so marginalized that it is likely to survive only amongst a small elite. Therefore, the viability of the cultures of minorities ought to be sustained by political decisions and they need a territorial and structural identity, as demonstrated for instance by GLENN's comparative research¹⁴.

Integration must be seen as a two-way process. The mainstream society must adapt itself to minority groups, just as minority groups must adapt to the mainstream. This requires strong efforts at fighting prejudice and discrimination. In terms of linguistic integration, the goal of ensuring that members of minority groups learn the language of the majority, cannot require the abandonment of their mother tongue. Many defenders of linguistic rights for minorities insist that they are needed to ensure that all citizens are treated with genuine equality. In a democratic society, the majority will always have its language and culture supported and will have the legislative power to protect its interests in culture-affecting decisions. Fairness requires a positive commitment to minority education whatever the practical economic and cultural benefits of universal knowledge of the majority language and instruction in the minority language in schools at the expense of the state and local organs.

¹³ GIORDAN, H. (ed.), *Les Minorités en Europe. Droits linguistiques et Droits de l'homme*, Paris, 1992.

¹⁴ GLENN, Ch., *Educating Immigrant Children. Schools and Language Minorities in Twelve Nations*, New York, 1996.

The refinement of education laws mainly for minorities are often at the heart of the negotiation package. There are several principles at stake, not least the equality principle. After all, equal opportunities policy is inherently woven up with being educated *in* – and *a fortiori through* – one's mother tongue. SZEPE wrote that "... respect for the principle of mother tongue education is an absolute must: this is the basis of non-discrimination of minority children"¹⁵.

THE BELGIAN EXAMPLE

According to the 1831 Constitution, Belgian citizens could use the language of their choice but French was required for government business and the law. Dutch speakers were at an acute disadvantage in practice as they could not be tried in their own language. Secondary and higher education was de facto a Francophone near monopoly. The suffrage reform in 1893 forced the French to compromise with the Flemish demands and by 1913 Dutch was officially approved for use in Flemish schools, courts and local government. In 1932 Dutch became required in Flemish schools.

As the Dutch speaking Flanders took over French-speaking Wallonia in the 1950s as the economic dominant region, Flanders demanded political gains. Through several revisions of the constitution, the Belgian unitary state was reconstructed as a federal system¹⁶. Two of the regions¹⁷, Flanders and Wallonia became unilingual, with some exceptions and Brussels was declared officially bilingual. Real authority now lies either with the region¹⁸ or the

¹⁵ 'Some remarks on the Education Rights of National Minorities in Central and Eastern Europe', *I.J.G.R.*, 1997, p. 107.

¹⁶ There are three "Regions": Flanders, Wallonia, and "Brussels-Capital," each with its own elected parliament (in addition to the national parliament). Then there are three "Communities": the Dutch-speaking, the French-speaking, and the German-speaking. These, too, have their own parliaments.

¹⁷ The national state retains responsibility for defense, foreign affairs, social security, income tax, and the public debt; it also administers the criminal courts.

¹⁸ In matters of urbanism, environment, the economy, public works, transport, and external commerce.

linguistic community as it is the case in matters of education¹⁹, language, culture and some social services.

Now that Belgian politics have met the demands from the Flemish²⁰ and French for language rights and self-government claims, they still have to deal with the demands from various 'guest-workers' who were originally seen as only temporary residents but have become *defacto* permanent residents with their families. In the mean time multi-ethnicity became an obvious characteristic of modern Belgium. The country also accepts refugees from throughout the world. As the traditional conceptions of citizenship of both Flanders and Wallonia do not fully accommodate these 'immigrants', the consequences are occasionally ugly as extreme nationalist and separatist parties have emerged.

EDUCATION RIGHTS FOR MINORITIES UNDER INTERNATIONAL LAW

In most European countries, the freedom of education is a constitutional freedom and has three objects: civilians have the freedom (1) to establish schools, (2) to maintain schools in accordance with religious and philosophical principles, (3) to organize schools as they wish, including the choice of teachers. But freedom of education does not mean that the state should automatically also provide funding without conditions or control or imposing quality standards. In all European countries, to get financial support, educational institutions are restricted by all kinds of requirements

¹⁹ DE GROOF, J., *La révision constitutionnelle de 1988 et L'enseignement. La paix scolaire et son application* (The constitutional revision of 1988 and education: The "school peace" and its application), Brussels: E. Story-Scientia, 1989; id., *Le pacte scolaire: coordination et annotations*, Brussels: E. Story-Scientia, 1990; id., "The Overall Shape of Education Law : Status of Comparative and Supra-National Education Law," in *Subsidiarity and Education Aspects of Comparative Educational Law*, Leuven (Belgium): Acco, 1994; id., *Droit à l'instruction et liberté d'enseignement*, Cepess, 1984, 254p.

²⁰ Flanders is still demanding that powers over taxation, social security and justice shift to the regions.

laid down in regulations and national outcome standards²¹. The law has given legislators the competence to impose quality standards and language requirements. The language laws, designed to protect the position of the official languages in their respective territories through mandating that schooling be provided through the locally-dominant language were upheld in a 1968 suit before the European Court of Human Rights²². Also international standards guarantee persons belonging to national minorities the right to have their private educational institutions, including institutions at university level, but this right is not granted without limitation. Documents of the Council of Europe also repeatedly emphasise the interrelation of education, language and culture. “Les langues sont souvent liées à une histoire propre et à des traditions spécifiques. Cette histoire et cette culture régionale ou minoritaire constituent une composante du patrimoine Européen”²³. The official comment adds the following: “Dans la mesure où l’Etat s’engage à garantir l’existence d’un enseignement de la langue régionale ou minoritaire, il doit veiller à ce que les ressources nécessaires soient disponibles, à savoir des moyens financiers, des moyens en personnel et des moyens pédagogiques. Cette conséquence nécessaire n’a pas besoin d’être spécifiée dans la charte”²⁴.

The 1960 *UN Convention against Discrimination in Education*²⁵ states: “It is essential to recognise the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and, depending the educational policy of each State, the use or the teaching of their own language, provided: (i) that this right is not exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole and from participating

²¹ Even in France, freedom of education is only admitted for the teaching body of private institutions when they live on their own funds. Private educational establishments can apply for subsidies if they have signed a contract (either ordinary or associational) with the State.

²² E.C.H.R., 23 July 1968 in the Belgian linguistic case, Publ. Court, Series A, vol. 6.

²³ Conseil de l’Europe, *Charte européenne des langues régionales ou minoritaires. Traités et rapports*, no. 86, p. 26.

²⁴ *Ibidem*, no. 87.

²⁵ Article 5, para 1c of the 1960 UN Convention against Discrimination in Education

in its activities, or which prejudices national sovereignty; (ii) that the standard of education is not lower than the general standard laid down or approved by the competent authorities; (iii) that attendance at such schools is optional.”

The *International Covenant on Economic, Social and Cultural Rights* states: “Education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial ethnic or religious groups”²⁶, “higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education”²⁷, “the development of a system of schools at all levels shall be actively pursued”²⁸. “No part of this article shall be constructed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State”²⁹.

The 1990 *OSCE Copenhagen Document* states that persons belonging to national minorities have “the right to establish and maintain their own educational, cultural and religious institutions, organisations, which can seek voluntary financial and other contributions as well as public assistance, in conformity with national legislation”³⁰.

The *European Charter for Regional or Minority Languages*³¹ envisages making the school system (or a subnational education sector) available in the relevant

²⁶ Article 13, para 1 of the International Covenant on Economic, Social and Cultural Rights.

²⁷ Article 13, para 2c of the International Covenant on Economic, Social and Cultural Rights.

²⁸ Article 13, para 2c of the International Covenant on Economic, Social and Cultural Rights.

²⁹ Article 13, para 4 of the International Covenant on Economic, Social and Cultural Rights.

³⁰ Paragraph 32.2 of the 1990 OSCE Copenhagen Document.

³¹ Strasbourg, 2.10.1992, *ETS*, No 148.

regional or minority languages³². It provides a number of options from which a state party may choose in seeking to realise the objective.

The 1994 *Council of Europe Framework Convention for the Protection of National Minorities*³³ states: “The parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities”³⁴. “Within the framework of their educational systems, the Parties shall recognise that persons belonging to national minorities have the right to set up and to manage their own private educational and training establishments”³⁵.

The continuing evolution is tellingly illustrated by *The Hague Recommendations Regarding the Educational Rights of National Minorities* (October 1996). *Recommendation 17* states: “Persons belonging to national minorities should have access to tertiary education in their own language when they have demonstrated the need for it and when their numerical strength justifies it. Minority language tertiary education can legitimately be made available to national minorities by establishing the required facilities within existing educational structures provided these can adequately serve the needs of the national minority in question. Persons belonging to national minorities may also seek ways and means to establish their own educational institutions at the tertiary level”. *Recommendation 18* stipulates: “In situations where a national minority has, in recent history, maintained and controlled its own institutions of higher learning this fact should be recognised in determining future patterns of provision”. In addition, according to *Recommendation 14* “The maintenance of the primary and secondary levels of minority language education depends a great deal on the availability of teachers trained in all disciplines in the mother tongue. Therefore, ensuing from their obligation to provide adequate opportunities for minority language education, States

³² Or to provide for the teaching of the relevant regional or minority languages as an integral part of the curriculum.

³³ Strasbourg, 1.2.1995, *ETS* No 157.

³⁴ Article 12, para 3, of the 1994 Council of Europe Framework Convention for the Protection of National Minorities

³⁵ Article 13, para 1, of the 1994 Council of Europe Framework Convention for the Protection of National Minorities.

should provide adequate facilities for the appropriate training of teachers and should facilitate access to such training”.

It may be further noted that the Parliamentary Assembly of the Council of Europe has adopted *Recommendation on “Access of minorities to higher education”*, which states that “governments should recognise the fundamental liberty to engage in higher education activities and to establish institutions for that purpose; language should not be a criteria for recognising institutions or qualifications”³⁶.

The *Recommendation* of the Council of Europe’s Higher Education and Research Committee states that “the language of instruction should not be a criterion for the recognition of private institutions”³⁷. This means that the rights of minorities with respect to education can be accommodated within the state education sector, but can also be realised by using the freedom to found autonomous, independent, non-state educational institutions.

It is highly questionable whether countries with substantial numbers of persons belonging to minorities will be able to avoid this development within international standards³⁸. Countries which have expressed an interest in becoming part of the common European education area can expect to have a concrete phased plan imposed on them, which will show evidence of the implementation of the rights of minorities and, preceding that, modification of the statutory framework. Several new constitutions in Central and Eastern Europe have already incorporated the principle of the predominance of international law. In a sensitive issue, that is the constitutionality of the ‘Law on the languages in which classes are taught at the Pedagogical Faculty ‘Sv. Kliment Ohridski’ in Skopje’³⁹, the Constitutional Court of the Republic

³⁶ Paragraph 6 (IV) of the Recommendation 1353 on “Access of minorities to higher education” of January 1998.

³⁷ Paragraph 64 of the *Recommendation* of the Council of Europe’s Higher Education and Research Committee of 5 December 1997; see also Council of Europe, Committee of Ministers, *Recommendation* No. R(97)1, *On the recognition and quality assessment of private institutions of higher education*.

³⁸ DE VARNENNES, F., *Language, Minorities and Human Rights*, Maastricht, 1996.

³⁹ “Article 1: At the Pedagogical Faculty Sv. Kliment Ohridski in Skopje, the teaching of preschool classes and lower grades of primary school is carried out in the Macedonian language and in the language of national minorities”.

of Macedonia judged: “Article 118 of the Constitution⁴⁰ anticipates that the international contracts which have been ratified in accordance with the Constitution are part of the internal legal system, which means that the Constitution accepts direct application of the international documents which have been ratified, and not only their application by passing a law. In this sense the Court took into account the international documents which refer to the right to education of members of nationalities and the prohibition against discrimination in education”⁴¹.

EQUALITY IN EDUCATION

If vast numbers of minorities are deprived of rights, this can create an explosive force. The creation of minority schools or instruction in minority language or the study of the minority language as a subject in compulsory education, can be essential steps towards the political integration of minorities. The introduction of schools for minorities can be seen in terms of the introduction of different overall priorities of a country, which in turn affect the balance of the following principles:

1. the demands of communication require each child to be fluent in, or taught exclusively in, the majority language. The final objective of deprivation of education in the minority language and education only to be provided in the majority language aims undoubtedly their fusion with the majority. Such repressive measures also have the effect of restricting the development of an effective national movements and can have a debilitating effect on national identity and result in a generally lower level of education for minority language speakers.
2. the introduction of the territorial principle according to which education should be organised around the standardised language in each region and the adoption of the minority language in the education system, whereby minority children are taught in their own language.

⁴⁰ Article 118: “The international agreements ratified in accordance with the Constitution are part of the legal order and cannot be changed by law”.

⁴¹ This need not mean that the judgement of the Court cannot be criticised for its reading of Arts. 44, 45, 46 and 48 of the Constitution. A new version of the language provision in the *Draft Law on Higher Education* (Art. 12, Art. 9 new version) is awaited.

3. the introduction of bilingual schools where children are taught in, or at least should learn up to the level of fluency, both the mother-tongue and the language of the majority.
4. the introduction of the principle that each child should be able to (or, in some versions, should have to) study in his or her own mother tongue on condition that sufficient children of the given minority lived in the community.

To grant parents the right to decide what language a child should study as a compulsory subject would be a most democratic procedure. This ‘most democratic procedure’ allows parents the right for their children not to have to learn the majority language, just as much as it gave them the right not to have to study in the minority language. But the practical implication is clear. This would certainly lead to a decline in the number of majority language speaking children studying the minority language, and the same might be expected of minority children whose parents see knowledge of the majority language as essential to their children’s advancement and access to higher education.

Equality is very important for minorities, especially those scattered minorities who cannot claim either state independence or even territorial autonomy. International law as well as constitutions contain the general principle of equality also with respect to the right to education. However, not all unequal treatment is unlawful discrimination. This principle can already be deduced from jurisprudence, which has been developed by the European Court for Human Rights via Art. 14 of the E.C.H.R. and which contains a certain refining of the principle of equality. Who will deny that the fundamentally equal but actually unequal individuals can only get an equal chance of developing by differentiated action by the government? The following adage makes this maxim clear: “Equality of treatment exists in treating the equal equally and the unequal unequally”. Equal treatment therefore stands for ‘equality’, ‘comparability’, and contains the ethical principle of ‘solidarity’.

The *first* language-related judgement, the *Belgian Linguistics Case* in educational matters already stipulated that despite the very general working of the French version (“sans *distinction* aucune”- without any distinction), the said article

14 did not prohibit any difference in treatment in the enjoyment of the recognised rights and freedoms. This version must be read in the light of the more restrictive terms of the English version (“without *discrimination*”). The competent national government is frequently faced with actual situations or problems which are so different that they require different legal solutions. Specific legal differences have, furthermore, the aim of correcting actual differences, certainly in the education sphere. The principle of equality of treatment is violated, when there is no objective, reasonable justification for the distinction made. The existence of such a justification must be judged with regard to the aim and the consequences of the measure, and taking into account the principles normally valid in a democratic society. A distinction made in the exercise of one of the rights laid down in the *E.C.H.R.* must not only strive for a legal goal; art. 14 is also violated when it is clearly established that the means employed are manifestly not in proportion to the aim in view.

The following jurisprudence has refined these criteria still further: the distinction must be supported by objective and legally permitted differences, as a function of the general interest. The difference must moreover be relevant to the legitimately pursued aim and there must be a reasonable relationship between the means and the aim. These criteria must be applied cumulatively. Only an objective, sensible and reasonably different treatment is permitted. The application of the principle of equality furthermore requires sufficient comparability of differently controlled situations; unequal treatment with regard to the enjoyment of a basic right among people in comparable circumstances always requires justification. Depending on the national history, the political culture and the sensitivity of the education portfolio, the way in which non-discrimination is entrenched in the existing (educational) judicial order, or otherwise, has been examined for the possibility of explicitly incorporating equality in educational matters in the Constitution.

Promoting cultural diversity in Romania

The Romanian Constitution recognises and guarantees the right to preserve, develop and express the ethnic, cultural, linguistic and religious identity of

persons belonging to national minorities who live in Romania and have Romanian citizenship⁴².

The Constitution contains the principle of equality⁴³ and non-discrimination which underlies the present universal system of human rights and fundamental freedoms. Romanian citizens, without any distinction based on race or nationality, may enjoy equally all the principles and freedoms provided for in the Constitution and the law, and may participate to the same extent in political, economic, social and cultural life, without privilege or discrimination, since they are equal before the law and the public authorities.

A number of provisions of the Constitution on human rights and fundamental freedoms are of particular interest to persons belonging to national minorities, guaranteeing the right of free movement within the country and abroad⁴⁴, the principles of freedom of conscience, opinion and religion⁴⁵, the independence of religious cults from the State and freedom of opinion in relation to the religious education of children, the right to learn their mother tongue and the right to be educated in this language⁴⁶, the right of association⁴⁷, the right to an interpreter in court proceedings⁴⁸, etc.

The provisions of the Constitution which guarantee that persons belonging to national minorities are able to participate in economic, social, political and cultural life in conditions of full equality with the majority population are also found in a series of laws governing the various sectors of activity⁴⁹.

⁴² Article 6 of the Constitution.

⁴³ Article 4 – equality of citizens, Article 16 – equality of rights, Article 6 – the right to identity.

⁴⁴ Article 25 of the Constitution.

⁴⁵ Article 29 of the Constitution.

⁴⁶ Article 32 paragraph 3 of the Constitution.

⁴⁷ Article 37 of the Constitution.

⁴⁸ Article 127 paragraph 2 of the Constitution.

⁴⁹ For example, the Law on Education (1995, Title XII), the Law on the Election of the Chamber of Deputies and the Senate (Law No. 68 of 15 July 1992), the Law on Local Elections (Law No. 70 of 26 November 1991, as amended in 1996), the Law on Political Parties (Law No. 27 of 1996), the Law on Audiovisual Broadcasting, the Law on the Local Public Administration, etc.

Although article 13 of the Constitution states that the official language is Romanian, every person belonging to a national minority has the right to use freely and without interference his or her mother tongue, in private and in public, orally and in writing. In addition, legislative provisions guarantee the use of the mother tongue in court proceedings⁵⁰, in education⁵¹ or in relations with the public administration⁵².

In pre-university education in Romania, teaching is provided in the mother tongue of persons belonging to national minorities in Hungarian (Hungarian schools or schools with a Hungarian-language department), German, Slovakian, Serbian, Turkish and Ukrainian. These opportunities for persons belonging to national minorities to learn and be taught in their mother tongue do not prejudice learning and teaching in Romanian.

As regards higher education in Romanian universities, there are departments specialising in the study of the mother tongues of persons belonging to national minorities. There are Hungarian-language departments in the Medical and Pharmaceutical University in Targu Mures, the University of Bucharest and the "Zentgyorgy Istvan" Academy of Art in Targu Mures. Furthermore, persons belonging to the Magyar minority have departments specialising in their language in 14 faculties and 3 colleges, consisting of 40 specialist departments, in the "Babes Bolyai" University in Cluj-Napoca. As a multicultural university, the "Babes-Bolyai" University had to take ethnic differences into account as most demands of ethnic groups were evidence they wanted to participate within the mainstream academic life of a country. The fear existed in some circles that giving specific rights to ethnic groups within a university could become a source of disunity that could lead to the dissolution of the university, or, less drastically, to a reduced willingness to make the mutual agreements necessary for a good functioning university. It was not taken for granted that the rights asked by ethnic groups were consistent with the long-term requirements of "a stable university" that could sustain the level required to be a leading European university. Procedural-

⁵⁰ Article 127 of the Constitution – Right to an interpreter.

⁵¹ Article 32, paragraph 3 of the Constitution.

⁵² Article 58 of the Constitution.

institutional mechanisms to balance the interests of the different ethnic groups would in any way not be enough. Some level of good will and even commitment was required. Without this, the multicultural university would become difficult to manage. For citizens to want to keep a multicultural university together, they must value, as Minister Andrei Marga puts it, “the politics of difference”, the particularities of ethnic groups and cultures with whom they currently share their university. If there is a viable way to promote a sense of solidarity and common purpose in the mission of a multicultural university, it will involve accommodating, rather than subordinating, ethnic identities. If academics already have a fairly strong sense of identity towards the other ethnic groups in the university, they will find the prospect of sustaining their diversity inspiring and exciting. Without a commitment to “the politics of difference” there will be a lack of identification with the existing university and the other ethnic groups that makes it functioning.

The development of multicultural structures in the “Babes-Bolyai” University proved that this aim can be achieved in an educational institution, assuming there is some level of goodwill. The final mission of the “Babes-Bolyai” University, becoming a leading European University in Romania and a model of multiculturalism in the common European educational space, is thereby secured.

CONCLUSION

The European Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member states. To become a member of the Union, a country must respect these principles. The Treaty is particularly specific on creating a European area of freedom and promoting the diversity of its cultures.

The establishment of a formal equality of all parts of the population regardless of their nationality revealed the unequal position of minorities as such in several candidate member states. The introduction of the freedom


of education made oppressed minorities only the more painfully aware to what extent they were deprived of the most elementary means of cultural development: their own schools and instruction in their own language.

The problems of minorities and the awakening of a spirit of self-identity of minorities remain a hot political issue. This is true both for the present member States, for aspirant Member States, and for countries with far-reaching cooperation agreements such as Russia⁵³. It is clear that even if the status and the rights of minorities cannot be 'resolved' quickly in any final sense, they constitute a pressing issue which has to be 'managed', peacefully and fairly.

⁵³ MAYMILLIN, R., "Present state and perspectives of development of educational systems for ethnic minorities in Russia", in DE GROOF J, SPASSKAYA V., ROZJKOV I.,(Eds.) *Shaping new legislation on education in Russia*, Leuven, 1997, 239 p.

International Journal on Education Law and Policy (IJELP), General Editor; *Jan de Groof*, Published by Wolf Legal Publishers in cooperation with the European Association for Education Law and Policy (ELA).

Publisher: Willem-Jan van der Wolf
Assistant: Sabine van Rooijen

Published by:  Wolf Legal Publishers (WLP)
P.O. Box 31051
6503 CB Nijmegen
The Netherlands
Phone: +31 (0)24-3551904
Fax: + 31 (0)24-3554827
E-Mail: wlp@hetnet.nl
Http://www.wlp.biz

Subscription-rates and order information for your region can be found at <http://www.wlp.biz>

Guidelines for authors and admission-procedures for possible contributions are available at the publishers' address and Website.

This Journal is a publication of:



European Association for Education Law and Policy

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2018 Antwerp

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Http://www.lawandeducation.com

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