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2.4. Language Rights and Linguistic Minorities

Ingrid Gogolin/Stefan Oeter

1. Introduction

The homogeneous linguistic and cultural space of the nation state is increasingly proving to be a fragile artificial construct with crumbling foundations. Viewed in historical perspective, we have known about its character as an artefact for quite some time. The uniform linguistic and cultural nation has not always existed, quite the contrary: it is a 19th-century invention, a project in which vast amounts of money and political energy have been invested for some two hundred years now. The wide range of regional cultures and languages that characterised old Europe was, so it seems, successfully merged into a system of hermetic linguistic and cultural spaces within which monolingualism was experienced as a more-or-less "natural" state of affairs.

The myth of linguistic and cultural homogeneity has never represented the real situation in Europe's various nation states. Despite this, however, its actual linguistic-cultural complexity has now attained a new historical level, primarily as a result of vast migratory movements. Consequently, ever greater linguistic, cultural, social and political heterogeneity may now be found in a restricted area, affecting all European states. This development is particularly evident, however, in the megalopolises of northern and western Europe. A city such as Hamburg, where just under one third of the population has an immigrant background, and where the share of pupils with immigrant parents meanwhile accounts for almost 50 per cent of the population, is now less the exception than the rule in Europe.

But how can one approach the "new" phenomenon of multilingualism constructively? The public sphere, the educational system and politicians have proven helpless in this regard. Public institutions (and not only in the sphere of education), influenced profoundly by the project of the monolingually conceived nation state, are largely unable to deal with the new problems, and respond with the wrong instruments to phenomena they find disconcerting, and which – with their institutional grammar – they find completely abnormal and experience as a threat. The various comparative studies on the educational system point to enormous deficiencies in the school system, which is still a long way from adapting to the new situation.¹ There is a ray of hope, however, because, in Germany, reading results for young people with an immigration background have improved considerably since PISA 2000.² Never-

1 See OECD, PISA 2009 Results: What Students Know and Can Do. Vol. V: Learning Trends: Changes in Students Performance since 2000. Paris 2010.

2 See Klieme, E. et al., PISA 2009. Bilanz nach einem Jahrzehnt, Münster 2010.

theless, the PISA 2009 study, too, shows that young people from immigrant backgrounds in Germany still face huge disadvantages in both the first and the second generations.³ And the integration debate, which is totally hysterical at times, reflects a widespread insecurity that extends way beyond the educational system.

The debate needs to be carried out in a more objective tone. It seems, however, that we lack the knowledge, based on experience, to approach the new problems in a calmer and more reasoned manner. The present state of multilingualism in urban contexts appears to be without precedent. But is this really the case?

Historically, multilingualism has always been the rule rather than the exception. Multinational empires, such as the Hapsburg Dual Monarchy, the Ottoman Empire, the Russian Empire (and its successor, the Soviet Union) have developed institutional mechanisms for dealing with their own, specific varieties of multilingualism and cultural diversity.⁴ Even the classical West European nation states – such as France, Spain, England and Italy – have been compelled, over the past few decades, to integrate what remains of their historically existing multilingualism into elaborate institutional structures and to deal with them institutionally. One need only think of Catalonia and the Basque Country, South Tyrol, Wales, Corsica and Brittany.⁵ Germany would appear, at first sight at least, to have escaped this trend. If one looks more closely, however, it is evident that Germany, too, has its own autochthonous linguistic minorities whose special features are recognised by the law and dealt with by special institutional regimes.⁶

But how are the special regulations for the Sorbs, Danes and North Friesians related to the integration problems facing the immigrant populations? Far more than one might think at first. This is the underlying assumption of the present contribution. In both cases, it is essentially a question of institutions adequately processing multilingualism – primarily in the field of education, and also in the electronic mass media, in the way the administration and courts communicate with citizens,

in the promotion of culture, and in language use in hospitals, as well as in other social institutions.

Without any doubt, the problems facing members of traditional linguistic minorities and those of immigrants differ quite considerably. On the whole, members of the “autochthonous” minorities cannot complain of their being inadequately integrated, on the contrary: in a certain sense, they are too well integrated. In some respects, their assimilation has progressed to such a degree that preserving a culture and language distinct from German consumes a great deal of energy and time, such as when it comes to establishing a special bilingual school system, as is the case with the German-Danish minority in Schleswig-Holstein, and the German-Sorb minority in Saxony. On the other hand, there are blatant shortcomings in the integration of second and third-generation immigrant children. Without an adequate knowledge of German, the appropriate (formal) certificates of education and, as a result, help in gaining access to the labour market, a considerable part of the immigrant population faces the threat of being branded a structurally reinforced underclass whose participation in, and integration into, German society is quite precarious.⁷

Given these problems, the question arises as to whether it is not possible to learn from experiences gained from classical minority protection measures – even to the point of adopting successful institutional arrangements in order to find suitable answers to the challenges presented by linguistic diversity in the “ultra-diverse” societies on which immigrants have left their mark in contemporary Europe.⁸ This is not a plea for an collective legal approach which collectively “recognises” immigrant groups as minorities that must be independently institutionalised, nor is it a plea for concentrating exclusively on promoting their native tongues at school. It is obvious that linguistic integration, in the sense of promoting immigrant children’s knowledge of German as a vehicle of integration, is extremely important. Alternative ideas with a different focus or even demands have been raised neither by immigrants themselves nor in the academic context of German immigration research.⁹ However, if one grasps bi- or multilingualism as a positive resource for human beings growing up and living in this constellation, then school support becomes es-

3 OECD, PISA 2009 Results: Potentiale nutzen und Chancengerechtigkeit sichern. Paris 2010 (available electronically only: http://www.oecd-ilibrary.org/education/pisa-2009_9789264095359-de).

4 See the contributions by Pernthaler, P., Das Nationalitätenrecht Österreich-Ungarns, and Zaffi, D., Nationalitätenpolitik und Autonomie im Zarenreich, in: Pan, C./Pfeil, B.S. (ed.), Zur Entstehung des modernen Minderheitenschutzes in Europa. Handbuch der europäischen Volksgruppen Bd.3, Wien u. a. 2006, pp.42–106, 107–131.

5 See Stahlberg, D., Minderheitenschutz durch Personal- und Territorialautonomie, München 2000; Ruiz Vieytes, E.J./Kallonen, M., Territorial Autonomy and European National Minorities, in: European Yearbook of Minority Issues 2 (2003), pp. 247–281; Hannum, H., Autonomy, Sovereignty, and Self-Determination, Philadelphia, rev. ed. 1996.

6 See, in this connection, the recent work by Oeter, S., Die Entwicklung der europäischen Sprachenvielfalt und die Rolle der Minderheiten, in: Bergner, C./Weber, M. (ed.), Aussiedler- und Minderheitenpolitik in Deutschland, München 2009, pp. 151–175.

7 See the in-depth analysis by Esser, H., Sprache und Integration: Die sozialen Bedingungen und Folgen des Spracherwerbs von Migranten, Frankfurt u. a. 2006.

8 See also Medda-Windischer, R., Old and New Minorities: Reconciling Diversity and Cohesion, Baden-Baden 2009. See, too, Gamlen, A., International Migration Data and the Study of Super-Diversity. Göttingen (MPI MMG Working Paper No. 10), 2010.

9 There is still no evidence to support the assertion, often made in relation to the “controversy over bilingualism” (see again Esser’s contribution in this volume), that advocacy of a bilingual perspective entails implicit or explicit emphasis on the primacy of the languages of origin. See, for instance, Reich, H. H., Die Gegner des Herkunftssprachenunterrichts und ihre Argumente. In: Deutsch lernen, Heft 2 / 2000, pp. 112–126.

essential; in other words, complementary to the promotion of a second language, immigrants' family languages also need to be systematically developed.¹⁰

The present contribution will begin by briefly examining the "state of the art" of contemporary instruments of minority protection. This situation can be reconstructed relatively easily from the standard legal propositions contained in the two pertinent conventions of the European Council, i. e. the Framework Convention for the Protection of National Minorities¹¹ and the European Charter for Regional and Minority Languages.¹² Their standards codify what might be considered the European states' common stock of regulations for the protection of linguistic minorities. The second section begins by examining migration to Germany (chapter 3) and then looks at the linguistic situation of immigrants of both gender, which differs greatly from that of the traditional linguistic minorities (chapter 4). In a fifth – synthesising – conclusion, we shall attempt to draw some provisional conclusions: which instruments from the toolbox of classical minority protection measures are useful for preparing constructive answers to the problems facing immigrant groups today?

The premise underlying these considerations is that multilingualism is, in itself, a positive resource, and that its productive application and promotion can make a significant contribution towards further societal development. For a long time, this was viewed quite differently in the ideology of a nation state fixated on the norm of monolingualism. Nowadays, however, in a world characterised by mass migration and growing economic, social and political integration, it is almost impossible to avoid critically questioning this assessment, and not to regard existing forms of multilingualism as a positive step that deserve further promotion and development.

10 The "bilingualism controversy" essentially revolves around the question of whether the promotion of bilingualism has any individual and social value for adolescents living in a bilingual situation, or whether only the second language has any significance or value. This question cannot be answered solely on an empirical basis. It inevitably has a normative dimension, the disclosure of which is also an expression of intellectual honesty. The arguments advanced in this controversy have been presented and published many times. See, for instance, *Gogolin, I./ Neumann, U.* (Hrsg.), *Streitfall Zweisprachigkeit – The Bilingualism Controversy*. Wiesbaden 2009.

11 The text of the Framework Convention can be viewed on the homepage of the Council of Europe under: <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=157&CL=ENG>.

12 For the wording of the Charter see the homepage of the Council of Europe under: <http://www.coe.int/t/dg4/education/minlang/textcharter>.

2. The state of the art of legislation on minorities: the protection of linguistic diversity in Europe

The protection of minority languages (or rather of the speakers of minority languages) as a subject of international law is nothing particularly new. Here, it is worth recalling the agreements on the protection of minorities¹³ (Art. 27 IPBPR)¹⁴ concluded during the inter-war years, as well as the adjudication of the European Court of Human Rights (ECHR), in the 1970 s and 1980 s, on the basic standards, derived from Article 8 ECHR, for dealing with minority languages.¹⁵ These matters only became an independent subject of regional (European) international law after the far-reaching changes took place in Eastern Central and Eastern Europe after 1990. National conflicts re-erupted that had been put on hold for decades and which were, in some respects, the direct legacy of the Paris Peace Treaties signed after the First World War. Both the OSCE and the European Council took up this issue. The endeavours of the OSCE soon culminated in the Copenhagen Document – the declaration of the Copenhagen summit (1990).¹⁶ This declaration constituted the basic document formulating the fundamental material standards regarding the protection of minorities; at the same time, there was further progress at the international level with the creation of the office of the High Commissioner on National Minorities.¹⁷

In contrast to the above, the Council of Europe's efforts to create internationally binding treaties were far more time consuming. The project for a charter on regional and minority languages, originally proposed by the Congress of Local and Regional Authorities, gained new momentum thanks to the political changes of 1990.¹⁸ At the same time, endeavours were made to prepare a general convention to protect national minorities. A number of quite ambitious projects foundered on the resistance of the member countries, however. This was especially true of the project for a proto-

13 See *Hilpold, P.*, *Minderheitenschutz im Völkerbundsystem*, in: *Pan, C./Pfeil, B.S.* (ed.), *Handbuch der europäischen Volksgruppen* Vol.3: *Zur Entstehung des modernen Minderheitenschutzes in Europa*, Wien 2, p. 156 ff.

14 See *Niewerth, J.* *Der kollektive und der positive Schutz von Minderheiten und ihre Durchsetzung im Völkerrecht*, Berlin 1996, pp. 71 ff., 80 ff., 96 ff., 131 ff., 143 ff.

15 See *Hillgruber, C./ Jestaedt, M.*, *Die Europäische Menschenrechtskonvention und der Schutz nationaler Minderheiten*, 1993, especially p. 42 ff., as well as *Frowein, J.*, *Rdnr. 8 zu Art. 8*, in: *Frowein, J.A./Peukert, W.*, *EMRK-Kommentar, Kehl et al.*, 2. Aufl. 1996, and *de Varennes, F.*, *Using the European Court of Human Rights to Protect the Rights of Minorities*, in: *Pentassuglia, G.*, *Mechanisms for the Implementation of Minority Rights*, Strasbourg 2004, p. 83 ff.

16 On the endeavours of the OSCE see *Thornberry, P./ Amor Martín Estébanez, M.*, *Minority Rights in Europe. A Review of the Work and Standards of the Council of Europe*, 2004, p. 17 f.

17 On the office of the High Commissioner see *Neukirch, C., Simhandl, K./Zellner, W.*, *Implementing Minority Rights in the Framework of the CSCE/OSCE*, in: *G. Pentassuglia*, *Mechanisms for the Implementation of Minority Rights*, 2004, p. 159 ff.

18 See *Thornberry/Martín Estébanez* (note 16), p. 137 f.

col supplementing the ECHR, (the European Court of Human Rights), and of the proposal presented by the Venice Commission to draft a European convention on the protection of minorities.¹⁹ Both agreements contained relatively powerful control mechanisms in the form of state and individual control procedures²⁰ – a move onto new terrain that went too far for the states involved.²¹ The core content of these draft agreements was revised, however, only to reappear in much diluted form in the Council of Europe's Framework Convention for the Protection of National Minorities. Basically, this convention again revised the general human rights and prohibitions on discrimination, specifically taking into account the classical problems of ethnic and 'national' minorities.²² It contains only a few isolated provisions that deal specifically with the protection of minority languages, however.

The situation is different with regard to the European Charter for Regional or Minority languages, which was prepared – parallel to the Framework Convention – for adoption and, like the Framework Convention, too, went into force in 1998. The convention adopts a so-called 'à la carte' approach. In other words, it lists a large number (well over one hundred) of protective standards and commitments to provide funding (graduated according to the degree of protection) for the most important areas of language protection: the states are expected to choose a certain number of these standards – at least thirty-five in fact – which are to be adapted to the specific situation of each of the languages to be protected.²³

As the Language Charter goes into far greater detail on the protection of minority languages than the Framework Convention, the present contribution shall focus on the protection standards contained in the former and on experiences gained so far; here, we shall use Germany's table of commitments as a benchmark for determining which instruments classical minority protection uses in practice.

We shall start with the field of education, whose importance for the preservation of minority languages can hardly be overestimated. The Charter foresees a graduated succession of options for each of the five areas relevant to this field: kindergartens and preschools, primary schools, secondary schools, vocational training, and university education: pupils are educated in the minority language; bilingual

school models, in which a part of the lesson is held in the minority language, and part in the majority language; instruction of all classes in the minority language as a second or third language; and, last but not least, the minimal option of guaranteeing an adequate curriculum in the minority language as a regular school subject for children from the families of the minority concerned.²⁴ The Federal Republic of Germany has chosen the fourth – albeit weakest – option for almost all languages (with an eye on almost all the German states affected). On the face of things, there is no reason to object to this, since it is, on the whole, appropriate for the socio-linguistic situation of minority languages in Germany. However, we should not overlook the fact that a more suitable arrangement for preserving and promoting minority languages lies in teaching the children in the minority language itself, as has long since been the case in a number of European regions (Catalonia, Wales, South Tyrol, and countless regions in Eastern and South eastern Europe), or at least providing part of the schooling in this language, in which at least some of the subjects are taught in the minority language.²⁵

If a decision is made in favour of the less effective options, an effort should at least be made to observe the basic overall conditions applying to models of this nature. Here, too, language is to be taught as an "integral part of the curriculum",²⁶ i. e. at least as a (compulsory) optional subject taught in standard German school terminology.²⁷ Furthermore, the supply must also cover the demand in all places where a significant number of speakers live; continuity must be ensured at all levels of education.²⁸ In other words, a situation must be avoided in which the minority language can be learned at nursery school, but not at primary or secondary school: only to be offered again in the upper forms of secondary school level II in (volun-

19 For a detailed analysis see *Niewerth* (note 9) p. 206 ff., 211 ff.; see also *Klebes, H.*, Der Entwurf eines Minderheitenprotokolls zur EMRK, EuGRZ 20 (1993), p. 148 ff., as well as *Malinverni, G.*, The Draft Convention for the Protection of Minorities. The Proposal of the European Commission for Democracy through Law, Human Rights Law Journal 12, 1991, p. 265 ff.

20 See *Niewerth* (note 14), p. 208 ff., 213 ff.

21 See *Boysen, S.*, Einführung Rdnr.10, in: *Boysen, S.* et al., Handkommentar zur Europäischen Charta der Regional- oder Minderheitensprachen, Basel 2011 (forthcoming).

22 See *Thornberry/Martín Estébanez* (note 16), p. 100 ff.

23 See *Thornberry/Martín Estébanez* (note 16), p. 149 ff., and *Elle, L.*, Die Europäische Charta der Regional- oder Minderheitensprachen und die Sprachenpolitik in der Lausitz, Bautzen 2004, p. 12 ff.

24 On the specific content of the obligations contained in this option see *Woehrling, J.-M.*, The European Charter for Regional or Minority Languages. A Critical Commentary, Strasbourg 2005, p. 144 ff.

25 Some comments on the efficiency and effectiveness of bilingual school models will be presented in the following section. The explicit wording of Art. 8 Abs. 1 lit. (b) (iii), lit (c) (iii) and lit. (d) (111) of the Language Charter.

26 As in the particular wording of Art. 8. Para. 1 lit. (b) (iii), lit (c) (iii) und lit. (d) (iii) of the Language Charter.

27 As in the concretisation of the provision by the Committee of Experts of the Council of Europe – see the 2nd evaluation report of the committee of experts on Germany of 16 June 2005, paras. 247, 254 ff., available under: http://www.coe.int/t/dg4/education/minlang/Report/EvaluationReports/GermanyECRML2_en.pdf, and the 3rd Evaluationsbericht des Expertenkomitees zu Deutschland of 3 April 2008, paras. 266 f., 404 f., 473 f., 550 ff., 666 ff., available under: http://www.coe.int/t/dg4/education/minlang/Report/EvaluationReports/GermanyECRML3_en.pdf; see also *Woehrling* (note 19), p. 150.

28 According to the Expert Committee's interpretation of the requirements in Art. 8, Para. 1 (b) (iii) – see, for example, the 2. Evaluationsbericht zu Deutschland v. 16 Juni 2005 (Anm.27), paras. 172 ff., sowie den 3. Evaluationsbericht zu Deutschland of 3r April 2008 (Anm.27), paras. 265 ff.

tary) study groups held outside normal school hours. Although this scenario sounds absurd, it is more typical than unusual of the educational situation of the autochthonous minority languages in Germany.²⁹

Teacher training also presents problems. Taking seriously the obligations normally adopted with the ratification of the Language Charter would require massive investments (and this is particularly true of the situation in Germany) in both quantitative and qualitative improvements in the instruction of instructors who teach either minority languages or other subjects in the minority language.³⁰ The second constellation in particular calls for a qualitatively different form of teacher training than that normally available to teachers teaching languages: be they domestic or foreign. In addition to imparting the ability to teach a language 'as a subject', teacher training courses should also nurture teachers' ability to teach other areas and subject matter in the minority language.³¹ So far, no systematic teacher-training programmes have been available in Germany that are geared to this task. Teachers who are nevertheless employed in such ways have access to advanced or further training courses only, which by no means provide blanket or sufficient coverage.

Unlike the standards prevailing in the field of education, regulations on the use of minority languages at courts of law and in dealings with the public authorities have no real intrinsic value when it comes to protecting established linguistic domains or passing a language on to further generations. Symbolically, at least, such regulations are supposed to secure minority languages certain areas of language use, including that of the public sphere. This is seen as a gesture to speakers that their language is not a mere "kitchen language" for use at home and in the family, but, as far as communication is concerned, a fully-fledged language that can be used anywhere, and whenever required: even for highly complex and technical administration and legal matters.³² Where provisions on official use are taken seriously, this also has the positive side-effect of compelling the state to develop corresponding terminologies in the minority language for modern, technical-administrative areas of application, and to create incentives to at least translate the most important legal texts.³³

Of very fundamental importance here, alongside the area of education, are the mass media (especially radio and television) and more recently, the Internet, which

is awakening ever greater interest³⁴ The provisions of the Language Charter envisage that the state will at least assume the responsibility to guarantee both sectors a sufficient supply of programmes in the minority languages. In a broadcasting convention of the German variety, such provisions can easily become a nuisance: it is almost impossible – with regard to both private and public-law broadcasters – to guarantee a specific result. Here, the state has to at least explore all available avenues in order to fulfil these requirements: whether in the form of corresponding licensing conditions, 'must carry' obligations, or appropriate programme commissions in the broadcasting legislation of the German states, as well as in state treaties.³⁵

Finally, the *Kulturförderung* (promotion of culture), which is devoted to an entire series of Charter provisions, deserves mentioning here. The Language Charter expresses a clear preference for multi-level promotion schemes in which the actual programme work is left to the representatives of the linguistic minority, with the state funding the sponsoring organisations.³⁶ In this respect, the results vary considerably in Germany: some linguistic groups have been more or less granted de-facto cultural autonomy in the form of institutional sponsorship; others live from hand to mouth, inching their way from one project to the next, and sometimes even going through phases without any sponsored projects.

3. The current state of affairs: immigrant minorities and their educational opportunities in Germany

For many years after the Second War, Germany remained one of the most attractive immigration regions across the globe. This trend is no longer apparent. During the last decade, Germany has again become more of an emigration country. Even so, the migration balance remains a positive, even though the annual increase in the number of immigrants has declined. In 2005, 18.3 per cent of the population had an immigration background. In 2007, the figure was 18.7 per cent.³⁷

These figures conceal a wide range of legal statuses, which also have consequences for the education system. Firstly, they can be roughly classified as foreigners (ca. 9 per cent of the population) and Germans with an immigration background (ca 10 per cent of the population). Approximately two-thirds of the latter comprise

29 See the description of the situation in the 3. Evaluationsbericht des Expertenkomitees zu Deutschland (Anm.27), paras. 45 ff., 51 ff., 190 ff., 257 ff., 323 ff., 400 ff., 470 ff., 544 ff., 666 ff.

30 According to the conclusions of the Committee of Experts – see, for instance, the 2nd Evaluationsbericht on Germany as of June 16th 2005 (note 27), paras. 186 ff., 200 ff., 481 ff., as well as the 3rd Evaluationsbericht on Germany as of April 3rd 2008 (note 27), paras. 212 ff., 276 ff., 417 ff., 486 ff.

31 See Woehrling (note. 24), p. 157.

32 On this see Woehrling (not 24), p. 159 ff.

33 On this see Art. 9 Abs. 3 of the Language Charter; see Woehrling (note 24), p 177 f.

34 On the importance of the media in protecting minority languages see the in-depth analysis by Moring, T./Dunbar, R., The European Charter for Regional or Minority Languages and the Media, Strasbourg 2008, p. 6 ff., 17 ff.

35 See Woehrling (note. 24), p. 200 ff., and Moring/Dunbar (note 34), pp. 35 ff., 48 ff.

36 On this see Art. 12 Para. 1 lit d,e and f of the Language Charter.

37 These and the following facts are based on: DeStatis, Bevölkerung mit Migrationshintergrund – Ergebnisse des Mikrozensus 2009. Fachserie 1 Reihe 2.2.

emigrants of German origin and/or their spouses and children who emigrated from Eastern Europe after 1980 and found themselves in a privileged position vis-à-vis other groups of immigrants. Of legal significance here, too, is the fact that approximately 34 per cent of those with an immigration background who live in Germany originate from European Union member states and thus enjoy extensive rights to move freely within the EU.

Over the past two decades in particular, differences in the national origins of immigrants have been quite considerable. Whereas in the 1980 s, most of those who emigrated to Germany came either from countries with which "guest-worker" recruitment agreements existed or from the former Eastern Bloc countries, nowadays the region of Asia/Oceania is second only to the European Union in this regard. The largest single countries of origin for immigrants remain Turkey and Poland, the successor states to Yugoslavia, and the Soviet Union.

For educational institutions, a few other aspects are important that distinguish the immigrant population from the traditional one. Groups of people with immigration backgrounds, for instance, are, on average, much younger than those without such backgrounds (34.4 as against 45.3 years of age). People with immigrant background consequently account for a higher percentage of pupils and students at educational establishments than the average for the population as a whole would suggest. According to the representative PISA 2009 study, approx. 26 % of all 15-year-old pupils of both sexes have an immigration background.³⁸ In a number of German metropolitan regions, children between the 0 and 6 years of age with an immigration background accounted for 50 % or more of the total number of children in this age category. In these regions at least, we can expect a substantial increase in the number of pupils with an immigration background in educational establishments in the foreseeable future.

Also of relevance is the fact that immigrants are more likely to live in precarious social situations than those who have traditionally lived in Germany. According to international comparative studies on school performance (e. g. PISA), the relationship between educational success and pupils' social and economic situation, as well as the cultural capital of the family of origin, is greater in Germany than in almost any other OECD member country that has participated in these studies.³⁹ Consequently, the absence of general school-leaving certificates is more common among immigrants than amongst non-immigrants (approx. 14 % as against approx. 2 %). The same is true of vocational certificates (approx. 44 % as against approx. 20 %). As a result of their low educational standards, people with an immigration background aged between 25 and 65 years old are often unemployed twice as frequently as those without this background (approx. 12.5 % as against approx. 6.5 % of all gainfully employed people) or those who are employed only marginally.

38 *Klieme et al.* 2010 (note 2).

39 OECD (2006) *Where Immigrant Students Succeed – A Comparative Review of Performance and Engagement in PISA 2003*. OECD, Paris, OECD.

The Wissenschaftszentrum Berlin examined whether there was a connection between the legal status of immigrant groups and their potential academic success, and came up with a very differentiated answer.⁴⁰ Legal differences prevail with regard to general access to education, because in some of Germany's federal states schooling is obligatory only for children and young people who have their "customary place of stay" or "residence" in Germany. Hence, although they have a right to attend a school, this right cannot be asserted by the authorities, nor do those affected have a right to be accepted by a specific school. Children and young people with a precarious legal status face the danger of being completely excluded from education.⁴¹ Despite the unequal implementation of the human right to education, there is no empirical connection between immigrants' legal status and their *admission* to educational establishments.⁴²

Evidence shows, however, that relationships do exist between group-specific integration practices and those related to young immigrants' legal status on the one hand, and their educational success on the other. In retrospect, the privileges accorded (later) emigrants within the framework of integration policy seem to be particularly relevant that existed up until 2005 and were financed, for instance, out of the "Garantiefonds Schul- und Bildungsbereich" (a fund designed to sponsor German language courses for young adults). As a result, this group found itself in much better placed with regard to educational success than other immigrant groups. This is empirically evident in the fact that children and young people in the group of emigrants from the former Eastern bloc countries (so-called (Spät-) Aussiedler, are less disadvantaged educationally, than other immigrants. Hence, for example, more than 60 per cent of those in this group gain higher qualifications, as compared with only 40 % of all other immigrants.⁴³ Conditions for (Spät-) Aussiedler are also better with regard to both their entering the labour force and their incomes: approximately 16 per cent of them are unemployed, a far lower number than that found among other immigrant groups (approx. 38 %).⁴⁴ It is, therefore, essential to view the immigrant population differentiatedly with respect to access to education and other fields of social participation.

40 *Söhn, J.*, Rechtsstatus und Bildungschancen – Die staatliche Ungleichbehandlung von Migrantengruppen und ihre Folgen, in: *Migration und Soziale Arbeit*, Heft 3/4, 2010, p. 276–282.

41 United Nations Human Rights Council, Report of the Special Rapporteur to the right to education, *Vernor Muñoz*, Mission to Germany. Addendum to the Implementation of General Assembly resolution 60/251, 2007.

42 There is no evidence of children and young people with a precarious legal status being excluded.

43 *Söhn* (note 40), p 278.

44 *Söhn* (note 40), p 281.

4. The current state of affairs: the languages of immigrant minorities in Germany

Whereas many of the demographic features of the immigrant population can be described in a relatively well-founded manner thanks to the official data and other statistics collected from a large sample, this does not apply to their linguistic situation. The languages of immigrant minorities are not recorded in the European documents that are cited in the second part of this contribution. Unlike the situation in other regions to which immigrants have moved, no surveys have been conducted on immigrants' mother tongues in the various countries of Europe.⁴⁵ In 2007, Hamburg was the first German state to record the languages – apart from German – spoken at home when children were registered for a place at school.

The fact that the data available on the national origin of the immigrants says little about their linguistic situation is due to the fact that most countries across the globe are multi-lingual. The following points illustrate this:

According to population statistics for the year 2007, approx. 55,000 immigrants migrated from Turkey, approx. 20,000 from Poland, approx. 5,000 from Ghana, approx. 2,500 from India and one person from Lesotho. According to demographic data on languages, 34 languages are spoken in Turkey, 14 in Poland, 79 in Ghana, 436 in India and 5 – no less – in Lesotho.⁴⁶ Reference to an immigrant's country of origin thus only provides a soft indicator of his/her linguistic situation. Estimates made on the basis of regional surveys, suggest that – in the metropolitan regions, at least – around 200 different languages of origin at least are spoken among immigrants in Germany.⁴⁷

In contrast to the languages of autochthonous minorities, those spoken by immigrants in Germany enjoy virtually no privileges in the area of education. Differentiated analysis is called for here:

Some of the languages spoken by immigrants are part of the canon of academic foreign languages in Germany. This is true, for instance, of Russian, which is spoken in a wide variety of dialects by immigrants from the various successor states to the Soviet Union. It also applies to immigrants from the European countries where the Romance languages are spoken, as well as to those from Africa and Latin America. In Germany, Italian, Spanish and Portuguese are counted among the official school languages, even though they are taught relatively rarely at schools. And

this also applies to many immigrants from Africa, India and the Asiatic countries in which French and English – as legacies of the Colonial Period – are among the official languages, or those widely used for communication. However, neither the official documents on the foreign languages taught in both the curricula and the framework plans at schools relate to the task that native speakers of these languages could take on nor is any consideration shown on a more practical level for the specific situation of these pupils. Reports on educational practice frequently point out that learners who, in their daily lives, have access to one of the foreign languages taught at schools are not encouraged to choose the corresponding course(s) and are indeed actually prevented from doing so. One reason for this, among others, is that it is more difficult to evaluate pupils' performance in a foreign language when the language concerned is also that spoken by pupils at home.⁴⁸

Some of the other immigrant languages have been granted certain privileges in an EU directive that came into effect in 1977.⁴⁹ This directive recommends to the member states that the children of "migrant workers" – i. e. from those countries in which individual member states have, or have had recruitment contracts for workers – be given the opportunity to receive lessons in their native tongues in addition to support in learning the language of the host country. Depending on "their domestic situations and legal systems, and in co-operation with the countries of origin", member countries ought to provide instruction in the immigrants' native tongues.⁵⁰ Such lessons ought to fulfil a dual purpose, namely: to facilitate immigrants' integration into their host country, as well as to prepare them for their return to the country of origin.

This guideline forms the background for the establishment of so-called Mutter-sprachlicher Unterricht which still exists in some of Germany's western states. In the German states this can be found in two different organisational forms and, here and there, as a combination of both: on the one hand as courses offered by the German state where candidates are resident, and integrated, in principle, into the standard curriculum; on the other hand as courses offered by the consulates of the countries of origin in co-operation with the cultural authorities of the respective German states. Courses of this nature have never enjoyed more than marginal status in Germany. They have never been genuinely integrated into the standard school curricula offered by the various German states. During the past decade, offers of such courses

45 For a survey of the strategies of the statistical survey of immigrant languages see *Extra, G. and D. Gorter* (2001). The other languages of Europe. Demographic, sociolinguistic and educational perspectives. Clevedon, Multilingual Matters.

46 *Lewis, M.P.*, (Hrsg), *Ethnologue: Languages of the World*, Dallas, Tex 2009 SIL International.

47 A survey conducted for the city of London revealed that – in addition to English – approximately 350 languages are spoken by schoolchildren there: *Baker, P./Mohildeen, Y.*, The Languages of London's schoolchildren, in: *P. Baker, P./Eversley, J.*, *Multilingual Capital*, London, Battlebridge 2000, p. 5–60.

48 Corresponding references can be found in the interviews with experts in *Gogolin, I./Neumann, U./Reuter, L.R.* (Hrsg.), *Schulbildung für Kinder aus Minderheiten in Deutschland* (1989–1999). Schulrechtlich, Schulorganisation, curriculare Fragen, sprachliche Bildung. Münster 2001. A more recent analysis of these positions is required.

49 Directive of the Council of 25 July 1977 on school supervision for the children of migrant workers (77/486/EWG).

50 Art. 3, Council guideline (note 49); on the history of the guideline and a critique thereof see *Boos-Nünning, U.*, *M. Hohmann, et al.* (1983). *Aufnahmeunterricht, Muttersprachlicher Unterricht, Interkultureller Unterricht*, München, Oldenburg.

have been cut back everywhere. There is, however, no reliable data on how many pupils have taken advantage of them. The function of such courses within the framework of the *Berechtigungswesen* has always been a matter of controversy. In some federal states, pupils' marks appear in the standard certificates. Only in exceptional cases are pupils prevented from advancing to the next class. One of the structural weaknesses of this form of instruction is that participation was – and in some regions still is – conditional upon pupils having the nationality of the state concerned, or of their at least being able to demonstrate credibly that their affiliation to an ethnic minority that represents the specific language under discussion. Exceptions to the rule have always been made.⁵¹ However, exceptions prevent instruction courses from being accorded the status of a “standard” curriculum that is principally open to all pupils.

Among the other limitations associated with this measure relating to the way immigrant minorities learn languages was and remains the fact that they are basically aimed only at immigrants who come from one of the eight states with which agreements (on the recruitment of foreign workers) were concluded in the 1950 s and 1960 s. Only a few federal states and regions have gone beyond these. In the meantime, however, immigrants originating from more than approximately 200 different countries are registered in Germany. Although immigrants (along with their partners and children who have come to join from the former states with which recruitment agreements were signed) still constitute a significant share of the immigrant population in Germany, the measures taken will not be able to deal with the growing linguistic heterogeneity arising from the diversity of countries of origin noted above.

In addition to these “public” schemes aimed at promoting immigrants' native tongues, Germany – like all other European countries – offers a broad range of so-called community schools. These are privately sponsored by the immigrants themselves – often by their religious communities, parents' associations, etc. – with the aim of preserving their mother tongues and offering their children and youths access to literature in these languages. Sometimes these schemes are connected with the exercise of religious rites. Unlike in England⁵² and France, for example, information on such schemes in Germany, i.e. the form they assume, their

intentions and their extent, is available at best for certain regions or specific cases.⁵³ When it comes to formulating assumptions on the number of pupils taking advantage of such schemes, there is just as little basic information as there is speculation about which schemes are available in which languages. The achievements of pupils participating in these schemes do not receive any public recognition.

To summarise, it may be said that the languages of immigrant minorities in Germany enjoy purely marginal status in the educational system. Only under exceptional circumstances are they integrated into the regular school system. When they are, however, they are generally considered to be inferior than they are when they are associated with participation in regular courses in a foreign language.

5. Conclusions

The situation of the languages of immigrant minorities is thus great similar to that of a great number of “minor” languages of autochthonous minorities who very frequently also find themselves in a completely marginalised situation in both the educational system and the official language regime. The alternative for speakers of these languages is bleak: either they become more-or-less completely assimilated, i.e. they try to escape the hidden discrimination practised at the expense of linguistic minorities by adapting to the way the majority uses language – or they adapt to a state of social marginalisation in which not only the speakers themselves, but also their children and grandchildren are denied full participation in society. The situation of Roma in many European countries provides merely the most drastic example of this. It does not mean, however, that there are not countless other examples. With regard to individual speakers, and under certain circumstances, this entails their not having a full command of a language, which may even mean (under certain circumstances) in both the majority and the family language. In other words, they master parts of both languages, but neither language completely.⁵⁴ If the language used by families does not permit access to written language, their linguistic competence will

51 As in the case, for instance, with the bilingual teaching models that are jointly supported by the consulates in some of the federal states. In the Federal State of Hamburg, for example, bilingual primary schools teaching pupils in German and Spanish or Portuguese are co-financed by Spain and Portugal. The fact that some of the pupils whose mother tongue is Spanish or Portuguese and who are taught in these model projects, originate from Latin America or Africa is tacitly tolerated. Gogolin, I., U. Neumann, et al. (2007).

52 Creese, A. and A. Blackledge (2010). “Towards a socio-linguistic of super diversity.” *Zeitschrift für Erziehungswissenschaft (ZfE)* 13(4): 549–572.

53 *Fiirstenau, S. and H. Niedrig* (2007). *Jugend in transnationalen Räumen. Bildungslaufbahnen und Zukunftschancen von Migrantenjugendlichen mit unterschiedlichem Rechtsstatus. Jugend, Partizipation und Migration. Orientierungen im Kontext von Integration und Ausgrenzung. T. Geisen und C. Riegel.* Wiesbaden, VS Verlag.

54 This concept is popular, but it is based on a misunderstanding. It assumes the existence of what could be called a “perfect command of languages”. In actual fact, however, language, no matter how well developed, is always imperfect. The notion that someone has a command of the entire stock of expressions in a certain language is an illusion. The reality is such that each and every person has a command of a greater or lesser number of varieties or registers of a language (e.g. the register of everyday orality; the register of an academic or vocational subject), i.e. depending on the situation or, in other words, concrete access to the respective register.

remain at the oral level. Such competence can, of course, be quite well developed. On the whole, however, it will not suffice for the speaker to have a command of the formal, standardised and publicly fully recognised variety of his or her language, which is conveyed via the medium of writing, and whose acquisition depends on a command of the written language. In many cases, the majority language is not acquired to the degree necessary for participating extensively in society and enjoying a successful education. Studies show that even when foreign pupils complete a full education at a German school, it often does not suffice for them to acquire "competence in academic language, in other words: in a variety of language that is spoken in public and command of which is expected from "successful" people"⁵⁵.

If one or several persons fail to develop their language skills sufficiently, it will have consequences for their social participation and also limit their occupational opportunities. The remarkable thing – as experience gained from protecting traditional minority languages shows – is that the marginal status of the language of their country of origin in the educational system will be accompanied by a low level of language command: if people do not have access to literature in this language, it will be almost impossible for them to develop variations in the language that are bound to the medium of writing (such as literary or academic modes of expression).⁵⁶ Often, the purely oral language that people acquire from their families is heavily marked by dialect. If written language, or rather "academic language", which is characteristic of the formalised domains of language used in literature, science, economic and politics, is not developed further, people will not be able to use their family language within the various contexts of modern professional life. In other words: it will be almost impossible for these people to "capitalise" on it.

This unfortunate result of the marginalisation of languages of both immigrant minorities and of a large number of autochthonous minorities stands in marked contrast to the public rhetoric of the various European states which, in a large number of international and national forums, repeatedly stress the importance and value of multilingualism for the various societies in a Europe whose countries continue to grow together.

- At the level of the Council of Europe, the intrinsic value of linguistic diversity has been emphasised in a number of conventions (especially in the European Language Charter). The "Common Reference Frame for Languages" and the model

55 On the concept of "bildungssprachliche Fähigkeiten" and their relevance for academic success see Gogolin, I. et al., *Programmräger FörMig: Förderung von Kindern und Jugendlichen mit Migrationshintergrund. Bilanz eines Modellprogramms*, Münster (just published)

56 Bilaystok, E./Luk, G./Kwan, E., Bilingualism, Biliteracy and Learning to Read. Interactions Among Languages and Writing Systems. *Scientific Studies of Reading* (9)1, 43–61.

of bi- or rather trilingualism, pay tribute to the ideals multilingualism as a new utopian model for Europe.

- At the level of the EU, ever more people are pompously committing themselves to the model of multilingualism.⁵⁷ As enlightening as this might seem as a normative model for a Europe struggling with a diversity of languages and cultures, the organs of the EU and the member countries are finding it difficult to live this model in practice.
- At the levels of national planning and of creating a general framework, great importance has also been attached to promoting multilingualism – at least at the rhetorical level of programme papers, plans and models.⁵⁸

If these models and rhetorical formulae were taken seriously, huge changes in the orientations and supporting structures of the educational system would become necessary. A functioning multilingualism under the conditions of modernity requires a good command of several languages as both written and standard languages – a state rarely attained by those speaking the languages of immigrant minorities in Germany. A policy specifically aiming at multilingualism would demand the alphabetisation of migrant children in their respective countries of origin, with the parallel (disynchronous) promotion of German as an everyday and academic language. Examples can be found in traditional schools for minorities which show that this form of schooling can produce excellent results: as is the case at the schools for the Danish minority in Schleswig-Holstein, which give children a bilingual education; or the Sorb-German model schools "2Plus" in Saxony⁵⁹. Measures to implement school policies that advance multilingualism would, with a relatively low investment (since people already speak the languages) allow Germany's vast linguistic potential (which already exists in the form of vital minority languages) to develop, rather than to decline, as is currently the case. This especially true since the languages spoken by immigrant minorities are by no means simply languages spoken over small areas, but are, in an age of globalisation, potential linguistic capital with far-reaching application.

57 See, for instance, the decision of the Council of 21 November 2008 on a European strategy for multilingualism, *Amtsblatt*. Nr. C 320 of 16/12/2008 pp. 0001–0003.

58 See, for example, Chapter 3 of the National Integration Plan of the German Federal Government, which attaches great importance to the promotion of multilingualism.

59 A scientific evaluation of the linguistic development of pupils of both gender at Sorb-German model schools revealed that children who speak Sorb at home attained balanced bilingual skills. Their knowledge of German after six years in these model classes was better than that of children from control groups who were taught in German only. Furthermore, pupils who speak only German at home gain basic communications skills in the Sorb language. See Gantefort, C./Migai, N./Gogolin, I./Roth, H.-J., *Ein Weg zur Zweisprachigkeit. Bilanz des Modellprojekts '2Plus' sorbisch-deutsche Schulen in Sachsen nach sechs Jahren wissenschaftlicher Begleitung. Abschlussbericht an das Land Sachsen 2010*. Z.P.v., Münster 2011.

The European Sprachenleitbild "2+1", which proposes fostering people's linguistic abilities in their native tongues, would, if consistently pursued, mean slaughtering a number of "sacred cows" in the various national educational systems. First and foremost, there is the dogma that children in a specific linguistic and cultural region influenced by a nation state must be taught to read and write solely in the majority language. Certain special arrangements in minority school systems have already contributed towards challenging this dogma (by way of exemptions). A genuine policy aiming at multilingualism would, however, demand far more systematic use of the options that allow children to learn to read and write in their mother tongues than national educational policy-makers care to admit.

Political and societal interest ought to focus on the level of language gained at school in the learners' mother tongues and the respective national majority languages, and not on giving a certain language precedence – however that might be – from the very start. Teaching pupils to read and write at primary school does not, incidentally, solve the problem – as experience gained at schools with the traditional minorities shows. The evaluation of the "2Plus" model experiment (see FN 46) showed that the language(s) must continue to be consistently taught at secondary schools, too, because the development of educationally relevant language skills requires far more time than the four years of primary school teaching customary in Germany. Under the present state of research, it is not possible to say whether such policies place an exceedingly heavy burden on the resources available for education. What is needed here is an economic cost-benefit balance that takes into account not only investment in a consistent multi-lingual policy, but also the gains that could thus be achieved at the social, cultural and economic levels. Anyone wanting to properly implement a truly consistent multi-lingual policy in the sphere of education would have to establish new legal norms, adapted to the modified model, for the school educational system. When developing these norms, it would be possible to draw, on a grand scale, on experience gained with the legal regime protecting traditional linguistic minorities. In this legal regime (part of which was installed decades ago), reliable figures, based on experience, are available on how certain institutional arrangements interact, which mistakes and dead-ends ought to be avoided, and which forms lead to considerable success in certain contexts. Hence, guidelines must therefore be, on the one hand, the interests and needs of the population groups affected. Social discrimination against, and marginalisation of, these groups must stop. New school programmes must offer credible alternatives that give the children concerned opportunities to become occupationally integrated and to participate socially without becoming alienated from the lifestyles and traditions of their parents. On the other hand, schemes of this nature should definitely not be marginal, squeezing the pupils affected into additional courses held during peripheral

hours outside the regular school curriculum.⁶⁰ There are good reasons why the pertinent provisions of the European Charter for Regional and Minority Languages on education demand that corresponding school courses should be offered in minority languages "as an integral part of the curriculum". This is one of the constant points of contention whenever it comes to the practical realisation of the treaty: From the standpoint of the committee of experts (as the pertinent "treaty body") such integration into the regular curriculum (i.e. having the status, in Germany, of at least one voluntary compulsory subject) is absolutely essential if the schools are to offer courses in the minority language in ways that credibly "regularise" a multi-lingual education. From the perspective of the governments affected, this insistence is rather irritating, for, after all, very many models for "educating minorities" are based on a marginal position of teaching lessons in the minority language. From the standpoint of the Minister of Culture, "regularisation", in the sense of integration into the curriculum, would simply cost too much money.

If multilingual education is to succeed, the languages concerned must be used regularly at school. The very different arrangements made in the classical minority schooling approach show various ways in which this can be achieved. There is no single standard model of multilingual education: hence this contribution cannot argue in favour of applying *tel quel* a specific model of multilingual education from the domain of minority schooling to immigrant groups in Germany.⁶¹ There is, however, one thing that people can learn from the wealth of experiences that the classical linguistic minorities have had with multi-lingual school education, and that is to stabilise the variety of options and of multilingualisms over the next few generations.

There is great scope for designing a system of multilingual school education: the options for flexible use of supplementary resources, such as those available to the immigrant communities themselves, are considerable. It is high time that the enormous potential and opportunities for both cultural and economic development, which go hand in hand with the existence of increasingly mass phenomena of individual multilingualisms, can no longer be wasted by marginalising existing islands of multilingualism.

60 On the reality of the institutional embeddedness of languages of origin in Germany see *Langenfeld, C.*, *Integration und kulturelle Identität zugewanderter Minderheiten*, Tübingen 2001, pp. 44–209.

61 Hartmut Esser's comments are mistaken here when he insinuates that we "resolutely" advance positions for diverse groups of migrants in Germany; the same regulations ought to be created especially in the educational system as those that already exist in minority schools. The transferability of certain arrangements from the minority school system is a research question that requires urgent clarification; we merely advocate taking up this research task instead of repressing it for being "bothersome".

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2.5. A Reaction to Gogolin and Oeter

Hartmut Esser

Ethnic inequalities in education and, more generally, ethnic stratifications in the West-European industrialised nations as a result of more recent international migration movements, are without doubt a problem for society that demands our full attention and requires open reflection. The public debates are full of assumptions about the causes of these and there is no shortage of suggestions about how to remedy them, occasionally with reference to scientific proof, but also often influenced by certain interests and ideological prejudices, a fact that some of those putting forward such proposals hardly attempt to conceal. Taking a somewhat simplified approach, the different standpoints can be divided into two camps. The first assumes that the immigrants in question do not migrate as collectively associated "minorities" (and also do not see themselves as such), but as *individual* families and/or extended families. Accordingly, all measures that aim to deal with the problems associated with every migration movement can be solved most effectively by addressing the respective problems on an individual basis, for example, by providing support in schools or by solving problems in communications with public authorities or services providers. In other respects, the increasing "heterogeneity" within society brought about by immigration is understood as a diversity of milieus and lifestyles that is to be welcomed. These should live side by side and enjoy equal rights but, like other milieus and lifestyles, they do not require any special organisation on the part of the state. The other position, by comparison, favors institutionalisation of the cultural and language heterogeneity that immigration has brought about at a *collective* level. The solution to the problem of integrating immigrants and the emerging heterogeneity in a collective "acceptance" of the diverse immigrant groups would be as independent institutionalised minorities within the framework of the respective national states.

The two positions become particularly clear if we look at the question as to how the respective receiving societies should deal with *language* heterogeneity – which is in process of constant change – particularly in an attempt to avoid possible marginalisation of immigrants and ethnic stratification, that may occur if not immediately, then at least over generations. On the basis of this, the individual model assumes that having a command of the language of the respective receiving context (national, regional, local, institutional) is a basic prerequisite for success in the educational system and on the labour market and therefore a vital factor in preventing ethnic stratifications. Promoting (second) language skills is thus one key to solving the problem of the "structural integration" of immigrants (and their children), and this solution is understood as ensuring equal opportunities in education, on the labour market and chances in life in general. And that, taking this into consideration,

all types of heterogeneity and every conceivable increase in super- or hyper-diversity in individual habits and identities, cultural practices, religious beliefs, social relations and also formal collectivisations are possible. In this process, it does not matter whether immigrants have a command of and are encouraged to learn their respective native language in addition to the necessary second language. In other words, it does not matter whether "only" a language-based "assimilation" takes place or whether a more or less competent bilinguality is also the result, when immigrants continue to have a command of and use their native language. Multilinguality is thus a matter for the individual and his/her individual preferences and involvements. The only question that remains is whether having a command of and promoting immigrants' first language is significant for learning the second language and therefore also plays a role in their (structural) integration or not (see more details on this below).

By comparison, the collective model pursues a strategy that is absolutely contrary to this. It states that the key to solving integration problems (and to exploiting the assumed potentials for social relations, cultural diversity and economic prosperity that go hand in hand with language heterogeneity) is not (at least not solely) the language of the receiving context, but comes when immigrants have a command of their respective native languages and these are promoted. Losing or forfeiting the original language, it is said, would necessarily lead to a marginalisation in education in particular and, what is more, the "brutal" alternative to this would be the (intolerable) imposition of language "assimilation", that is, learning the language of the receiving context while giving up the native language. That is why, it goes on, in the interests of fighting against educational inequalities, stratifications and marginalisation, it is advisable, or even absolutely necessary to transfer the models for organising the language regimes for minorities in Europe to immigrants and to treat them as independent, collectively defined and institutionalised minorities with institutionalised rights to their own educational systems and language promotion measures.

The essay by Ingrid Gogolin und Stefan Oeter firmly takes the second position. For the different immigrant groups in Germany (mainly the successive generations of the traditional immigrant worker families and the so-called "late repatriates of German origin" from Russia and Poland) the essay implies creating regulation particularly within the education system, similar those one that already exist for the Sorbs in Saxony, the Danes and North-Frisians in Schleswig-Holstein or, within Europe, for the Catalans in Spain, the Welsh in Great Britain, and the Southern Tyrolese in Italy. Irrespective of the basic premises or political guidelines involved, this approach hopes to find a better solution to the problems of integration facing immigrants than has been the case to date. The hypothesis rests upon two assumptions. Firstly, it states, promoting the respective language of origin would have long-term effects on the cognitive capabilities of those concerned and thus on learning the language of the receiving context, and following that, on academic performance at school and success on the labour market, that is, in the core areas of structural in-

tegration, not only for immigrants (see p. 177 f.) And secondly, the necessary institutional measures, the "establishment of new legal standards adapted to fit in with the altered model" (p. 192), the "systematic presence of the language in question" (ebd.) and the corresponding consistent promotion of the immigrant language throughout the entire education system have been implemented hardly anywhere to date. However, if one changed this situation, the "social discrimination and marginalisation" of immigrants could "end" (ebd.). Which is why, they conclude, it is high time to undertake the necessary measures to make this happen. One piece of proof in this respect, they explain, is the obviously relaxed situation of immigrants from Eastern Europe and Russia who, thanks to their special circumstances, including their legal "privilege" have found themselves in a collectively more favourable environment with a better supportive framework from the very beginning (p. 185). To put it briefly, it is assumed that, by transforming the individual status of immigrants as a mere aggregate of families and networks without further institutionalisation to bring about a collective "acceptance" of them as an institutionalised "minority", the problem of ethnic stratification and (thus) the problem of integration in society will be solved more satisfactorily and on a more sustainable basis, and the potentials that result from the emerging heterogeneity can finally be exploited in real terms.

The question concerning the relationship between minorities defined by cultural, religion or language as independently institutionalised collective units in otherwise modernised, functionally differentiated and strongly individualised industrial societies is too far-reaching for a short essay, which does not provide the space to deal with the associated sociological, historical, legal, normative and political questions involved. In the essay by Gogolin and Oeter, some of these further-reaching aspects are certainly addressed implicitly and a full analysis of their proposal would have to go into these in detail (see more on this below). However, the clear focus – which makes matters more simple – is placed on a problem that is easily definable. At the heart of the matter is the question concerning the *efficiency* of measures to promote native language skills with respect to the social and, in particular, the structural integration of immigrants and their children in comparison to other conditions and measures. For example these include the early promotion of the respective second language competences without taking a specific look at the first languages of immigrant children. That is precisely the question which has already been dealt with in great detail in the so-called "bilingualism controversy"¹ and which continues to define the debate concerning an education policy that is adequate to deal with the emerging diversity. If we do not want to reduce the discussion to whether different languages have a value *per se* and do not want to leave out the economic aspects, then the question arises concerning what benefits can be expected if the proposals are carried out and how much they will cost. If we are not able to do everything si-

1 Gogolin/Neumann 2008.

multaneously and immediately – then how are we to set priorities, both with respect to the measures to be taken and concerning the (immigrant) groups in question?

With regard to the central question this throws up concerning the efficiency of measures to promote the native languages (in comparison to promoting the second language which might be “one-sided”) in schools, current scientific research has clearly proved that there are practically no effects whatsoever – either of a positive, or of a negative nature. Behind such considerations, we have the hypothesis from James Cummins, which states that learning the second language can only develop if progress is made in the first language. This was also cited recently by Turkish Prime Minister Erdogan in connection with his demand some years ago to set up Turkish schools and keep up Turkish nationalism in countries outside of Turkey. However, the Cummins hypothesis has not been proved empirically even after decades of countless attempts to do so, at least not with the consistency and to the extent necessary to reach such conclusions.² It has also not been possible to establish any effects that promoting the native language may have on academic performance.³ The debates and publications on the “bilingualism issue” have also not changed in this respect and we are still waiting for proof that will give us an answer to the question often asked which is actually simple to answer.⁴

From time to time, efforts have been made in this respect to carry out studies that would seem to prove that bilingualism really does have positive effects on cognitive development: learning two or more languages obviously leads to such effects, even long-term stable effects such as reducing dementia in old age.⁵ However, this has nothing to do with promoting the first language, but rather is due to the fact that a *new* language is learned in addition to the native language. This seems to lead to a cognitive mobilisation in general. We can also regard the “DESI Study” in a similar light. It has often been cited in past debates as proof of this hypothesis, as it shows that children of immigrants obviously learn English better than children from indigenous families.⁶ This, however, can hardly have anything to do with competences in the native language, because it cannot be expected that native-born children are worse in this respect than immigrant children. It is more likely the same effect that can be seen in the cognitive mobilisation that comes when a child is confronted with learning a *new* language in addition to the native language. One could presume that English is something like a third language for immigrant children, while that is not the case among the indigenous children, for whom English is only the second language and they have therefore not yet been able to experience a mobilising effect prior to that. However, the results of the DESI Study have not been confirmed by

newer surveys such as the regional comparison carried out by the Institute for Quality Development in Education (IQB) in 2010.⁷ What is more, the results arising from the promotion of minority languages can no longer be interpreted, which has been the case up to now, as if they were a consequence of the competences in the respective first language⁸. The first language is generally the respective official language of the country where these minorities live (like French for the Alsatian people in France). Learning the respective minority language (in this case, German in Alsace) is nothing more than learning a *second* language with all of the associated cognitive mobilisations this entails. In cases like this, as well, an effect that, if at all, has to do with learning a new language is interpreted as an effect caused by the first language – a barely comprehensible false conclusion used to rescue the hypothesis that perfecting a first language leads to effects that facilitate the learning of a second language.⁹ Ultimately, it is also hardly the legal status alone of resettlers from Eastern Europe and Russia that explains their greater structural integration, particularly in comparison to Turkish immigrants and their children, as introduced in an essay by Janina Söhn.¹⁰ She states that the children of resettlers from Eastern Europe and Russia had clear advantages from the very beginning in all relevant areas of integration in the receiving country compared to other immigrant groups and – after taking a closer look at the immigration circumstances – even vis-à-vis native-born children.¹¹ This was also supported in the course of further integration by certain privileges such as the provision of language courses (even though there is no empirically sound data about this). In addition Söhn argues, this group is a special group of immigrants in that they identify almost completely with the receiving country and have turned away emotionally from their origins – something which is very different among Turkish immigrants. This, if it was true, would be a prime example of the massive effect that an “assimilative” basic orientation has on the intensity and speed of a successful structural integration – perhaps also supported again by certain collective privileges, which however are *not* aimed at an ethnic minority position or at promoting the original language. However, exactly the opposite is true!

To put it briefly, the beneficial effects of promoting the native language according to the previously submitted evidence obviously do not exist and the Cummins hypothesis has also failed to gain any empirically sound foundations even after decades. In the course of the debate, this hypothesis was soon dropped without further discussion and, instead, the value of language diversity *per se* was emphasised as a *normative* principle that does not require further explanation; as a political goal set

2 See Esser 2006: 263 ff.

3 Esser 2006, Section 5.4. See more recently, now also with objective assessments of first and second language among Turkish children and parents: Dollmann 2010: 107 ff.

4 Esser 2008b: 85 f.

5 See, for example, Bialystok 2008: 53–69.

6 Hesse/Göbel/Hartig 2008: 215 ff.

7 Böhme/Tiffin-Richards/Schipolowski/Leucht 2010: 220 ff.

8 As for example Petit 2002: 433–448; Bournot Trites/Reeder 2001: 27–43.

9 See for example 2008: 7; Esser 2008a: 3.

10 Söhn 2010: 14–17.

11 For example, in the performance measurements in the PISA Studies; see Esser 2006: 311 ff.; 317 f.

by the EU or as a potential that should not be judged merely from the point of view of efficiency¹² – and yet this was also not the issue involved in previous considerations of the question concerning *empirically* provable effects for the educational and career opportunities of children. And now this hypothesis has been taken on board again, as if nothing had happened.

What, by comparison, has been proven regularly, are the strong cognitive mobilising effects of learning the respective official language of the country, also in the form of language “assimilation”, that is, no matter whether the native language skills are given up or have deteriorated. The effects here are even more sustainable the earlier the corresponding contact with the receiving society takes place. If there is one measure that mitigates the many problems of integration right from the very beginning then this is, according to everything we have learned up to now, having children attend pre-school in ethnically *mixed* groups¹³, if possible mandatorily. What works is *not* separating the children into independent language worlds with their respective minority languages. One could also put it this way: if the family fails to ensure that the necessary language acculturation to the education system of the receiving society happens, then the educational institutions must step into the breach and enable the necessary *intercultural* contacts – the earlier and longer, the better. This, of course, should not have any effect on measures that might be provided to deal selectively and specifically with the respective problem in question in (pre-)school, measures that also include support by teaching in the native language. Such measures, however, can cease as soon as the problem has been solved and should only be seen as long-term measures if the problem occurs regularly – perhaps because of continuing immigration or due to a lack of successful integration. Without a doubt, it would also be a good idea to pay more attention to the cultural, religious and social backgrounds of the immigrant children in educational institutions, just as schools always have to deal with the particular heterogeneous and changing circumstances of their pupils. However, that is not what we mean when we talk about minority perspectives, which tend to regard the organisation of lessons in the original languages as a rather divisive institutionalisation.

One could also certainly justify promoting native languages, as was done in the debate above and allusively in the essay by Gogolin and Oeter, by defining this as a normative or political value *per se*. This does away, at least initially, with the question concerning efficiency as well as the matter of other benefits or costs and side effects. That paper argues in favour of both the high potential and the benefits for society that come from language, as well as cultural and ethnic diversity, and therefore from the diverse native languages. It is for this reason, it states, that it would be advisable to redefine immigrants as minorities and re-organise the education system (and other areas such as the media). “An economic cost-benefit analysis” also with respect to the possible “gains that could thus be achieved at the social, cultural

and economic levels” is required (p. 18/19). An analysis of this type has, of course, not been carried out (yet). It would also be very cost-intensive and time-consuming to do so and the paper in question only assumes that the profits to be gained would compensate for all of the costs involved. The most important thing is to just get on with the necessary work irrespective of the result, which remains open. However, there is certainly some evidence of the economic “potentials” at least, that would come from fostering and promoting various native languages. And that is what really lies at the heart of the matter, if one not only has to quantify the value of the cultural and language diversity *per se*. Firstly, it has been shown empirically again that, on the labour market (practically all over the world), it is mainly the respective official language that counts. When it comes to the languages of origin, only those languages that have a higher commercial value worldwide, particularly English, but also in certain circumstances Spanish or French, and perhaps Chinese in the near future, lead to tangible advantages for. One cannot get around the fact that languages, at least from an economic point of view and with respect to their accessibility for other speakers, are not by any means equal in value, but clearly differ from one another – just like currencies – in their exchange value and in their use value.¹⁴ That is why we cannot ignore the question about what language is learned both by immigrant and native-born children at school as the second or third language respectively and in which they will receive qualifications. The risk always remains that investing, for whatever reasons, in a language that is interesting, closer to the children and as easy for them to perfect as their native language, nevertheless turns out to be a superfluous bad investment – like learning German in Canada, the USA or Australia for example, or learning Bulgarian or Latvian in the Netherlands.

One can therefore assume that the normatively or politically justified – and in this context misguided high esteem – in which language diversity as a value “in itself” is held without taking into consideration the general use value will tend to lead to difficulties and disadvantages in a world in which the ability to make oneself understood transnationally has increasingly become an important individual resource. This also applies incidentally for the multilingual situations in Canada or Switzerland, which are often highly praised within this context. These are special forms of differentiation which are primarily important from a regional political perspective, and which have the same consequences for the Allophone immigrants as elsewhere, a fact that is not always presented in a true light¹⁵: anyone who does not have a command of the official regional language faces the same disadvantages there as would be the case elsewhere. And like anywhere else, only those who are able to follow the regional language specifications profit from regional multilinguality. What is more, where there is increasing cultural and language diversity in particular, the prevalence of an overriding *lingua franca* becomes a prerequisite within society for reducing the “Babylonian” transaction costs that necessarily increase with the lingual

12 See, among others, Gogolin/Roth 2007: 32 f.; Gogolin 2008: 19 f.

13 Compare for example Becker/Biedinger 2006: 660–684; Becker 2010: 139–163.

14 See the seminal book by de Swaan 2001.

15 See Kavacik/Skenderovic 2011: 33.

pluralisation. For these reasons, Jürgen Gerhards for example, positioned himself in his recently published book about "multilinguality in the united Europe"¹⁶ clearly and with good reason against the current language policy of the European Union which, like the proposal put forward by Gogolin and Oeter, promotes the language heterogeneity and the minority languages in Europe and, in doing so, perhaps creates exactly what it aims to prevent, that is, the marginalization of those who do not have a command of those languages which, according to the Babylonian super-diversity of Europe (and the world) act as a *lingua franca*, in particular English. This argument can be taken further in the case of immigrants to include the function and the consequences of deficits in having a command of the language of the respective receiving context: while that may not be everything, without such a command, this everything is almost nothing in terms of integration. If, by comparison, trans-cultural understanding was safeguarded by everyone having a command of a respectively relevant *lingua franca*, every further language and other types of pluralisation would be possible and the then possible trans-cultural bonds would provide every opportunity to exploit the diverse potentials that are always being talked about. But only then! In the case of immigrants, or at least some groups among them, however, we cannot expect this prerequisite to be fulfilled and, if it is not possible to do everything all at once, priority should actually be given to promoting the respective *lingua franca*. This includes learning the language of the respective receiving context and then preferably English as well. Or, if the global language situation changes, the emerging *lingua franca*.

If one justifies restructuring the education system to make it into a minority regime by citing the value of languages *per se* and exclusively from a normative point of view, it would actually be advisable to take into consideration every variety and to do so again and again when faced with the immigration of groups that have not yet been present or established as minorities. However, this is not possible, no matter how well-intentioned policies may be. That is why, unawares, we come back once again to the problem of efficiency, cost and effort. If it is not possible to carry out the necessary institutionalisation for all of those involved and for all conceivable groups of immigrants, we must define criteria with which this can happen – even if one wants to believe that there are no differences in the usability and value of the languages. This means in real terms that we have to define which immigrant groups and language communities should be included and which not. One factor that would seem to make sense is the criterion of group size, because in all probability this would be more advantageous than in the case of very small language minorities or even individual persons. However, this would necessarily create something that we are aiming to prevent, namely the institutional discrimination of all of those groups who, based on their group size, do not fit in to the newly-established, multi-ethnic mainstream of integrated minorities. In a world of ongoing and hard-to-forecast new waves of immigration this would be the rule.

To put it shortly, one can justifiably express doubt about whether the gains assumed in the proposal by Gogolin and Oeter – whether for individuals or for society – can be expected and whether this proposal can be used to deal with the problem. For example, a change of context, which migration movements inherently entail, always creates a certain distance from the mainstream, no matter what form it takes, and the mainstream cannot always adapt itself immediately and without costs and side effects to the new groups. This cannot happen without certain adjustments on the part of the individual if it is not to lead to individual disadvantages within society: One of the most effective ways to reach this is through the earliest possible language acculturation. The fact that, as always, this also clearly happens in reality – over generations and more or less also in all groups – is proof that immigrants as a rule do not want to wait until they are helped on the way up collectively, allowing them to mutate into organised minorities in the process. And it is also proof of the fact that it is certainly possible, irrespective of whether the importance of the language of the country of residence, in particular for structural integration and the fight against ethnic stratifications, is sometimes bound up with further-reaching ideological motives or not.¹⁷ The argument, that the language of the receiving country is key for integration and that this is where the problem lies does not become invalid or too general as a result, if it makes certain concessions to the long since obsolete dreams of homogeneity among nationalist ideologies.

As such, according to the new regional comparison carried out by the Institute for Quality Development in Education (see above), children from the lower social strata in particular and immigrant children in Bavaria and Baden-Württemberg demonstrate a better academic performance than in the other federal states, and, above all, in comparison to the city states of Berlin, Bremen and Hamburg. This is despite the fact that the two aforementioned federal states – Bavaria and Baden-Württemberg – almost certainly do not have a minority-oriented alignment in their education and immigration policies. The social permeability in the school system there is not lower at the present time than, for example, in Finland, Canada and Sweden or the other federal states or city states – except in Berlin, where, when it comes to academic achievement, children from families that belong to the higher classes have significantly better chances. Things are, of course, completely different in the distribution of children to the different types of schools, i. e. with respect to the educational qualifications to be expected. Here, Bavaria and Baden-Württemberg do have a higher permeability by comparison, something that as a result of this report has been the matter of strong public debate¹⁸. We do not have to come up with answers here as to the reason for this contradiction concerning the (im)permeability in the system within which academic performance is achieved and educational qualifications are awarded. However, there is a complete lack of persuasive evidence to show that implementing the collective strategy and promoting the language

17 For example, recently in Kavacik/Skenderovic 2011: 32 f.

18 See Schipolowski/Böhme 2010: 220 ff.; Knigge/Leucht 2010: 216.

es of origin would lead to more success. It is astonishing that, despite this, the same arguments are brought assiduously in public again and again and the public at large should ask itself what kind of science is it that is incapable of coming up with a clear statement, not even something to the effect of "we presume that it is so and would find it good and we want to try it out even if we are unable to prove it." What we can prove, by comparison, are the very hard consequences that result for the structural integration of immigrant children from deficits they have in the language of the respective receiving context as well as for the efficiency of measures that would help to reduce these deficits. In particular, this includes the earliest possible ethnic mixing of immigrant children and the children of the indigenous population, supported where possible by making certain measures mandatory and by providing a whole range of additional aids, for example, by involving the parents. If, on top of that, something is to be done to promote language diversity, then nothing speaks against this and this would be, like all diversity that is not a vertical diversity of differences in opportunities, without doubt of great benefit. However, it would have no effect whatsoever on finding a solution to the urgent problem of ethnic equality in education or on ethnic stratification.

This does not mean by any extent that a minority policy cannot be reconciled with the requirements of modern, functionally differentiated societies or that it threatens to break society up into "parallel societies". Different versions, as well as institutionalised regional and social sub-differentiations are also conceivable, for example, like the federal system in Germany or the (to some extent newly emerged) regional structures in Great Britain, Spain, France or Canada (nevertheless with relatively long-standing, settled and regionally concentrated populations, mostly with a special historical experience in the course of the formation of the respective nation states).

Why not then also for ethnic minorities? Particularly when they would not have any special problems with structural integration? The proposal of establishing independent ethnicity-based educational systems would mean a clear step towards an "institutional completeness" for the ethnic communities; however this step – and there is enough evidence to support this – is more likely to lead immigrants into the ethnic mobility trap than to bring them integration via a stronger "internal integration", as postulated by Gogolin und Oeter in their essay. But no really dramatic consequences or even conflicts are to be expected from such corporate and certainly pre-modern ethnic collectivisations, that still believe in the long since obsolete fiction that languages and cultures are somehow fixed, almost natural parameters which are not continuously being re-constituted. In fact, from an empirical point of view, in addition to a constant flow of new immigrants, at the same time the successive generations of immigrants are being absorbed – to a greater or lesser degree – and if the inflow of new immigrants would stop, this process of absorption would lead to a silent depletion of the ethnic community and its institutions, which would also happen with the respective "minorities" and their institutions. There are enough examples of this.

That is why we can take the debate down a level. The West would not be under threat if there were Turkish, Russian, Polish or Vietnamese schools, especially as, realistically seen, they would probably be used by the respective elites, who would certainly be willing to accept a certain superfluousness in their usefulness. However, this would not bring about a solution to the problem of the ethnicity-based lack of (educational) equality, which is a problem for immigrant children in the lower strata of education and those living in difficult circumstances, whose problem is not deficits in their first language, but very clearly deficits in the language of the receiving country. They, unlike the elites, cannot afford the luxury of uselessness. Therefore, it would be completely irresponsible, if this was merely left by the wayside, especially in view of the scientifically proven evidence of this uselessness.

Taking a broader look against the background of this problem, one has to ask finally and briefly whether and how the establishment of independently institutionalised collective units on the basis of ascriptive characteristics such as ethnic background or religion "fits" into the modern, functionally differentiated and clearly individualised industrial societies of the West, which are based on market exchange and which are the preferred destination of international migration. At any rate, pluralisation at a collective level is not imperative for the development of the potentials of the emerging "super diversity". Modern societies in particular, which are built upon the principles of an unrestricted exchange of information and goods and the norm of individual equal opportunities, have always provided room for even extreme forms of cultural, language-based, religious and ethnic diversity, something that is inherent in their structure, as it were.¹⁹ Everyone can – in principle and within the framework of the law, and also without strong identification with the receiving country – maintain, relinquish or learn any and every form of language-based or cultural variety. This is also something that entire groups on the basis of a voluntary association or even as an institutionalised "minority" can do. This also includes the variants of clear forms of maintaining a transnationally organised nationalism. Open societies can tolerate this and they do not demand or enforce an "assimilation" in any way whatsoever, even if this, in some aspects, as with deficits in language competence, leads to serious individual disadvantages and the annoyance of ethnic stratification. In such societies all forms of multicultural constellations are conceivable and possible, including the individual variants of social diversity of ethnic milieus and lifestyles and the collective ones such as the establishment of ethnic minorities. Initially, we do not need to answer the question as to what extent the collective organisation of minorities on an ascriptive basis generates transaction costs that are not actually necessary and is likely to restrict the perspectives of the individuals involved in the long term, who then tend to want to leave the constrictiveness of the ethnic boundaries as soon as opportunities arise. The gradual deterioration of the Dutch system of pillarisation in the 1960s was already clear proof of the fact that drawing collective borders on the basis of ascriptive characteristics in mod-

19 For more details see Esser 2009: 366 ff.

ern individualised societies hardly "fits in" any more and that these die out of themselves because they no longer seem attractive or justifiable for the individual when he or she has the opportunity of finding an individual exit and the former conflicts fade. The fact that the general integration in society in the cases of such pillarisation often tends to take place via distributive and communications coalitions among the corresponding elites, is only mentioned in passing, and the so-called Islam Conference can be seen, in the face of all recognisable conflicts, as a sign of a new form of ethno-religious pillarisation and yet another cooperation of elites in the Federal Republic of Germany, after the former elements of (neo-)corporatist and federal structures find themselves in a process of erosion. This is therefore just as unlikely to lead to a solution for the problem of ethno-religious stratification as the establishment of an own ethnic system of education or the "acceptance" of the immigrants as ethnic minorities will.

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Language Rights Revisited – The Challenge of Global Migration and Communication



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