

# **The National Language Policy of Taiwan: Language Rights of the Hakka, Indigenous, and Matsu Minorities**

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## **Abstract**

Taiwan boasts a rich cultural, heritage and linguistic diversity as a multiethnic and multicultural state. Although most of its population speak Mandarin, it is not designated as the official language. In 2000, Taiwan passed the Broadcasting Language Equality Protection in Public Transport Act to ensure minority languages such as Hakka, Matsu and the indigenous languages are broadcasted in all public transportation. In the government's effort to promote Taiwan's linguistic diversity, three legislations, namely, the Indigenous Languages Development Act, the Hakka Basic Act, and the Development of National Languages Act, were introduced in 2017, 2018, and 2019, respectively. Aligned with the National Language Policy, these legislations helped shape Taiwan's language development strategy so that everyone in Taiwan can express themselves in their respective languages. This paper discusses Taiwan's minority language policy by reviewing the Hakka language, the Indigenous languages, and the Matsu language with the use of qualitative research methods and the theory of human rights and substantive equality to understand the State's institutional arrangements aimed at promoting equality for minority languages. The main findings of this paper are as follows: (1) The National Language Policy not only protects the rights of the linguistic minority but helps to enhance communication of ethnic minorities and construct ethnic minority identity, (2) that a Language Ombudsman be established in Taiwan to protect the language rights of minority languages according to Article 27 of the International Covenant on Civil and Political Rights that fulfills the Paris Principles.

**Keywords:** language human rights, national language policy, linguistic minorities, Taiwan's Hakka language, Taiwan's indigenous languages

## Introduction

Taiwan is a multicultural society comprising diverse ethnic groups. The major ethnic groups are the Southern-Min (also known as Hokkien), Hakka, Mainlanders, and Aboriginal peoples, with the Southern-Min peoples being the largest in number and the Aboriginal peoples as the smallest. The Hakka people is the second largest. Each of the four major ethnic groups has its mother language.

Language policy and planning (LPP) are undertaken to shape the development of ethnic languages.<sup>1</sup> The LPP focuses on who plans, what for, whom, and how, as well as the values and rights associated with those languages (Stemper & King, 2017; Cooper, 1989). The LPP deals with the planning of corpus, status, and acquisition (Goundar, 2017). Language status is highly linked with the ruling power. When the Kuomintang (KMT) government took over power from Japan in 1945, Mandarin became the “de facto” official language in Taiwan. In 1991, Taiwan abolished the temporary provisions effective during the period of National Mobilization for Suppression of the Communist Rebellion thus ending authoritarian rule after forty years.<sup>2</sup>

Language usage, ethnic identity, political party identity, and Taiwanese national identity have evolved over the past decades.<sup>3</sup> After the Democratic Progressive Party (DPP) won the presidency in 2016, it sought to formulate national language policies to improve the rights of underprivileged linguistic minorities. Through the enactment of laws, Taiwan’s national language policy not only revives minority languages but also has achieved justice in the development of Taiwan’s minority languages.<sup>4</sup>

The national language policy aims to preserve, revitalise, and attain equal development of all languages spoken in Taiwan, particularly those used by ethnic minorities that are under the threat of being marginalised (Ministry of Culture of Taiwan, 2018). This paper examines the language rights of minority groups, using qualitative research methods and the theory of human rights and substantive equality for shaping the State’s institutional arrangements to discuss the following issues: (1) how does the national language policy fulfill minority language rights and (2) what benefits can the national language policy bring to ethnic minorities?

## Theoretical and Conceptual Frameworks

Human rights are fundamental rights. The Universal Declaration of Human Rights (UDHR) of 1948 declares that the inherent dignity and the equal and inalienable rights of all human members are the foundation of freedom, justice, and peace in the world. Article 27 of the International Covenant on Civil and Political Rights (ICCPR) introduces the fundamental rights of linguistic minorities.<sup>5</sup>

### Individual Liberties and Minority Human Rights

The natural rights theory is considered the philosophical discourse of human rights (Donnelly,

1982). John Locke and Immanuel Kant were the foremost thinkers who proposed the natural rights theory. Jean-Jacques Rousseau, John Stuart Mill, and Mary Wollstonecraft further elucidated the natural rights theory, while Karl Marx and Jeremy Bentham argued against the idea (Australian Human Rights Commission, 2009). Historically, many important documents have supported the view of natural rights, including the “United States Declaration of Independence,” drafted by Thomas Jefferson and adopted by the Continental Congress in 1776. Another contribution is the “Declaration of the Rights of Man and of the Citizens,” presented by France’s National Constituent Assembly in 1789 (P. C. Wang, 2022).

Heavily influenced by Liberalism, the natural rights theory focuses on ensuring the freedom of individuals. The development of liberalism has been shaped by treatises written by many philosophers, such as Jeremy Bentham’s “An Introduction to the Principles of Morals and Legislation,” John Locke’s “The Second Treatise of Government,” Immanuel Kant’s “Critique of Pure Reason,” Adam Smith’s “Wealth of Nations,” John Stuart Mill’s “On Liberty,” Herbert Spencer’s “Man versus the State,” Leonard Trelawny Hobhouse’s “Liberalism,” Friedrich August Hayek’s “The Road to Serfdom,” and John Rawls’s “A Theory of Justice” (P. C. Wang, 2022). In political areas, liberalism usually involves non-authoritarianism, the rule of law, and a constitutionally limited government that guarantees civil and political liberties (Freeman, 2018). An understanding and appreciation of individual freedom leads to constitutional individualism and eventually to modern constitutionalism. Modern Western constitutionalism holds that “man-made law” cannot violate the “natural law” (T. S. Wang, 2004). From the perspective of the natural law theory, an ethnic minority has the freedom to use its mother language without the intervention of the State.

John Rawls introduces two principles of “justice as fairness.” The first is the “equality principle,” and the second is the “difference principle” (Wenar, 2021; Upadhyay, 1993). In response to John Rawls’s ideas, Alasdair MacIntyre, Michael Sandel, Charles Taylor, and Michael Walzer put forward the notion of communitarianism, which was developed to criticize John Rawls’s theory that derived basically from the ideas of Aristotle and Hegel (Daniel, 2020). The debate between liberalism and communitarianism addresses the following issues: the nature of individuals as social beings, the value of community, and the justification of political principles (Morrice, 2000). In discussions on minorities, there are two paths: communitarianism and multiculturalism (Theobald and Wood, 2009). Kymlicka (1995) argued that minority rights should be seen as a communitarian defence against the encroachment of liberalism. Iris Marion Young (2011) believed that a just polity must embrace the ideal of a heterogeneous public and should accept group differences of a nation or ethnicity. It would always be challenging for a government to achieve ethnocultural neutrality. Conversely, the State should value cultural diversity and seek to build accountable institutions to protect the rights of minorities.

### Minority Language Rights and State Obligations

The concept of linguistic rights derives from the general human rights standards, in particular, non-discrimination, freedom of expression, right to private life, and right of members of a linguistic minority to use their language with other members of their community (De Varennes, 2001). In 1996, several non-governmental organisations introduced the “Universal Declaration of Linguistic Rights” to define language groups’ inalienable personal and collective rights, thereby supporting language rights.<sup>6</sup> In 1999, the High Commissioner on National Minorities of the Organization for Security and Co-operation in Europe (OSCE) published the “Report on the Linguistic Rights of Persons Belonging to National Minorities” in the OSCE Area, which concluded that the legal framework for protection of linguistic rights is the crucial first step to overcoming arbitrary interference with minority rights and full implementation of international standards (OSCE, 1999). The United Nations Special Rapporteur on Minority Issues published the “Language Rights of Linguistic Minorities: A Practical Guide for Implementation” in 2017 in hopes of identifying the nine issues regarding the rights of linguistic minorities.<sup>7</sup>

The practice of language rights involves two aspects: the “personality principle” and the “territoriality principle” (McRai, 1975). When language policy follows the personality principle, people will receive language rights, and when language policy adheres to the territoriality principle, language rights are instead territorially defined (Schutter, 2021). Moreover, Hamel presented a sociolinguistic framework for linguistic human rights comprising nine essential (minimal) criteria. One of them is the explicit obligation of the state to adopt measures to protect and promote minority languages (Hamel, 1997).

Any person or group can violate human rights; sometimes, human rights might be abused by non-state actors, including business enterprises, organised criminal groups, terrorists, guerrilla and paramilitary forces, and intergovernmental organisations, which are on the rise (IPU and OHCHR, 2016). To protect human rights, international human rights treaties and customary law impose three obligations on States: the duty to respect; the duty to protect; and the duty to fulfill (IPU and OHCHR, 2016). This means that States must avoid any action that interferes with or curtails the enjoyment of human rights, to protect individuals and groups against human rights abuses, and to take positive actions to promote the enjoyment of fundamental human rights (Ministry of Justice of New Zealand, 2020). Article 2 of the ICCPR requires the States to take necessary steps to give effect to the rights recognised in the present Covenant.

Also, in comparative politics research, there has been a trend towards “bringing the State back in” after the 1980s (Smith, 2005, p.101). Skocpol (1985) thinks that States may be the institutions through which official collectivities might define distinctive goals, and States may be considered more macroscopically as arrangements of organisation and action that shape the meanings and methods of politics for all groups and classes in society. Article 27 of the ICCPR and Article 2 of the

“Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities” (Minority Rights Declaration) have protected linguistic minorities possessing the right to use their language, in private and in public, freely and without interference or any form of discrimination. As the international human rights standards require States to realise minority language rights, States should establish proper institutions or policies to comply with Article 27 of the ICCPR and Article 2 of the Minority Rights Declaration.

In general, linguistic rights are fundamental human rights, and the State is obligated to protect minority language rights (Gromacki, 1991). Linguistic rights are concerned with the essentials for a dignified life and should not be violated by the State or other individuals (Skutnabb-Kangas, 2012). Furthermore, language rights could promote linguistic diversity and ultimately fulfill the rights of minorities.

### **State’s Institutional Arrangements to Increase Minorities’ Language Rights**

In social sciences, “new institutionalism” has become a practical conceptual framework for exploring the relationship between institutions and behaviour. March and Olsen (1984) think that human actions, social context, and institutions depend on each other in complicated ways. New institutionalism could be labeled into three broad categories: historical institutionalism, rational choice institutionalism, and sociological institutionalism (Koelble, 1995). For the relationship between institutions and behaviour, Hall and Taylor (1996) believe that historical institutionalism offers the most commodious conception of this relationship; by contrast, rational choice institutionalism has evolved a more precise picture of the relationship and developed a highly generalisable set of concepts that lend themselves to systematic theory-building.

In essence, equality forms the solid foundation of the rule of law and is a critical component of constitutionalism (Baer, 2012). The principle of equality consists of two concepts: “formal equality” and “substantive equality” (P. C. Wang, 2022). The Committee on Economic, Social and Cultural Rights (CESCR) issued General Comment No. 16 in 2005 to expound Article 3 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>8</sup> General Comment No. 16 says that “de jure” (or formal) equality and “de facto” (or substantive) equality are different but interconnected concepts: (1) formal equality assumes that equality is achieved if a law or policy treats men and women in a neutral manner; (2) substantive equality is concerned, in addition, with the effects of laws, policies, and practices as well as with ensuring that they do not maintain, but rather alleviate, the inherent disadvantages that particular groups experience (E/C.12/2005/3, paragraph 7).

Following Article 4 of the Framework Convention for the Protection of National Minorities, language equality is defined by two concepts. Firstly, all languages are equal before the law and should be equally protected by the law; and secondly, governments should adopt adequate measures to promote the full and effective equality of language rights (P. C. Wang, 2022). In Taiwan, the Constitutional Court issued Interpretation No. 485 under Article 7 of the Constitution,<sup>9</sup> indicating

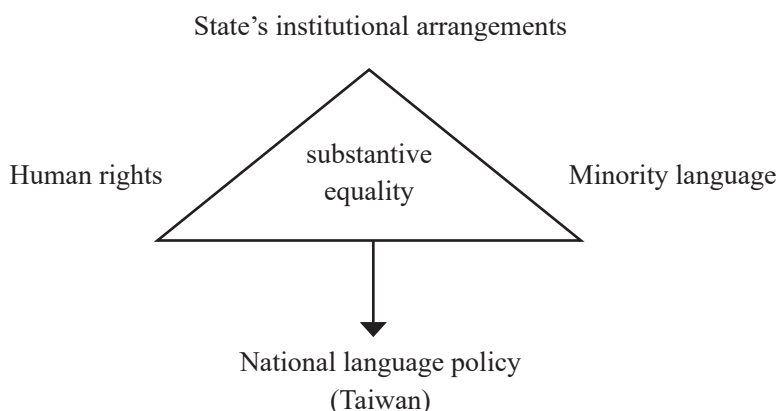
that the principle of equality does not lie in formal equality in an absolute and mechanical sense. The purpose of this principle is to guarantee substantive equality for everyone in the sense of equal protection under the law.

Regarding the substantive equality theory, governments may adopt affirmative (or positive) actions to give preference to disadvantaged groups. Many governments have launched language reform based on the idea of substantive equality. For example, in 2001, the government of Canada published a reform document entitled “English and French: Towards a substantive equality of official languages in Canada” to update the Official Languages Act (Canada.ca, 2021). In Taiwan, the Development of National Languages Act is aimed at promoting substantive equality through Article 7 while achieving formal equality through Article 4.<sup>10</sup>

As States could be actors and institutional structures with effects on politics (Skocpol, 1985), they must fulfill minority language rights. As for Taiwan, it should establish institutional arrangements to increase minority language rights to accomplish the ICCPR.

**Figure 1**

*Theoretical and Conceptual Frameworks*



Based on the theory of minority human rights, the State's obligations, and new institutionalism, this paper explores Taiwan's national language policy by using concepts of the State's institutional arrangements, human rights, and protection of minority languages (see Figure 1). Furthermore, this paper focuses on Taiwan's minority languages, which are Hakka language, indigenous languages, and Matsu language, in exploring Taiwan's national language policy.

### **Taiwan's National Language Policy**

Taiwan is widely known for its rich cultural and linguistic diversity. Authoritarian rule between 1946 and the 1980s witnessed the implementation of a monolingual policy in which Mandarin was

spoken and taught in schools, and offenders were punished (Sandel, 2003). Several generations lost the use of their native tongues, whether majority language (Southern Min) or minority languages (Hakka, Indigenous, Matsu).<sup>11</sup> The negative impact of the monolingual policy led some native languages or dialects towards the threat of extinction. Taiwan's democratisation process was accompanied by localisation or "Taiwanisation" (Dupre, 2017). With the end of martial law on 15 July 1987, there was a call for the abolition of the monolingual policy and the implementation of a new multi-language policy. For instance, the Hakka people launched a demonstration on 28 December 1988 to express their concern about losing their native language and to demand language equality (Hakka Affairs Council, 2021; Hakka Affairs Council, 2022a).<sup>12</sup>

### **National Language Legislation**

Taiwan's 2000 Presidential election was the first national election, and it was tightly contested (Copper, 2000). To gain electoral support, most candidates proposed policies to promote the Hakka policy and native language policy. One month after polling day, on the eve of transferring ruling power, the KMT government passed the "Act of Broadcasting Language Equality Protection in Public Transport" to ensure that all public transportation broadcasts be in Mandarin, Southern-Min, Hakka, Matsu, and the indigenous languages in the hope of improving equality among local ethnic groups as well as encouraging people to use public transport. Almost two decades later, the DPP government introduced three additional legislations to achieve linguistic diversity in Taiwanese society. The national language policy was implemented after the three laws were passed. As indigenous languages and the Hakka dialect are protected by different Acts, the Development of National Languages Act helps to build a legal foundation to comprehensively manage the development of national languages in Taiwan, including Sign Language and all local languages in Taiwan.

National languages may differ from official languages. In Taiwan, an official language has not yet been designated by law, with Mandarin being the "de facto" official language. The Indigenous Languages Development Act and the Hakka Basic Act have laid the foundation to elevate the Hakka language and the many aboriginal languages into Taiwan's national languages. Other ethnic languages have become Taiwan's national languages, as the Development of National Languages Act has covered them. Article 3 of the Development of National Languages Act defines a "national language" as a language used by any group in Taiwan, and Taiwan Sign Language is one of them.<sup>13</sup>

Furthermore, the relationship between the Development of National Languages Act, the Indigenous Languages Development Act, and the Hakka Basic Act must follow Article 1 (2) of the Development of National Languages Act, which states that except where the provisions of other relevant laws and regulations shall apply, this act shall govern matters concerning national languages in Taiwan.



**Table 1***Language Legislation in Taiwan*

Year	Enactment	Key features
2000	Broadcasting Language Equality Protection in Public Transport Act	<ol style="list-style-type: none"> <li>1. To maintain substantive equality among various domestic ethnic groups</li> <li>2. To protect the language usage of Mandarin, Southern-Min, Hakka, Indigenous, and Matsu.</li> </ol>
2017	Indigenous Languages Development Act	<ol style="list-style-type: none"> <li>1. Indigenous languages are national languages.</li> <li>2. To carry out historical justice, promote the preservation and development of indigenous languages, and secure indigenous language usage and heritage.</li> </ol>
2018	Hakka Basic Act	<ol style="list-style-type: none"> <li>1. The Hakka language is one of the national languages, equal to the languages of other ethnic groups.</li> <li>2. The Hakka language is the regional language in traditional Hakka townships.</li> </ol>
2019	Development of National Languages Act	<ol style="list-style-type: none"> <li>1. All national languages shall be equal; nationals using a national language shall not be discriminated against or face restrictions.</li> <li>2. For national languages that are endangered, the government shall prioritise their transmission, revitalisation, and development.</li> </ol>

**Minorities in Taiwan**

Taiwan is not a member of the United Nations and cannot ratify the ICCPR and the ICESCR. To implement the ICCPR and the ICESCR, Taiwan introduced in 2009 the “Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights” to strengthen Taiwan’s human rights protection system. This development is a milestone as Taiwan seeks to follow the ICCPR and the ICESCR by using the status of domestic legislation and instituting mechanisms to implement them. However, Taiwan’s attempt to deposit the instruments of ratification with the United Nations was rejected (Chen, 2019). Article 6 of the Act to Implement the Two Covenants requires that the government to set up a human rights report system by the two Covenants. To fulfill the requirement above and establish an international human rights dialogue platform, Taiwan released in 2020 its third national report on implementing the two international human rights covenants (Executive Yuan, 2022a). Taiwan’s third national report on the ICCPR and ICESCR classifies minorities into “minority ethnic groups” and “language minority groups,” which follow Article 27 of ICCPR (Ministry of Justice of Taiwan, 2020).



**Table 2***Minority Languages at Risk in Taiwan*

Classification		Language
Minority ethnic groups	16 indigenous peoples	42 dialects <sup>14</sup>
	Hakka people	5 dialects <sup>15</sup>
Language minority groups	Matsu Islands residents	Matsu dialect <sup>16</sup>

The government identifies that the Indigenous languages, Hakka language, and the Matsu dialect risk disappearance (Executive Yuan, 2022b). Besides language legislation, the government held the first National Languages Development Convention in 2021, established a board to promote national languages in 2022, and raised the National Languages Development Plan to comprehensively develop national languages in 2022 (Executive Yuan, 2022b).

In addition, the government recognises that the Southern-Min language also faces a risk of disappearance (Executive Yuan, 2022b), and the Southern-Min language is adopted in the National Languages Development Plan; however, the Southern-Min people are the majority in Taiwan.

**Minority Language Rights**

The National Language policy was not aimed to designate any of the ethnic languages as official languages. Instead, it was designed to protect the language rights of all ethnic groups so that everyone has the right to education, communication, and public services in their own mother tongues; and to ensure that all citizens can use their native languages with pride (Ministry of Culture of Taiwan, 2018). Taiwan's national language policy helps to promote the language rights of ethnic minority groups in the following three areas: (1) the right to substantive equality, (2) the right to receive education in the national languages in school, and (3) the right to ask for public services in one's mother tongue.

Firstly, all national languages shall be equal, and nationals using a national language shall not be discriminated against or face restrictions, according to Article 4 of the Development of National Languages Act and Article 3 (1) of the Hakka Basic Act.<sup>17</sup> The national language policy focuses on the Hakka, indigenous, and Matsu languages to improve substantive equality. The government shall prioritise the transmission, revitalisation, and development of some national languages that are critically endangered through conservative measures in compliance with Article 7 of the Development of National Languages Act. In contrast, given that most of the Taiwanese population use Mandarin, it is not on the list of national languages that are at risk of extinction. Mandarin is ruled out from the national Languages Development Plan.

Secondly, the government shall take suitable action to ensure opportunities for preschool children to learn their native languages and to design curricula for students to learn national languages at all stages of compulsory education (Article 9 of the Development of National Languages Act). In addition, teachers shall be able to use any national language in the classroom. The government shall study the current situation and will guide preschools, elementary schools, and high schools to use national languages in educational settings (Article 9 of the Development of National Languages Act and Article 12 of the Hakka Basic Act). The abovementioned legislation is the legal foundation for parents and students to choose a language of instruction in the class through resources provided by central or local government authorities (Ministry of Culture of Taiwan, 2018).

Thirdly, under Article 11 (1) of the Development of National Languages Act, nationals may select any national language to use when involved in government agencies' administrative, legislative, and judicial procedures. Where necessary, central and local governments shall provide translation services in any national language and prepare interpreters in national languages (Article 11 (2) of the Development of National Languages Act). Governments, meanwhile, shall provide national language broadcasts and translation/interpreting services in public areas when implementing measures that create national-language-friendly environments (Article 14 of the Hakka Basic Act). Besides the “personality principle” of language rights abovementioned, Taiwan language legislations also employ the “territoriality principle” to systematise and institutionalise regional language, or the “lingua franca,” for protecting the language rights of ethnic minorities who mainly dwell in particular areas. Taiwan set up 70 Hakka and 55 Indigenous regional language areas.

### **Language Rights and Ethnic Identity**

In addition to the national language policy, Taiwan has also launched the “bilingual 2030 policy”, which aims to improve the Taiwanese people’s English language skills and, as such, increase Taiwan’s international economic competitiveness.<sup>18</sup> Unfortunately, the bilingual policy and national language policy seem to be in conflict with one other.

Some national language supporters, such as the Taiwan Languages and Literature Society (TLLS), argued that Mandarin and English bilingualism would damage the revival of national languages, thereby jeopardising Taiwan’s linguistic heritage (Jason, 2022). On International Mother Language Day of 2022 (February 21), the TLLS launched a petition against the bilingual language policy and collected 1,700 signatures, including 400 college teachers and 400 primary /secondary school teachers (Everington, 2022). The petition of the TLLS indicates that in Taiwan language functions include communication, economics, emotion, social symbol, culture, art, cognition, and collective identity (imagined community), thus improving social cohesion and community building (TLLS, 2022). Chiang Min-hua, chairperson of the TLLS, is also a linguistics research fellow at

Academia Sinica, emphasised that the 2030 bilingual language plan would erode Taiwan's identity as a sovereign state and sever people's homeland roots (Jason, 2022).

In response to suggestions given by civic groups and scholars, the Executive Yuan, the highest administrative organ in Taiwan, approved the National Languages Development Plan, which was jointly presented by the Hakka Affairs Council, Council of Indigenous Peoples, Ministry of Culture, and Ministry of Education at a cabinet meeting on 12 May 2022. A sum of NT\$ 30 billion was allocated over five years for language promotion and revitalisation (Hakka Affairs Council, 2022b).<sup>19</sup> The above plan introduces seven significant strategies, which are to upgrade the preservation of linguistic materials, to standardise writing systems, to offer language certification, to broaden the quantity and scope of promotional activities, to create friendly environments, to increase educational resources, and to build supplementary resources (Executive Yuan, 2022b).

In short, when ethnic minorities are granted language rights, they do not merely have fundamental human rights but will proudly use their mother tongue. When the linguistic prestige of a minority language is raised, the members of an ethnic minority can communicate with governments or other ethnic groups freely. That is to say, the national language policy forms the central pillar of communication and identity for ethnic minorities.

### **Language Rights and Ombudsman**

Accountability refers to the oversight on public sector officials fulfilling their responsibilities as well as the checks and balances on the exercise of political power (Ocampo and Arteaga, 2014). Accountability plays a critical role in developing good governance and is an important feature in improving public confidence in government performance (Khotami, 2017). The forms of accountability include vertical accountability, horizontal accountability, and social accountability (Ocampo and Arteaga, 2014).

Horizontal accountability focuses on the checks and balances within the public sector, which also involves various state institutions engaging in mutual scrutiny to prevent abuses of office, such as judicial institutions, public audits, parliamentary committees, and ombudsman (Holland and Thirkell, 2009; UNODC, n.d.).

### **The Paris Principles and Minority Language Rights**

In a sense, minority issues are difficult to be included on the government's agenda, and the State's institutional arrangement often fails to protect minority language rights. Hence the governance of human rights needs to have an independent judiciary, law enforcement agencies, influential legislative bodies, and education systems; and among these, national human rights institutions (NHRIs) occupy a unique position (OHCHR, 2010). UN Human Rights Resolution

2005/74 indicates that NHRIs play an essential role in “combating racial and related forms of discrimination and in the protection and promotion of the human rights of the rights” of notable disadvantaged groups (E/CN.4/RES/2005/74, paragraph 13).

NHRIs are state bodies with a constitutional and legislative mandate to independently protect and promote human rights (OHCHR, 2010: 13; FRA, 2012). On 3 March 1992, the UN Commission on Human Rights approved the “national institutions for the promotion and protection of human rights,” also known as the “Paris Principles,” to lay out the minimum standards for the competence and responsibilities of NHRIs (E/CN.4/RES/1992/54).

The Paris Principles require NHRIs to carry out two primary responsibilities: (1) human rights promotion, to create a national culture of human rights where tolerance, equality, and mutual respect thrive; and (2) human rights protection, which helps identify and investigate human rights abuses, bring those responsible for human rights violations to justice and provides a remedy and redress for victims (OHCHR, 2010).

While NHRIs have broad investigation powers (Enright, 2001) and possess quasi-judicial functions (Harlow, 2018), it is widely expected of NHRIs to promote and protect minority language rights actively. In practice, many states have established language ombudsman or language commissioner to protect and promote the language rights of minorities. Examples are the Ontario Ombudsman in Canada and the Welsh Language Commissioner in the United Kingdom.

### **Better Institutional Arrangement: A National Language Ombudsman**

The Taiwan Constitution provides for a five-power system, as recommended by Dr. Sun Yat-sen, the founding father of the Republic of China. Drawn from the Western system of checks and balances among the legislative, executive, and judicial powers, Sun Yat-sen incorporated other powers of investigation and supervision, which date back to ancient China, into the five-power system (Control Yuan, n.d.).

According to Article 7 (1) of the Additional Articles of Taiwan Constitution, the Control Yuan shall be the highest controlling body of the state, and it shall exercise the powers of impeachment, censure, and audit. While seven constitutional amendments have been made since 1991, the five-Yuan (five-power) governmental system has not been modified. Considering that no powers are delegated to other government agencies, the power to censure or impeach public officials in central or local governments for dereliction of duty or violation of law, powers to rectify measures of the Executive Yuan and its affiliate ministries, and the ancillary power to make inquiries as vested by Articles 95 and 96 of the Constitution remain the prerogatives of the Control Yuan (Constitutional Court Interpretation No. 325).

In 2020, Taiwan formulated and promulgated the “Organic Act of the Control Yuan National Human Rights Commission” and established the Control Yuan’s National Human Rights

Commission (NHRC) (Executive Yuan, 2022c) by the Paris Principles. The NHRC can exercise powers to (1) investigate incidents involving torture, human rights violations, or various forms of discrimination; (2) study and review national human rights policies and make recommendations; (3) publish thematic reports on major human rights issues or annual reports on the state of human rights in the nation; (4) assist in promoting the incorporation of necessary international human rights instruments into domestic legislation; (5) monitor the implementation of human rights education; (6) collaborate with domestic and international human rights organisations; and (7) to provide independent opinions for national reports submitted by government agencies by the provisions of international human rights conventions (Article 2 of the Organic Act of the Control Yuan National Human Rights Commission). In short, this Act aims to transform Control Yuan into the NHRIs following the Paris Principles.

Approaches taken by Western countries to protect language human rights include legislating for safeguarding the rights of linguistic minorities and setting up of a language Ombudsman. Establishing an influential institution to monitor language rights contributes to fulfilling the rights of linguistic minorities. Therefore, Taiwan should create the language Ombudsman to reflect the spirit of Article 27 of the ICCPR and the Paris Principles while guaranteeing the national language rights in Taiwan.

Article 7 (2) of the Additional Articles of Taiwan Constitution states that all members of the Control Yuan shall be nominated and appointed by the President with the consent of the Legislative Yuan. Considering that the Control Yuan has already set up the National Human Rights Commission to create better institutional arrangements to fulfill minority language rights, this paper suggests that the President should consider national language experts when nominating a member of the Control Yuan.

## Conclusion

The essential values that lie at the core of the idea of human rights are human dignity and equality (Brander et al., 2020). The aim of developing a national language policy is to enable all Taiwanese to use their respective native languages with confidence and dignity through the government's effort to protect their rights to study and communicate. In addition, the State can adopt affirmative action to promote the rights of linguistic minorities and to improve substantive equality.

Taiwan's national language policy aims to fulfill the ideals of human dignity and equality. This paper has discussed Taiwan minority language rights, particularly the Hakka language, indigenous languages, and Matsu language, and explores ways to boost the rights of linguistic minorities through institutional arrangements. This paper concludes that Taiwan's national language policy upholds minority language rights and serves as a critical pillar of communication and identity of

different ethnic groups. Secondly, an influential institutional arrangement for monitoring language rights helps to protect linguistic minority rights. For this reason, Taiwan should establish a language Ombudsman under the Control Yuan to reflect the spirit of Article 27 of the ICCPR and the Paris Principles, thereby bring into realisation minority language rights.

Finally, as Taiwan has adopted the national language policy and the bilingual 2030 policy which in some ways are in conflict with each other, Taiwan should develop a comprehensive language plan to use its limited resources better and to ensure a balance of these two policies.

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### Notes

- 1 Language planning and policy (LPP) study falls within sociolinguistic studies which is a branch of applied linguistics (Goundar, 2017).
- 2 According to Article 3 of the “Act on Promoting Transitional Justice,” the period of authoritarian rule was from 15 August 1945 to 6 November 1992. In Taiwan, the national language policy might be described as transitional justice.
- 3 While most Mainlanders use Mandarin, support KMT, and prefer to re-unify with China, Southern-Min people speak Hokkien and support DPP while standing for national independence. Hakka people speak Hakka dialects, and Hakka people in northern Taiwan tend to support KMT, whereas Hakka people in southern Taiwan support DPP. However, Hakka’s ethnic identity may surpass political party identity in certain circumstances.
- 4 According to Article 1 of the Indigenous Languages Development Act, this Act aims to carry out historical justice, promote the preservation and development of indigenous languages, and secure indigenous language usage and heritage.
- 5 An ethnic, religious or linguistic minority is defined as “any group of persons which constitutes less than half of the population in the entire territory of a State whose members share common characteristics of culture, religion or language, or a combination of any of these” (A/74/160, paragraph 59) by the report of the “Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.” The report is submitted to the General Assembly by the UN Special Rapporteur on Minority Issues on 15 July 2019.
- 6 According to the Universal Declaration of Linguistic Rights, the inalienable personal language

rights are (1) the right to be recognised as a member of a language community; (2) the right to the use of one's language both in private and in public; (3) the right to the use of one's name; (4) the right to interrelate and associate with other members of one's language community of origin; (5) the right to maintain and develop one's own culture. Additionally, the Universal Declaration of Linguistic Rights introduces that the collective rights of language groups are (1) the right for their language and culture to be taught, (2) the right to access cultural services, (3) the right to an equitable presence of their language and culture in the communications media; (4) the right to receive attention in their language from government bodies and in socioeconomic relations.

- 7 These nine issues are (1) threats to the existence of minority languages and linguistic minorities; (2) recognition of minority languages and linguistic rights; (3) the use of minority languages in public life; (4) minority languages in education; (5) minority languages in the media; (6) minority languages in public administration and judicial fields; (7) minority language use in names, place names and public signs; (8) participation in economic and political life; and (9) the provision of information and services in minority languages (OHCHR, 2017).
- 8 According to Part IV of the International Covenant on Economic, Social and Cultural Rights, the Committee on Economic, Social and Cultural Rights was established under ECOSOC Resolution 1985/17.
- 9 Article 7 of the Taiwan Constitution states that all citizens of the Republic of China, irrespective of sex, religion, race, class, or party affiliation, shall be equal before the law.
- 10 According to Article 7 of the Development of National Languages Act, for national languages that are in critical danger of not being passed on, the government shall prioritise their transmission, revitalisation, and development through the following conservation measures: (1) establishing measures by which to conduct language censuses as well as an information database system; (2) improving educational resources and conducting research and development; (3) improving public services and creating an environment conducive to language use; (4) conducting promotion through broadcast media and other means of communications; (5) other measures that will support the development of the endangered national language. Article 4 of the Development of National Languages Act requires that all national languages be equal; nationals using a national language shall not be discriminated against or face restrictions.
- 11 A similar example is the “Welsh Not” language policy after the 1850s in Wales, United Kingdom. To promote English and stop children from speaking Welsh in school, students caught speaking Welsh had to wear wooden boards around their necks to shame children into abandoning their mother tongue (Evans, 2022). Moreover, in France, Brittany schools displayed stern warnings such as “No spitting on the ground or speaking Breton” to promote French in the 1950s (Radio France Internationale, 2021).
- 12 Initially, the 20th day of the first month of the lunar calendar was designated as the National

Hakka Day by the KMT government in 2010 because this day is known as “Sky Mending Day” (Loa Iok-sin, 2010). In 2022, to demonstrate the importance of revitalising the Hakka language and protecting minority languages, the DPP government reset December 28 as the National Hakka Day because it is the day that the Hakka Language Restoration Movement was launched three decades ago (Hakka Affairs Council, 2022a).

- 13 As stipulated by Article 3 of the Development of National Languages Act, a wide variety of languages and dialects, such as Mandarin, Southern Min, Hakka, Matsu, indigenous languages, and Taiwan Sign Language, are considered national languages in Taiwan.
- 14 Among 42 dialects, Saisiyat is listed as severely endangered on the United Nations Educational, Scientific and Cultural Organization (UNESCO) Atlas of Endangered Languages; at the same time, Kanakanavu, Kavalan, Hla'alua, and Thao are designated as critically endangered (Library of Congress, 2017).
- 15 The Hakka language refers to the Hakka dialects spoken in Taiwan, including Sixian, Hailu, Daipu, Raoping, Zhoan, and various Hakka idiomatic or modern expressions which are independently preserved in different areas (Article 2 of Hakka Basic Act).
- 16 The Matsu dialect is a subdialect of the Fuzhouhua. Article 6 of the Act of Broadcasting Language Equality Protection in Public Transport uses the term “Northern Fujian (Fuzhou) Dialect.”
- 17 Article 3 (1) of the Hakka Basic Act stipulates that the Hakka language is one of the national languages, equal to the languages of other ethnic groups.
- 18 Taiwan bilingual 2030 policy, which aims to turn Taiwan into a Mandarin-English bilingual nation by 2030 by “helping Taiwan’s workforce connect with the world” and “attracting international enterprises to Taiwan, enabling Taiwanese industries to connect to global markets and create high-quality jobs” (NDC, 2021).
- 19 Around NT\$3.4 billion will be allocated this year to develop national languages, and an annual budget of NT\$7 billion will be given for the next four years (CAN, 2022).