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# The Protection of Linguistic Minorities in Universities

The case of Yunnan, China

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## Abstract

People's Republic of China is far from becoming a human rights regime that effectively protects linguistic minorities. This study analyzes the question of protection of linguistic minorities in universities from two angles: legal approach and sociolinguistic approach. Three questions were raised throughout this study: *to what extent are linguistic rights protected by law?* In addition, *who has the obligation to protect linguistic minorities and to what extent are social attitudes important in protection of those minorities?* Lastly, *what are the possible recommendations to further improve the situation of linguistic minorities in university sphere of education in non-autonomous regions in the PRC?* This study is based on qualitative and quantitative approach and it consists of surveys distributed to students in Yunnan with multiple choice questions and open-ended questions. It also takes into account semi-structured interviews with experts on linguistic rights in China, as well as literature sources. Findings show that the attitudes of students are positive towards the importance of language. They also show that there is a clear lack of implementation of laws by the PRC and this may be caused by ethnic groups not pressuring the government to take care of linguistic minorities. Four stages of compliance with linguistic rights have been identified: *government concessions* (legislations created by the CCP), *self-awareness of minority groups* to the importance of language, *pressure by the academia* on the government, and *pressure by the associations and domestic human rights actors*. This study shows that the society is aware of the importance of language but due to the PRC censorship laws there is a lack of pressure on the government from the society. The results aim to show that the obligation to protect linguistic minorities lies within the government and the ethnic group in question together. While there are interesting studies on autonomous linguistic laws of the PRC, there is still a lack of focus on linguistic rights of minorities living outside of autonomous regions. This study calls on Human Rights scholars and educators to consider this forgotten issue and to shift focus from dealing strictly with autonomous regions to dealing with individuals belonging to an ethnic group but not living under autonomy laws. This needs to be done in order to shift from the territoriality approach of linguistic rights in China to more individualistic approach.

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# 1 Introduction

## 1.1 Research Framework

Human rights is a widely spread phenomenon and in some ways it has reached the People's Republic of China (PRC). (Risse, et. al, 2013:164-181) However, only not so long ago the international focus shifted towards a specific area of human rights: minority rights. There are mixed opinions on Chinese policies towards minority rights, those are mainly expressed by the western countries. (Sautman, 1999) China on the other hand in their Universal Periodic Review (UPR) to the United Nations says that their minority policies are perfect the way they are. (UPR-China, Human Rights Council, 2008: 17-18, par.73-76) There have been occasions such as the oppression of Tibetans in Tibet by the PRC officials, however a lot of other minority rights are respected in China. The PRC is in a transitional stage from an authoritarian regime to human rights regime where more and more minority rights are being recognized, however the current regime still considers minority rights based on territoriality. One of the biggest challenges that the minority group in PRC is facing is linguistic rights. While it is true that China has laws within its constitution and autonomy laws, the question still remains: what about minorities living in non-autonomous regions of the country? How can this issue be solved? Is it strictly a legal issue? What can be done in order to improve the situation?

I have decided to write about the protection of linguistic minorities in universities in Yunnan due to the questions raised in the previous paragraph. I consider language to be the most important part of culture as this is the way we communicate with each other within the group and we are able to pass on the knowledge of our own culture, thus creating the sense of identity. The drafters of *the Beijing-Oslo Recommendations on the Protection of the Rights of Linguistic Minorities* stated that "...languages are important element of, and expression of, the wealth and diversity of cultures." (Beijing-Oslo Recommendations,

2008:15-24) The right to learn and use a language is a vital "...component of individual dignity and freedom." (Beijing-Oslo Recommendations, 2008:15-24) The issue that I came across was regarding who has the obligation to protect linguistic minorities. In fact I believe it is both, the government and the society that needs to put language as a priority to protect. There may be certain difficulties that the government as well as the society may face, but as you will find out in this paper I provided for certain solutions that could be valuable to both of the sides.

My interest in the topic of minority rights comes from *Human Rights and Diversity* course I have taken during my Master's programme in Theory and Practice of Human Rights. The *Norwegian Centre of Human Rights* offered the course as a part of my study. My interest in right to education and linguistic rights comes from my three year experience working for *Rays of Hope* which is a community based organization dealing with the right to education in Asembo region in Kenya.

In this paper I will observe, study and research domestic law of the PRC as well as international law dealing with protection of linguistic minorities. I will also look at the attitudes of minority groups as well as the Han group towards the importance of education in minority languages. This research will present the reader with the answer to the question if the issue at hand can be seen as a strictly legal issue or not. This is why I will take the social attitudes into consideration while analysing this research. The study conducted in this thesis is three-fold:

- 1) *Legislative approaches of the PRC towards the issue* such as legal documents that protect the linguistic minorities. I will also deal with International Law that China is obliged to respect (through their signature or ratification of the treaty);
- 2) *Societal attitude towards the importance of minority language*, for instance the correlation of ethnic groups and importance of language. Or, the correlation of students who speak their local language and their decision to go back to their home region; and,



3) *Opinions of scholars on the issue*, mainly regarding recommendations on what can be done in order to protect and preserve minority languages.

First we need to discuss the linguistic and cultural diversity of China where there are 56 different *ethnic groups* living within the territory of the PRC.<sup>1</sup> Within those ethnic groups there are over 120 different languages spoken. (Lundberg, 2009:404) Maria Lundberg asks a very important question regarding the vast amounts of legislations dealing with minority languages. She claims that "...despite the fact that the sheer numbers of legislative enactments at different levels are impressive, questions are risen on their adequacy to ensure the protection of the use of minority languages." (Lundberg, 2009:404) She raises a valid point regarding the implementation of the legislations that are supposed to protect minority languages. This study looks at this from a different angle because despite the *government obligations* towards their people, there might be other factors that need to be taken into account while analyzing the lack of implementation, such as the societal attitude to the importance of language.

Many studies focus on autonomous regions and a lot of information gathered in those studies differs from my own observations, thus will be looked at but not analyzed from the perspective of non-autonomous regions.<sup>2</sup> A lot of the scholars seem to forget that while dealing with minority rights we can not only discuss the autonomous regions of the PRC.<sup>3</sup> While a lot of these studies are very relevant to the issue at hand, I required more insight into minorities living outside of their autonomous areas where the Regional National Autonomy Law (RNAL) is not valid due to the lack of autonomous status of the regions.

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<sup>1</sup> There are 55 different minority groups and Han Chinese.

<sup>2</sup> See for example Lundberg (2009); Chaim (2010); Sautman (1999)

<sup>3</sup> Harrell discusses the problem of the Yi people in Southwest China, however he approaches the issue from a strictly anthropological perspective. For more references see Harrell (2001)

The reason behind which I have decided to take upon the university sphere of education is that this is the stage where adults start making decisions in their life. For example, the research results in the *Analysis Chapter* present that if the students know their minority language they will want to go back to their home region. Thus, I decided to focus on the university education in minority languages in non-autonomous province of Yunnan. While it is true that a lot of the students receive some sort of minority language education in their primary schools or secondary schools, the education in minority language in universities is still lacking. The education in minority language literature is offered at some universities in Yunnan like for example in the Nationalities University of Yunnan Province. (interview with Professor Y, 2013) This in fact is perfect for students who want to work in cultural associations or want to translate books or write those books in minority languages. It is not a perfect solution for other professions such as lawyers or administrative workers. The fact remains that a lot of students actually speak their mother tongue fluently.<sup>4</sup> However, they might speak the language to communicate with each other and they do not professionalize in the minority language within the legal or administrative field. The reason behind this research is that while preservation of minority language exists within the cultural concept, it does not exist within the professional concept. The students who want to go back to their home regions and help in the development of said region will have a harder time dealing with the society that requires their help while not speaking Mandarin<sup>5</sup>. My research goal is to contribute to the current linguistic minority studies of the PRC. It is meant to show that with many ethnic groups living in non-autonomous regions, their linguistic rights are not as protected as one might think based on RNAL or the Constitution itself.

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<sup>4</sup> See fig. 1.3 and 1.4 in *Analysis Chapter*

<sup>5</sup> During my visit to Dehong region in Yunnan province, I noticed that in villages the people speak only their local languages. This is because very often the Dai population does not leave their village. However, when people leave their homes and go outside of their village, they are forced to speak Mandarin due to their minority language being used in small areas in the province. (Shih, 2002:171)

## 1.2 Research Questions

Throughout my research I had two main questions in mind regarding the topic of *protection of linguistic minorities at the university level in Yunnan province*:

- 1) Who has the obligation to protect linguistic minorities? Are there enough legislative enactments and to what extent are they implemented properly?

Understanding the attitudes towards who has the obligation is very important in this research. It can give us a possible connection between the legal approach and the sociolinguistic approach towards the issue. This question is also vital to analyze what the legislations on language say and to what extent are these laws implemented. It will give us a possible introduction to further research on the recommendation to the PRC to protect the linguistic minorities in non-autonomous regions of the country.

- 2) What is the attitude of the students towards the importance of their language? What could be the possible recommendation for the PRC and the minority society to promote and protect linguistic minorities in non-autonomous province of Yunnan?

This question will allow us to draw conclusions based on the attitude of students that responded to the survey presented during my work in Yunnan. The second part of this question will offer possible recommendations for the PRC with regards to the issue. The recommendations come from interviews with scholars as well as my own observations on what could be done.

In answering these two questions, I hope to make a clear connection between the legal approach towards linguistic rights and the sociolinguistic approach towards linguistic minorities. There are many different definitions of what *sociolinguistics* is. I decided to look at it from the area of study that *sociolinguistics* contain. In his book Gerrard Van Herk said that sociolinguistics can be a "...a study [of a] relationship in a particular community between language use... and ethnicity..." (Herk, 2012) The approach towards sociolinguistics that I took was the one of John L. Fisher who took the approach of

applying statistical data to a linguistic study.<sup>6</sup> By the end of this study I hope the reader will understand that the protection of linguistic minorities has to be an obligation of the government and the society.

### 1.3 Hypothesis

In order to seek the answer to these two extended research questions I came up with two different hypotheses that I kept in mind while analyzing the observations and research from the legal and sociolinguistic angles.

- 1) *Hypothesis (H<sub>1</sub>)*: There is a strong connection between the attitudes of the people and the law implementation on protection of linguistic minorities. The law of the PRC and Yunnan provincial laws focus on linguistic protection in primary schools and secondary schools but only a handful of the legislations focus on protection of linguistic minorities in universities. The obligation to protect linguistic minorities lies within the government's implementation of linguistic rights as well as within the society as a whole. It means that the societal attitude influences the government actions and therefore both are needed when discussing the legal implementations. As mentioned before, the laws are one thing but implementation in the PRC is lacking and it could be caused by the lack of societal *wants* for linguistic rights.
- 2) *H<sub>2</sub>*: The society considers language to be a very important part of culture, but they require the government to act. This causes the insufficient implementation of linguistic laws. The society as a whole understands the importance of language however they lack the motivation or permission to act and push for better implementation. The lack of implementation of laws for education in minority languages in universities may cause the students to focus more on Han Chinese, and eventually not use their minority language. They would then move to regions where Han-Chinese is dominant. Those coming from minority areas where their minority language is used, might consider not going back to their homes because of the reasons mentioned above, thus causing the decline in population in those minority areas.

*H<sub>2</sub>* considers very important long-term effect on the decline in population and the decrease in development in minority regions. It is important to consider that the attitude towards protection of linguistic minorities may influence the PRC actions towards implementation

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<sup>6</sup> See Fisher (1958)

of laws<sup>7</sup>. These actions may come from the pressure by associations dealing with culture preservation that are in fact influenced by the attitude of a community towards the importance of their language. The society as a whole has the obligation towards their own culture and through this obligation they are the ones that need to push for preservation of their culture of origin starting at home, and then ending by putting pressure on the government. Even though a lot of students might consider language to be very vital and important for culture, they might not want to go back to their home regions due to the lack of career opportunities.

#### 1.4 Definitions

There are certain concepts that need to be defined before proceeding to the thesis topic. This is important in order for the reader to understand the definitions that I have been using throughout the thesis. Terms such as *ethnic identity* and *language rights* with regards to culture need to be defined, as definitions of these terms may differ from scholar to scholar.

Before defining these two terms there is a third term that requires a definition: *minority*. I decided to use the definition coming from Francesco Capotorti in his *Study on the rights of persons belonging to ethnic, religious and linguistic minorities* where he defined minorities as:

A group which is numerically inferior to the rest of the population of a State and in a non-dominant position, whose members, *being nationals of the state*, possess ethnic, religious or linguistic characteristics which differ

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<sup>7</sup> Often the approach of “we should wait and see and the government will do all the work” is taken. If the people do not want to preserve and protect their language because they do not think it is important then the government might focus their attention on other political and social spheres in the country.

from those of the rest of the population who, if only implicitly, maintain a sense of solidarity, directed towards preserving their culture, traditions, religion and language. (Capotorti, 1991)

For the sake of the study this is the definition I decided to use as it deals directly with culture and language of a group of people that are smaller in numbers than the dominant group (Han Chinese in China).

*Ethnic Identity* can be defined in many ways, however I took the approach to define it through belongingness to a group of people. In her *Justice and Politics of Difference* Young has said that:

... Objective attributes are a necessary condition for classifying oneself or others as a member of a certain social group, it is the identification of certain persons with a social status, a common history that social status produces, and a self-identification that defines the group as a group (Young, 1990:225)

Here, we can distinguish the why *identity* is needed. If we consider this definition of grouping people then *ethnic identity* would be defined as a group of certain people who share the same tradition, culture, religion or language. These individuals would be grouped together and affiliated with that said group based on "...racial, natal, symbolic, and cultural factors." (Cheung, 1993) On the other hand *ethnic identity* can be seen from the subjective characteristics presented by Capotorti's definition of *minorities*. According to him a "...a minority group should maintain a sense of solidarity, directed towards preserving their culture, traditions, religion or language." (Khan et. al, 2009:7)

The last term to define is a concept of language being closely connected to culture and thus to *ethnic identity*. It is the most important term in this thesis as it defines the results and observations done in this research. Joseph Gromacki defined language in said relation as:

Language is intrinsically linked to the development of both an individual human consciousness and a sense of group or cultural identity. (Gromacki, 1991)

Gromacki then goes even further into showing the importance of language for culture and general idea of human rights:

...the protection of linguistic rights becomes essential to the protection of human dignity. (Gromacki 1991)

It is a very important observation as it puts language as one of the most important factors within culture and human dignity. I decided to use this definition on the connection of language and culture as the main focus of this thesis is on protection of linguistic minorities.

## **1.5 Structure of the thesis**

After the presentation of the research framework, hypothesis and research questions I will go into presenting a brief history of linguistic rights and protection of linguistic minorities in China. After presenting the background history it is important to present the methodology used in this study and issues that I have faced during my research in and outside of China. I will then go on to addressing the legal approach to linguistic rights in China as well as the international legal obligations of PRC towards linguistic minority rights. In this chapter I will aim at analysis of those provisions and to what extent do they protect linguistic minorities. Following will be the *Analysis Chapter* that deals with the results gathered through my quantitative and qualitative research on the topic. Here I will analyze the attitudes of the group of people that took part in the surveys towards the

importance of language. In the same chapter I will go onto analysis of the semi-structured interviews conducted by me with certain scholars that deal with linguistic rights. At the end of this chapter I decided to include recommendations to provide some kind of solution to the issue at hand. Following will be the conclusion and final remarks on further study of this issue.



## **2 History of Chinese government's policies towards cultures of ethnic minorities**

### **2.1 The Imperial era**

We can trace back the “pattern of official attitudes toward minority ethnic groups in China over the years, beginning with the dynasties around 1000BC...” (Bruhn 2008:1) The official attitudes started with the Zhou dynasty that ruled those lands from 1000BC until 256BC. During these times the ethnic groups were seen as uncivilized and barbaric where the Han considered themselves as more civilized<sup>8</sup>. We cannot however think of the Han population as the terrible ones just because of the prejudice they had. We have to consider that if another group were a dominant group in those lands, we would see a similar behavior. (Zhou 2003)

The next important phase of these eras was when the Jin and six other dynasties ruled between the years of 256BC and 589AD. During these times the dynasties have experienced many invasions by non-Han groups in the north. Due to these invasions, the Han people have migrated “to the south and southeast, hastening the assimilation of minorities in those areas.” Even though the non-Han groups controlled the Han territories, they still adopted the Han language in order to “maintain order among their [Han] subjects.” The migration and the control over Han subjects have caused the culture and the Han language to spread from north to south.

The next stage that is important to look at is the time during the rule of the Tang dynasty, which lasted from 618 until 907 AD. During this time the dynasty's control expanded to the West into areas which we know today as Tibet and Xinjiang. Tang dynasty has granted

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<sup>8</sup> The Han Chinese conquered other lands in today's China, therefore showing themselves as a stronger force than any other groups. This caused the forced culture onto the people conquered. We can notice similar techniques that were used by the Roman Empire when they considered the conquered tribes as barbarians that have 'backward' culture.

a limited autonomy to rulers of these areas. Minglang Zhou claims that this “tolerant policy” created a bigger opportunity for the “spread of the Han language.” (Zhou 2003) The explanation that Zhou provides for this effect is that “upper class minorities sought to participate in the ‘golden age’ of the Tang period...” By learning the Han language they could obtain profitable and important positions in different civil service institutions. (Zhou 2003)

After the Tang dynasty there was a separation in China between the Han-ruled south, the Khitan-ruled north, and the Tangut-ruled west. The Han ruled China between 960 and 1279 practiced two different approaches: forced assimilation to certain minorities, and accommodation approach to other minorities. The forced assimilation occurred when for example ethnic groups needed to know the Han language if they wanted to work. This meant that they were forced to learn and become fluent in Han language if they wanted to provide for their family.

The two most interesting dynasties that focused on the linguistic minorities were the Ming and the Qing dynasties. The Ming dynasty ruled from 1368 until 1644 and it practiced the approach of accommodation to the Tibetan, Turkic, Mongolian and Jurchen people in the north, though still replaced the local leaders in the south and built many Confucian schools thus assimilating the southern minority groups. The Qing dynasty carried out the Confucian school spread to the whole country, including the north. Minorities were considered as barbarians so therefore the dynasty rulers decided to carry out the so called “Confucian civilizing project”. (Harrell, 1994:pp 17-18 and p.101) Here Harrell discusses the goals of this project by saying that all the ethnic groups and all the people could be “civilized by absorption of Chinese moral principles. Thus one of the easiest ways to spread those principles was through education. Qi an discusses this practice by the Qing dynasty further by saying that “In the case of southwest [regions]...minority groups were expected to be brought into the mainstream of universal Qing culture through the Confucian education.” (Qi an, 2009:32) In other words the goal of the first half of the Qing rule was to “homogenize process of civilization.” (Qi an, 2009:32)

The turning point in the Qing dynasty occurred when emperor Qianlong decided to go back to accommodationist approach towards minority groups by closing down the Confucian schools in non-Han territories in 1751. (Qi an, 2009:33) The reasoning behind the emperor's decision was that the minority groups will not fully appreciate the Confucian moral principles if they are forced on them. Instead, if minority groups improve their skills in reading, they can be influenced by literature. Qianlong did not want to give all the control to the minorities, in reality he tried to stop outside writings that influenced the population against the dynasty. By doing so, in a way he spread the Qing propaganda to ethnic groups.

## **2.2 Republican Era**

After the abolishment of the Qing dynasty the nationalist party of Quomintang (KMT) took over the power in the country. After realizing that the biggest threat to the Chinese nation may come from the border minorities that can be influenced by other nations, the KMT decided to implement the policy of "border education." (Casas, 2011:12) This meant that each "...medium-sized village had to...send at least one boy to... [a] Chinese school" (Casas, 2011:12) This policy came out of fear of the border regions "...being used as a base for imperialist intrigue, warlord militarism and most importantly Communist infiltration"<sup>9</sup> (Leibold, 2003:2) This meant that the spread of the KMT ideology would be guaranteed at the border areas through influence of schools on the population. This means that the language policy would be that Han Chinese would be the instruction language in those schools, thus eliminating the possibility for the chosen boys to learn their minority languages. These policies concerning ethnic minorities caused a lot of unrest in certain regions. The KMT was led by Chiang Kai-shek who dealt with the unrest by using military

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<sup>9</sup> We need to remember that the CCP was established in 1919 but already in 1921, they were a growing threat for the KMT.

force. Leibold claims that the KMT wanted to loosen up the policies towards minorities, however they were aware that the "...stability and peace along the 'frontier' were crucial for the maintenance of Central Government authority." (Leibold, 2003:16) They believed that this can be achieved by the spread Chinese mandarin.

### **2.3 Communist China**

China Communist Party (CCP) started to create policies for minority groups in 1922 after realizing that the KMT government was failing by considering the minorities under one nation. (Betz, 2008 thesis, pp.17) The CCP, in order to gain support in their fight for power in the country, decided to respect different minorities and offered them recognition as well as the right to self-determination. It was a very strategic move by the CCP due to the fact that the opposition, mainly the nationalist party was practicing forced assimilation policies towards minorities. Following the CCP was a better choice because the minority groups were promised preservation of their culture and their independent status. The years that followed helped the CCP progress in their fight for power in China. In the following years the CCP changed the meaning of "self-determination" from "independence" to "autonomy". In 1936 China was faced with a big problem when Japanese forces tried to split regions away from China where the Mongolian and Hui minorities lived. In order to prevent the Japanese forces from succeeding the CCP decided to promote the autonomous status for minorities and the idea of self-determination by giving the regions the power to govern their internal affairs themselves and "...maintain a degree of political, economic and cultural self-determination under Beijing's supervision." (Betz, 2008 thesis, pp.17) In other words they practiced the idea of *internal* self-determination.<sup>10</sup> This status meant that minority groups would have autonomous rights but would act under one state to fight off the Japanese invasion. During this stage of establishment of accommodation policies

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<sup>10</sup> Allan Rosas distinguishes two types of self-determination: *internal* and *external*. He defines *external* self-determination as "...[a right that invokes] perception of independence and non-interference." (Rosas, 2001:111) The *internal* self-determination means what the CCP claimed to practice by giving the minority groups the right to govern their own internal affairs but still act under the authority of the CCP rule.

towards minorities the CCP had to be careful with the term of self-determination because if self-determination was promised, the Japanese forces would have an easier time to direct those minority groups to fight for independence from the Chinese state.

With the end of the anti-Japanese war, the CCP held up to their promises and created the first autonomous government in western Inner Mongolia. This resulted in the creation of the first autonomous province in 1947. This meant that the cultural affairs would be managed by the majority group in that region, for example allowing the schools to instruct in minority language as well as Mandarin.

When the communist party took control in China and formed the People's Republic of China (PRC) in 1949, the goals were to create a harmonious communist society. The linguistic minority policy in communist China can be divided into three different stages: "the first pluralistic stage (1949-1957), the Chinese monopolistic stage (1958-1977), and the second pluralistic stage (1978-present)." (Zhou 2003).

### 2.3.1 First Pluralistic Stage

During the first stage the PRC took the accommodation approach towards minorities "in order to encourage their active participation in socialist development." (Bruhn 2008:5) The PRC constitution provided for pluralism stating that minority groups are allowed to "maintain their languages, develop writing systems, and utilize their languages in courts." (Zhou 2003) The accommodation approach allowed for the establishment of schools that focus on minority languages.

When the People's Republic of China was created, the CCP took a very accommodationist approach towards minorities, considering the need for their support at the beginning stage of their ruling. Of course, it was a strategic move because a young state such as PRC in order to stay whole needed to convince every group living on their lands that they will be equally treated and protected if they stay within the borders of the state. Minglang Zhou in

his book stated that “...in the early 1950s, the CCP leaders showed considerable earnestness concerning its minorities policy, stressing...that developments in minority communities should be allowed to take their own course...” (Zhou, 2003:45) This was followed by admitting that the Han Chinese have hurt a lot of the minorities in the past. The CCP leadership also warned the Han Chinese officials against “Great-Han chauvinism.” This can be noticed by Mao Zedong’s address to the CCP leaders in 1950:

“Social reform in minority communities is a crucial thing and must be handled with great care. We should not get impatient, and if we are we will commit errors...According to the Common Program, customs and traditions in minority communities can be reformed, but the reform must be initiated and carried out by minorities themselves.” (Zhou 2003:45)

We can notice through different communications of the CCP with minority groups that PRC’s policies regarding minority reforms were of a patient nature because they did not want to anger and provoke minorities due to the fact that they were important in conflicts in regions bordering with countries under the Western influence. At the same time the CCP practiced another approach towards “forced” assimilation. It was a different sort of policy because they allowed minority groups to have their own language and culture but they also established Han settlements in minority regions, thus influencing the minority culture to be assimilated with the Han culture.

The CCP has been consistent in their accomodationist approach towards minorities during the first stages of PRC. During the first pluralistic stage the PRC also signed their first constitution.<sup>11</sup>

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<sup>11</sup> We have to remember that the Chinese constitution was more of a document of ideals of the PRC and the “reality” consisting of CCP policies and implementation of their policies is created mainly by the CCP. Thus, the constitution had less power than the policies of the CCP. The CCP also did not respect their promises towards minority groups. Heberer said that “...[the constitution] did not include any mention of minorities or

In conclusion of the discussion of this stage we have to note that minority languages were promoted in education in communities that consisted of the largest minority groups. Throughout the eight years of the first pluralistic stage the PRC government was thinking strategically when it comes to minority policies because they needed to gain the support of the people to gain full control over the lands and spread their socialist ideologies.

### 2.3.2 Monopolistic Stage

The first decade of the CCP rule was considered a success. Kwon in his dissertation analyzed the results of the accommodationist approach and said that “[M]inorities seemed pleased and satisfied with the CCP rule and [were] willing to be a part of the New Chinese nation.” (Kwon, 2011:54) The spread of socialism in minority areas took a long time and the Communist party got very impatient so they “initiated an ambitious plan of economic development through collectivization that came to be known as the ‘Great Leap Forward’.” Thus, introducing forced assimilation policies that lasted until 1976.

During this stage the PRC made big changes with regards to minority language policies. While they still tried to keep the appearance of being fair and just towards minorities and their languages, the CCP came up with a new language policy. This policy can be divided depending on the situation into two forms: multistep or single step. The multistep policy was aimed at a long term change in communities and it was divided into three steps: unification of writing systems for Han Chinese and other languages; loaning Chinese words to other languages; and, “...to realize language convergence<sup>12</sup>...” The second form that the policies could adopt was a short cut single-step policy. The aim of this policy was to

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the special status that had been promised by the CCP, and without a legal foundation there was no way that minority rights could be realized.” (Betz, 2008:27, he rewritten the idea set by Heberer in *China and Its National Minorities* (1989:41).

<sup>12</sup> According to Minglang Zhou ‘convergence’ was a concept that “corresponds to the national convergence proposed by Stalin who considered language as one of the four common features of nationality”

increase the usage of Han Chinese in minority regions. This was a quicker way to integrate minority languages so that every group would speak Chinese instead of their own tongue. These policies worked well for the CCP's goal because in 1960 minority languages disappeared from certain kinds of media. For example, in 1966 the Central Committee of the CCP stated that "...our objective is to struggle against and overthrow those persons in authority who are taking the capitalist road, to criticize and repudiate the reactionary bourgeois academic 'authorities'...[that] exploit classes and ...transform education, literature and art...not in correspondence with the socialist economic base..." (CCP, 1966) There were constant attempts to limit the usage of minority languages in public places. Kwon in his thesis paraphrased Heberer and said that "...[a]long with the Han language becoming the only permissible language across the whole China, minority students dropped out of colleges, and almost all schools and colleges for minorities were disbanded..." (Kwon, 201:69) Through this action, the PRC planned to forcefully assimilate minority cultures with the Han culture as they considered themselves of "higher status". They understood the importance of language for one's identity, and the plan was to destroy minority languages. As Dreyer pointed out there was a "...new high tide of enthusiasm for learning Han...[that aimed at destruction of] linguistic hindrance to learning advanced ways..." (Dreyer, 1776:160-161)

During this plan the PRC established the "Pinyin Romanization system for Mandarin Chinese and pushed for the adoption of similar Romanization methods in all minority language writing systems." At first this approach was designed to create a multi cultural society in China. This however, quickly turned into "total integration approach" where the minority groups started to be collectivized where many groups had to forget many customs that "deemed backward." (Zhou 2003)

The Great Leap Forward started to fail when China has been experiencing famine due to the shortage of grain production between 1959 and 1962. (Spence 1990:583) After the failure of the strategy the CCP changed their approach towards minorities from a rapid integration to more relaxed policies. The PRC labeled the minority languages "as the



expressions of national cultures [that] should be maintained and developed during socialism”, thus abandoning their strict control over them. Mao had to solve a big problem that was the result of the Great Leap Forward and then the Cultural Revolution. Here, he did not want to admit that he was wrong but in exchange in 1973 he admitted that the cultures were deteriorating and there was no local nationalism. After the Cultural Revolution the CCP officials continued to practice “Great-Han chauvinism” in minority regions. Mao Zedong called for a reeducation of the CCP officials in minority regions on the minority policies.<sup>13</sup> This resulted in many minority communities returning to education of and in their own language. After couple of years this step seemed like a dangerous situation for the PRC and in 1975 the party “minimized minorities’ rights”. Certain provisions were deleted as a whole, and certain provisions were changed in a way so that the assimilationist approach was incorporated into PRC’s policies. This in my opinion was another smart strategic move by the PRC because they did not force the assimilationist approach, but instead they took a very patient path in order to reach their goal of integration.

### 2.3.3 Second Pluralistic Stage

After the forced promotion of Han culture and language within the minority groups came the second pluralistic stage that started in 1978 and lasted until 2002. We can notice traces of this stage even today. Seeing that PRC failed during their monopolistic stage they decided to relax their policies and go back to the accomodationist approach towards minorities. The cause of this sort of policy was the growing unrest that went on in minority areas. After Mao ZeDong’s death the CCP meant to return their relations back to normal with ethnic minorities and they denounced the actions of Mao ZeDong’s policies. The approach of the PRC was to accommodate linguistic minorities and to allow the

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<sup>13</sup> Here it is important for us to remember that the PRC constitution of 1954 was still in effect even during the Great Leap Forward

autonomous regions to increase the use of their minority language and promote it in education and other social aspects of every day's life.

The change from assimilationist to accommodationist approach took the PRC a long time. In 1979 the PRC took three measures in order to make the change in their approach. First the CCP reinstated officials that disagreed with the Great Leap Forward and accepted their ideas to become more accommodationist. The second measure taken by the PRC was to increase the work with minority groups that were displaced during the assimilation that they faced during the Cultural Revolution. Chinese government promised equal rights for minority groups as well as increased development for educational needs. The biggest promise that the CCP made was to treat different religions and cultures with respect. The third measure taken to improve relations with minorities was to release intellectuals that were arrested during the Great Leap Forward for speaking against the movement. Zhou also mentions that most of the intellectuals that were arrested were from minority groups.

After the accommodationist approach came back into the CCP's policies, the government decided that it is about time to revise the PRC Constitution. The changes were to bring back all the articles that can help minorities from the original Constitution. The biggest change that occurred though was the requirement for Mandarin Chinese to be promoted

### **3 Methodology**

#### **3.1 Research design**

This study focuses on the social and legal attitude towards the protection of linguistic minorities and possible future recommendations towards solving the issue, therefore I believe that both the qualitative and quantitative approaches are most suitable for this analysis. My research consisted of both, semi-structured interviews with scholars that deal with ethnic rights in China, as well as conducted surveys that asked for the student's attitude towards language protection in Yunnan. Thus, my work consists of interpretations and analysis of surveys conducted, and relevant sources coming from the semi-structured interviews with scholars.

The reason why I decided to approach this issue from both of these approaches is two-fold. One, qualitative data gives me a clearer understanding of the scholar attitude to the problem at hand. It is important to remember that the Chinese legal system as well as the relations between the PRC and ethnic minorities is very complex, thus I decided to reach for the help of local scholars that deal with these issues on daily basis. Semi-constructed interviews were the best choice for the qualitative analysis because these scholars are very influential locally and could give some insight into the topic I was trying to research. I managed to obtain a lot of valuable information from the interviewees that helped not only with my analysis and research but also with the approach I have taken during the first stages of this research. For example, I was presented with information that it is not only a legal problem but also a sociological problem of various minority groups. This is when I decided to research the topic from the quantitative approach as well. The aim of two surveys conducted in three different universities was to see the attitude of different ethnic groups towards the importance of their own mother tongue. The second survey was mainly aimed

at the Han population to see the attitudes of the group towards minority languages.<sup>14</sup> The surveys conducted were structured in a way that I could retrieve quantitative as well as qualitative data. I decided to use multiple choice questions and open questions in order to get a more detailed picture of the attitudes of students towards importance of language. The use of semi-structured interviews provided me with the possibility of in depth discussions with interviewees as well as the possibility to ask follow up questions when such needed to be asked.

This research mainly focuses on regional policies and attitudes towards protection of linguistic minorities in Yunnan province. The study on protection of linguistic minorities in Yunnan is closely related to the work I have done for *China Autonomy Programme (CAP)*. I found Yunnan to be a very interesting region to conduct my research in because of the amount of minority groups in that said province.<sup>15</sup> I decided to look at how they are protected through law, but also their own attitude to the importance of mother tongues.

While explaining my research to one of the scholars that I have interviewed I was told that no one has done this kind of study before. Most of the present research focus on autonomous regions in China and the protection of linguistic minorities in those regions. I, however, decided to look at non-autonomous regions in the country because autonomous laws in PRC seem to focus a lot on protection of language in the region, however I was curious about the non-autonomous regions due to the fact that a lot of students, as well as employees live in big cities in Eastern China that are located in non autonomous regions.

There was no research done on protection of linguistic minorities at the university level in the non-autonomous province (and its counties and towns) of Yunnan, therefore my findings were somewhat original to this field of research. Most of the current research is

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<sup>14</sup> Most of the respondents to the second survey were ethnically Han Chinese. It was important to see the attitude of the majority group in China towards ethnic minorities because often the PRC government takes the attitudes of the majority into consideration while making their policies.

<sup>15</sup> There are 24 ethnic minorities, with 23 of them still having their own spoken language. There are also 19 written languages within 14 of those 24 ethnic minority groups. (Shih, 2002:172)

focused on autonomous regions and very little is said about non autonomous regions in China. Thus, I compared my analysis to a general research that was done on linguistic rights in education in autonomous regions.

I have also taken the approach to analyze the PRC law as well as the provincial laws in China that deal with linguistic minorities. As mentioned before the reason for this was that the problem might come from the lack of clear law as well as interpretation of the law. Therefore I analyzed the provisions within law that deal with linguistic minorities. I believe that the analysis of legal as well as the sociolinguistic approaches together will give a clearer idea of where the problem lies.

### **3.2 Selection and gathering of data**

My research work has been based on three questions: Is mother tongue of minority groups important for culture, who is responsible for protection of linguistic minorities, and how could we better preserve minority languages? These three questions were included in both the interviews and the surveys. I had the possibility to complete a three month internship at *China Autonomy Programme* and I was in Kunming working with the law faculty of Yunnan University. There I had the opportunity to talk to scholars but also I had the possibility to be present in Kunming while conducting the surveys necessary for my research. The open questions in the surveys gave me insight of the attitude of students towards minority languages and linguistic minority protection. Finally, academic writings and book sources dealing with linguistic minorities in China constituted an important source of information for my research. Of course, as mentioned before, there was nothing written specifically on this topic, but there have been books written on the general PRC attitude towards linguistic minorities.

The first stage of selecting and gathering data was done prior to my traveling to China. It consisted of research of current situation of the issue in the region, discussion with certain people in the *China Autonomy Programme* and the introductory search for the background

information of the issue. My proper investigation of the topic started when I began my work for *CAP* in China. I then began to collect information on provincial laws as well as discussing the issue with certain scholars in the first two weeks of my work. The work for *CAP* helped me broaden my understanding of the issue and go into more detailed overview of the research.

The time I spent working at *CAP* gave me more insight to where the problem with protection of linguistic minorities may be. I have talked to couple of students as well as scholars about the importance of mother tongue of an ethnic group. The information that I have received from the students made me approach the issue from a second perspective. Thus, I created two surveys that aimed at looking at attitudes of minority groups to importance of language. I was also in charge of reading groups for the course that *CAP* was leading in Yunnan University. During these reading groups I managed to get a basic overview of people's attitudes towards human rights in general. Some questions were directed specifically to language rights, which helped me to develop the method in which I conducted the research.

Throughout the three months, I met with three scholars in China that deal with either minority language rights, human rights, ethnic rights or with constitutional law. Overall these semi-structured interviews lasted about an hour to two hours each. While it is true that the number of scholars I have interviewed is not great, these specific scholars were chosen to talk to due to their extensive knowledge on each of the topics mentioned above. The reason why I did not want the number of interviewees to be bigger is because due to the discussion being official some of the scholars might have been biased due to the strong PRC propaganda on minority issues or could simply be forbidden to give such interview.

After the discussion with certain students about the issue, I came to a conclusion that the problem may not only come from the legal perspective. Thus, I decided to proceed to the next stage of collection of data, the surveys. There were two surveys conducted: one aimed at minority groups consisted of 27 questions; the second survey aimed at the Han Chinese

and consisted of 19 questions. The questions in both of the surveys were structured so that I could get a multiple choice answers to see the correlation between ethnic groups, ages and their attitudes towards the importance of language, and so that I could receive open-ended questions where students could provide me with their opinion on the issues at hand.

Finally, the last stage of collection of data took place when I returned from China. I managed to analyze the surveys as well as the interviews conducted because I had more time at my disposal. I was able to think about how I would like this research paper to be structured and I began to investigate the issue in more depth through academic writings and through information I have gathered while I was working for *CAP*. Here I began to compare my results from interviews and surveys to the information I already had about the issue. Additionally, I continued my research, finding new problems that were embedded in the issue I was researching. Many of the documents I gathered in China were written in Mandarin, therefore I had to have it translated. With the translations done, I was able to apply them to the results of my findings.

### **3.3 Interpretation and quality of research**

Due to the fact that I have decided to conduct a qualitative as well as quantitative data analysis, there are certain limitations that this sort of research may face generally. It is impossible to discuss every single limitation that could have somehow influenced this study, I will however attempt to discuss certain number of the factors that could have affected the interpretation and the quality of analysis. I will also mention how I as a researcher have tried to take certain measures that could overcome these limitations. The most important challenge I have faced was the need to watch what I write in the surveys or ask the interviewees due to the PRC strict censorship laws. The difference in culture between the interviewees and myself could have an affect on the findings from the research. Chinese culture is very different from my country's culture and also the other cultures I grew up in. Due to the fact that I was a student during my research the professors and scholars I interviewed could have "looked down" at me. This means that there is a big

gap between the students and the professors in China, and the latter sometimes may not be interested in what the students says.

The second biggest problem I had to deal with while conducting my research is connected to the surveys I have conducted. In general, survey research has many limitations, due to the limit of wording in this thesis I will present three main ones that could have influenced my research in some way: the respondents may not feel the need for providing accurate and honest answers, respondents might respond in a different way they think because it would put them in an unfavorable position, the translation of surveys may have been differently understood than what it was aimed to be. The first limitation is fairly simple due to the fact that students might not have felt that providing accurate and honest answers was needed and they just considered it “just another pointless survey”. The second issue is that due to the PRC laws students might feel endangered if they provide for honest answers and make it seem like the government is at fault. The third limitation is the biggest in my opinion, because the surveys I have written were translated into Chinese, thus there exists a possibility of misunderstanding of the questions by the respondents. This may be caused by the translators making certain errors and with my lack of knowledge of Mandarin, it was impossible to check everything fully before the surveys were handed out. With that being said, I feel like I tackled the problems well by having the students fill out the surveys with multiple choice questions and open-ended questions. The reason why this could work to make the target group ‘think’ before answering the questions is that I asked for individual opinion of each of the students.



## 4 Laws and Policies regarding language rights

The focus of this research paper is towards protection of linguistic minorities at universities placed in non-autonomous regions such as Yunnan Province. In order to assess the situation and come to conclusions on where the problem lies we have to assess law. In this chapter, therefore, we will discuss international law concerning linguistic rights, and Chinese law concerning same rights. While discussing international law in this chapter I will focus on the current law, however I will also briefly mention the development of linguistic rights as it is important in order to understand why the current international law is formulated and understood in the way it is.

This chapter will be divided into two parts: one discussing current international law regarding linguistic minorities with a main focus on international treaties that China is a part of; and, Chinese policies regarding linguistic minorities on the national level, provincial level and to what extent is China complying with the treaties that they are a part of.

I hope to present the reader with the legal commitments that the PRC has towards linguistic minorities. This is very important for this research because the analysis and discussion of law can bring us to answer the question *To what extent are linguistic minorities protected in international as well as Chinese law?* Thus, giving us the opportunity to understand one side of the problem that I deal with in this thesis.

## 4.1 International law concerning linguistic minorities

### 4.1.1 Development of linguistic rights in international law

In order to understand the current linguistic rights regime in international law we have to start at the development of this right. Language rights were and still are connected closely with minority rights.

At the end of World War I and the creation of many new states, the international community decided to introduce human rights into the Covenant of the League of Nations (CLON). The covenant itself in its Article 23 said "...[Members of the Covenant] undertake to secure just treatment for native inhabitants of territories under their control..." (League of Nations Covenant, 1919) Here, we can interpret that the mention of 'native inhabitants' was understood as 'minorities'. The reasoning behind this interpretation can be derived from the fact that many new states were formed at that time and this could in fact lead to certain difficulties with the proper treatment of native societies living on the newly formed territories. We need to consider that before the war the term *minority* was discussed in the terms of territory. After the war, the drafters of the CLON considered minority rights as individual rights with some "...special measures designed to enhance the ability of minorities to enjoy group-specific interests, including language, religion and culture..." (Wippman, 1997: 597)

The official mention of 'minorities' came at the Paris Peace Conference in 1919 when the international community decided to not put 'minority rights' into the Covenant of the League of Nations. Instead, the delegations decided to discuss 'language rights' as a separate issue. Here the delegates found that "...language...[is] a manifestation of nationality...[therefore it] was identified as a target for protection." (Gromacki, 1991) We have to keep in mind that it was a very important step for the international community as

new maps and borders were drawn out and countries ended up with many minority groups on their territories. These minority groups had to be protected in order to secure the continued peace and stability. However, the minority rights regime during the existence of LoN "...applied only to some states in Central and Eastern Europe." (Eide, 2007:5) These rights were "...based on minority treaties...on minority commitments...and on unilateral commitments..." (Eide, 2007:5) This means that the idea of minority rights protection was not universal but concerned territories that the treaties focused on.

Before continuing with further events, it is important to distinguish two categories under which minorities should be protected: *positive* and *negative*. The Permanent Court of International Justice was the first organization to introduce these two concepts with regards to linguistic rights in the *Minority Schools in Albania Case*. The *negative* category suggests that the state has to equally treat minority groups and introduce the approach of 'non-discrimination' on basis of language. The *positive* category is a bit more extensive and it means that "...[state has to] grant nationals using a language other than the official one proper facilities for employing their own language before the courts." (Tabory, 1980) The *positive* category also meant that the states need to provide (in regions where a minority language is dominating) for instructions to be given to children in said minority language.

As mentioned above, the Paris Peace Conference delegates decided to give more attention to *native inhabitants*. This came into life through many national treaties and agreements with certain minority groups. There are many treaties, such as *Treaty of St. Germain*, *Treaty of Peace with Poland* or *Treaty of Neuilly*, which discussed the use of language in public educational system. However, the idea of these treaties was not implemented into the League of Nations. The main idea behind these provisions was to provide for primary school education in minority languages where minority groups exist on the territory.<sup>16</sup>

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<sup>16</sup> See for example article 7 and 8 of the Treaty of Peace with Poland.

#### 4.1.2 Current linguistic rights in international law

While the Charter of the League of Nations and other treaties resulting from the Paris Peace Conference were a 'good start' for the international community to protect minority groups, it did not last long due to the outbreak of World War II. After the Second World War the international community decided to create United Nations (UN) that came to be the successor of the League of Nations. It was a turning point for the discussion of minority language rights since human rights were introduced. During the drafting of the United Nations Charter the delegates recognized human rights as an important factor in world peace. The need for human rights to be recognized was great after World War II. Minority rights were a priority but due to the disagreements on ideologies between the "New World" and the "Old World" views. There were certain compromises, thus recognizing human rights as a priority for peace and security of states instead of minority rights. (Nowak, 2005:636) This does not mean however the minority rights were forgotten. They existed in certain provisions. For the sake of the discussion I will focus on the four grounds on which the member states to the future United Nations were prohibited to discriminate upon: race, language, religion and sex. These four grounds were included in Article 1(3) of the UN Charter that stated that the aim of the organization is to

To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion...(U.N. Charter, Art. 1(3))

Joseph Gromacki said that " ...inclusion [of language in this Article] suggests that the drafters of the UN Charter recognized the importance of some form of protection for language and linguistic rights." (Gromacki, 1990) While it is true, I think that this article is

very vague when we discuss language rights because it does not provide for the obligatory protection of these rights. This article *promotes* and *encourages respect* for human rights, however this wording does not provide for the state's duty to protect its people against violations of linguistic or cultural rights. If we consider that the mention of minorities was a big step to development of minority rights, then we would expect such article to be in more detail with regards to who has the duty to protect minority groups. The mention of language occurs in Article 13(1) dealing with the responsibility of the General Assembly to create studies and recommendations in order to "...promote...human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." (U.N. Charter, Art. 13(1))<sup>17</sup> This article in general began human rights as a whole due to the fact that the creation of General Assembly resulted in passing of many international law resolutions. For example the Universal Declaration of Human Rights (UDHR) was created through General Assembly Resolution 217 (III) in 1948 thus beginning the human rights regime in international law.

The emphasis on language in the UDHR is similar to what the U.N. Charter expresses. The approach taken to language was as mentioned by Tabory's definition a *negative* category approach.<sup>18</sup> For example, in Article 26 that deals specifically with the "right to education", the drafters of the declaration did not want to include specific language rights. The reason why they did not want to include language rights was that there was too much disagreement on the ideologies between states. We need to remember that human rights were supposed to be a priority, if they would discuss for example specific rights such as linguistic ones, then this would lead to the discussion of minority rights as a whole and the most important at the moment was to discuss rights of individuals. However, in the paragraph 3 of the Article, the Declaration says "...parents have a prior right to choose the kind of education that

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<sup>17</sup> Other examples mentioning language that we can notice in the U.N. Charter are consisted in article 55(c) and 76(c).

<sup>18</sup> Through Articles 2, 10 and 18 we can see that linguistic rights are hidden within the meaning of the articles. What I mean is that the drafters of the UDHR took a safe approach in order to appease states that did not want to have linguistic rights included in the UDHR.

shall be given to their children.” (UDHR, Art. 26(3)) Here we could consider that since the parents can choose the way they educate their children, they can choose to educate them in a minority language<sup>19</sup>. The UDHR deals with certain minority rights within itself, however language rights were not made as a focus of minority rights. Also, the UDHR did not have a separate article on minority rights. (Eide, 1999:705-23) In this declaration we need to interpret other articles in order to find certain traces of linguistic rights.

The next important human rights treaty to discuss is the International Covenant on Economic, Social and Cultural Rights (ICESCR) that was agreed upon in 1966 and entered into force in 1976. Article 2(2) of the ICESCR is the only Article in the covenant that deals directly with non-discrimination. It is important to note that the ICESCR only mentions language in its General Comment no. 21 on article 15 and in article 2 of the covenant. Article 2 says that that people should not be discriminated upon on bases of language.<sup>20</sup> General Comment no. 21 mentions the use of language with regards to participation in one’s culture.<sup>21</sup>

This subchapter will give most attention to the International Covenant on Civil and Political Rights (ICCPR). While it is true that People’s Republic of China has signed the covenant but not yet ratified it, we need to consider that sooner or later China will ratify it and therefore apply the provisions of ICCPR into its own national law. Even though China did not ratify the ICCPR they are expected to “...take measures between the signature and ratification for realizing the purpose of the ICCPR in accordance with the principle of good faith.” (Lundberg & Zhou, 2009:378)

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<sup>19</sup> In fact, UNESCO Convention on Discrimination in Education recognizes the right of parents to choose the way they educate their children in article 5(1)(b).

<sup>20</sup> The ICESCR Article 2(2) discusses that the rights in the covenant should be provided for people without discrimination based on “...race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” (ICESCR, Art. 2(2))

<sup>21</sup> See for example GC 21 paragraph 15(a).

The ICCPR focuses on language through certain articles: 2(1), 14(3), 24(1), 26 and 27. Article 2(1) focuses on prohibition of discrimination on basis “...of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” (ICCPR, Art. 2(1)) Article 14(3) deals with criminal court proceedings and the right of every person to hear the charges “...in a language which he understands...” (ICCPR, Art. 14(3)) Article 24(1) focuses on the rights of the rights of a child and the protection of a child without discrimination based on “...race, colour, sex, language, religion, national or social origin, property or birth...” (ICCPR, Art. 24(1)) Article 26 deals with equality before the law and the prohibition of discrimination, with regard to this right, based on the general categories on which people can be discriminated against set forth by previous treaties and previous articles.

The drafters of ICCPR took the same approach as drafters of previous treaties to only guarantee equality before the law. It did not provide for *positive* guarantees to use one’s minority language. The most important article dealing with minority rights in the ICCPR was article 27. This article states that:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess their own religion, or to use their own language.  
(ICCPR, Art. 27)

The importance of this article and the mention of language can be seen in Susanna Mancini and Bruno de Witte words when they say that “the use of a particular language not only serves as a means of functional communication, but also expresses that person’s cultural identity as well as the cultural heritage developed by all previous speakers of the language.” (Mancini & de Witte, 2008) Here, we can once again discuss the need for a

bigger attention to linguistic rights by the international community because language is directly connected to culture, diversity and heritage. In my opinion without a bigger emphasis on language, minority groups would not be able to connect with their own people on a spiritual level as well as a cultural level. They will not be able to understand their peoples' history, religion or traditions. If language is fully assimilated and the usage of that language disappears, the people will start to assimilate with more and more customs and traditions of the majority in the society, thus slowly forgetting where they are from. This would also lead for the people to not recognize a person from the same "ethnic" group, because they would be a part of a different society and their old traditional ways would stop existing. Article 27 may seem a little bit vague to a reader, however we have to consider that the Human Rights Committee (HRC)<sup>22</sup> has interpreted this article in many different ways throughout the years. It is interesting that during the cases brought before the HRC not one has been concluded to find violations of "language rights" under Article 27. (Paz, 2013) Due to the limitations of the quantity of words in this research I decided to pick certain cases presented in front of the HRC dealing with language in education. This is because this research paper focuses on linguistic rights in education. By formulating this article in such way the ICCPR took *negative* measures towards language rights. These measures are that the ICCPR puts an emphasis on the obligation of the state to respect and protect minority languages and to not discriminate based on language difference. However, Article 27 does not require the state to fund private schools or provide for means of the protection of linguistic minorities. The HRC changed the meaning of this article in their final views on *Sandra Lovelace v. Canada* when they said that "...Article 27 of the Covenant requires States parties to accord protection to ethnic and linguistic minorities..." (U.N. Doc. A/36/40, par. 7.2) The significance of this view is that the states have the duty to protect these minorities not only by respecting their rights but also by promoting and protecting their cultures. General Comment No. 23 to the ICCPR in its paragraph 6.1 says

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<sup>22</sup> Human Rights Committee is a monitoring body over the ICCPR. In addition, the HRC's function is to receive inter-state complaints as established by article 41 of the ICCPR. Since the creation of the First Optional Protocol to the ICCPR, the HRC also receives individual complaints about violations of their rights within the scope of ICCPR.



that "...a State party is under an obligation to ensure that the existence and the exercise of this right are protected against their denial or violation. Positive measures of protection are...also against the acts of other persons within the State party." (General Comment no. 23, par. 6.1) In its more recent decision in *Mavlanov v. Uzbekistan* the HRC has decided to stress the importance of minority language education by stating that "...in the context of article 27, education in a minority language is a fundamental part of minority culture." (U.N. Doc. CCPR/C/95/D/1334/2004, par. 8.7) In my opinion this view of the HRC has shown the importance of education in minority language, through claiming that linguistic rights should in fact be taken into consideration as an important factor in maintaining one's culture. The HRC came into a compromise by recognizing language rights in education as integral to cultural rights, however it still does not provide for an opinion of what language should the schools teach in. In order to find the opinion on minority language in schools, we could look at UNESCO Convention Against Discrimination in Education Article 5 that states "...[i]t is essential to recognize the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and, depending on the educational policy of each State, the use of the teaching of their own language..." (UNESCO, 1962, article 5) Considering that China is a signatory to this convention we can later in this thesis see to what extent has China implemented this provision into its domestic law.

The next case that is significant for the discussion of article 27 is the *Waldman v. Canada case* when the HRC has found a violation of article 26 and not of a linguistic right contained within article 27<sup>23</sup>. The case concerned Canada not providing for Jewish education even though the state allows for Catholic schools. Martin Sheinin provided for an expert opinion after the HRC decided on the violations and he stated that "...Providing for publicly founded education in minority languages for those who wish to receive such education is not as such discriminatory, although care must of course be taken that possible distinctions between different minority languages are based on objective and reasonable

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<sup>23</sup> See *Waldman v. Canada case* (U.N. Doc. CCPR/C67/D/694/1996)

grounds.” (Sheinin, 1999) This means that if the state provides for education in one minority language, it should also support education in other minority languages.

Even though we see some progress in the HRC decisions regarding article 27, we need to look at how the issue of minority language is handled by the HRC. In both of the cases mentioned above we can see the clear avoidance by the HRC of the issue of instructions in schools and linguistic rights.

Keeping in mind that China has not ratified the ICCPR and theoretically is not required to follow the treaty, they are still expected to act in accordance with the ICCPR using the principle of the previously mentioned good faith. We also need to remember that the Convention on the Rights of the Child (CRC) has a very similar article to article 27 of the ICCPR, but only concerning minority and indigenous peoples’ children. Considering that China has ratified the CRC it would be difficult to “...see that a state could refrain from complying with Article 27 of the ICCPR without at the same time violating Article 30 of the CRC. Thus, the interpretation of Article 27 of the ICCPR would be of direct relevance to the content of China's obligations under Article 30 of the CRC.” (Lundberg & Zhou, 2009:378)

The next human rights document dealing with minority language rights that is worth discussing is the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (U.N. Declaration of 1992). The U.N. Commission on Human Rights adopted this declaration in 1992. The most important article in the declaration is article 4 that states:

- 1) States shall take measures to create favorable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.
- 2) States should take appropriate measures so that, wherever possible, persons belonging to minorities have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.

- 3) States should, where appropriate, take measures in the field of education, in order to encourage the knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole. (U.N Declaration of 1992)

In this declaration we can notice a more specific requirement for the state to preserve minority languages and encourage minority culture knowledge. Here, however we need to remember that this declaration is not binding, but it is widely respected by the states. (Marks & Clapham, 2005) Such declaration can be understood as a clarification of article 27 of the ICCPR.

China has also ratified the Convention on Elimination on Racial Discrimination (CERD). CERD does not focus on language and ethnicity within itself, however in the Committee's concluding comments we can notice the connection between language rights and ethnicity. In its concluding comments on the case of Norway the Committee said that "...The State Party [should] take active measures to...find appropriate solutions for integrating children...into the educational system...taking into account the community's lifestyle and including enhanced teaching provision in their language." (CERD/C/NOR/CO/19-20, par. 20) Here, the Committee discusses the need for respect of one's community's life style including language. We can notice the clear connection between language and traditional way of life of a minority group.

#### **4.2 Chinese policies regarding linguistic minorities**

As mentioned previously, China has been a country where laws are the ideals of the Party but the CCP does what they want regardless the constitution.

#### 4.2.1 Constitutional law

The Constitution of People's Republic of China was adopted in 1982. The constitution protects minority groups living on the territory of People's Republic of China. There is only one provision in the constitution that deals with linguistic minorities in non-autonomous regions. Article 4 starts off by saying that "[a]ll nationalities in People's Republic of China are equal." (PRC Constitution, 1982) It is a very important article in the Constitution due to the fact that China is a multicultural and multiethnic country with 56 recognized ethnic groups (55 minority groups plus Han Chinese). Due to the fact that this paper does not deal with autonomous laws only a part of Article 4 will be presented here. It says that:

The state protects the lawful rights and interests of the minority nationalities and upholds and develops the relationship of equality, unity and mutual assistance among all of China's nationalities. Discrimination against and oppression of any nationality are prohibited; any acts that undermine the unity of the nationalities or instigate their secession are prohibited. The state helps the areas inhabited by minority nationalities speed up their economic and cultural development in accordance with the peculiarities and needs of the different minority nationalities... The people of all nationalities have the freedom to use and develop their own spoken and written languages, and to preserve or reform their own ways and customs. (PRC Constitution, Article 4)

China protects minority groups within this Article and the government is obliged to help these groups in their cultural as well as economic development. It is a little bit vague because there is no clear definition of culture and what it means to the PRC. There is

however a distinction of language and the freedom of minorities to develop such language. This article does not necessarily focus only on autonomous regions but also on minority groups living in non-autonomous regions. Here we need to distinguish however that while the minorities have their freedom to develop and maintain their cultures the PRC also created article 89 that gives the power to the State Council to "...To direct and administer the work concerning education, science, culture, public health, physical culture and family planning..."(PRC Constitution, Art. 89) We can notice the contradiction between article 4 and article 89 in terms of freedom of minority groups to maintain and develop their language and culture. Article 89 allows for the state to intervene in minority group works on development of their cultures. In order to understand Chinese law we need to understand the provincial and city laws as well. Of course these two have to act in accordance with the PRC Constitution, however the laws are more specific as to linguistic rights and education in minority languages.

The autonomous regions in China have the right to govern themselves politically, as long as it does not intervene with the Constitution or the CCP ideologies. In this paper, however we will not focus on the autonomous laws of the PRC as the research is focused on protection of linguistic minorities in higher education in non-autonomous regions. The next two subchapters will discuss the Provincial laws of Yunnan as most of the research was carried out in universities in said province.

#### 4.2.2 Provincial Law

There has been a change of Yunnan provincial law regarding ethnic minority language on May 1<sup>st</sup>, 2013. I was lucky enough to be present in Yunnan when the *Provincial Regulation on Ethnic Language Work* (PRELW) were enforced, therefore I was present in the region when the laws shifted its focus from including language into the education regulation to creating a specific regulation just for language protection. As stated by its first article this provincial regulation:

...is to enhance minority language works to guarantee ethnic minorities to have rights to use and develop their own language and to protect and save ethnic minority culture. [And] to promote national unit and to prosper the culture as a whole. (PRELW, 2013)

This article specifically mentions the reason why the PRELW has been enacted. Unlike many other articles within the Chinese law dealing with minority language, this article “guarantees” the use of minority language and it does not only promote. In fact, it puts a certain responsibility on the provincial government to protect linguistic minorities. The PRELW regulates certain areas where minority language is in use including education, media and governmental institutions. During the analysis of this regulation I have found some inaccuracies mainly dealing with the research in this thesis. For example article 10 discusses the need for governmental organizations at all levels to recruit officials who are fluent in both Mandarin and an ethnic minority language. This article discusses the importance of this recruitment policy with regards to people working in police force or in judicial systems. At the same time article 12 of the PRELW discusses the need for universities if necessary to have minority language department where students can study and improve ethnic minority language. In my opinion if article 10 needs for a higher recruitment of bilingual people in police force and judicial systems, therefore there is also a need for a legal ethnic language to be offered in universities. If universities only offer ethnic minority language and literature, the students will be able to communicate in those languages, however they will not be able to work in the judicial system effectively without the knowledge of legal language. (PRELW, 2013) However, considering that this is a very new piece of legislation in Yunnan, it might be improved to take into account bilingual lawyers. Overall the PRELW is a very good start for Yunnan province to develop and strengthen the protection of linguistic minorities. There are some major inaccuracies with this regulation, however it’s a new document and it will require the government of Yunnan province to improve it in the future.

There may be scholars that ask the question on financing the protection of linguistic minorities in universities. While, this may be true as will be discussed in the analysis chapter of this thesis, we need to remember that the PRC and provincial government of Yunnan would not include article 18 of the *Yunnan Urban Ethnic Work Regulation* in 1999. This article discusses the need for the priority of financing ethnic or minority classes in schools in the province. This financing includes: investment for teachers, classes and schools. It does not include universities, however with the new PRELW this article might in the future extend to the priority of investment for professors and classes that deal with minority language education in areas of studies other than literature.

It is important to note the PRELW is the first regulation in Yunnan province that deals with language alone and extends its jurisdiction to universities. Other regulations deal with the right to language use in primary and secondary schools mainly, or they deal with spoken ethnic language in work places.<sup>24</sup> For example, the *Education Regulation of Yunnan Province* discusses in detail the language of instruction in primary school and secondary school. It does not deal with the university stage of education where a lot of said minorities attend. Other regulations such as the *Regulation on Standard Spoken and Written Chinese Language* discusses favorable treatment of ethnic minorities in becoming professors at university. (Article 9, RSSWCL) Here we can notice some favorable treatment in hiring within the sphere of education, however there is still no mention of the possibility to attend specialized classes in minority languages that could be of use in the future career of a student.

The next chapter will discuss the analysis of results gained from my research in Yunnan. There I will show the possible attitudes of minorities to their language, specifically the importance of mother tongue to these groups

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<sup>24</sup> These include: *Yunnan Urban Ethnic Work Regulation*, *Yunnan Province's Regulation on Standard Spoken and Written Chinese Language*, and *Education Regulation of Yunnan Province*.

## 5 Analysis

This chapter will focus on the qualitative and quantitative research done on the topic discussed in this thesis. This chapter will be divided into three parts: social attitude to language rights, interviews' results of the on the attitude towards language importance, and recommendations.

### 5.1 Social attitude to language rights

This subchapter will discuss the importance of the attitude of people to human rights, and especially to language rights. The attitude is just as important as the legal obligations of the state when discussing human rights. While this research does not directly look at the extent to which the PRC takes the public opinion into account, I still decided to look at the public attitudes towards the importance of minority language. In the *Legal Chapter* the reader has been provided with the law behind the issue at hand in this paper, now we need to look at the public attitude towards the issue.<sup>25</sup> Throughout this chapter I will use the term *social attitude*, which due to the small number of the target group will represent a partial opinion on the issue. In order for this research to be effective I decided to use the definition of *public opinion* according to dictionary.com, which defined *public opinion* as "...an aggregate of individual attitudes or beliefs held by the adult population." (Dictionary.com, 2014)

If the attitude towards language importance is positive by the majority of the answers, the PRC will (in theory) try to change the policies in favor of the people. In practice the CCP

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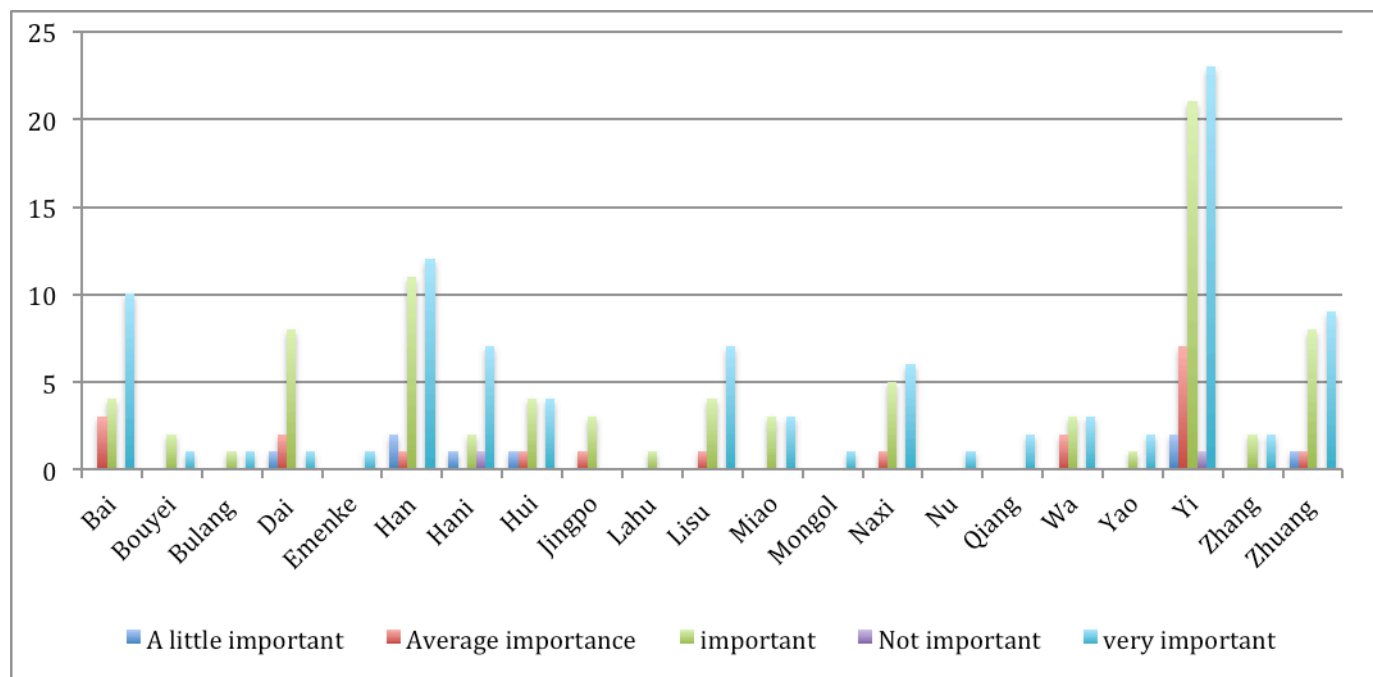
<sup>25</sup> While taking into account 280 surveys, (215 respondents to one surveys and 65 respondents to the second survey) we need to remember that this is just a small sample and therefore we cannot generalize the attitude towards the whole society. However, these questionnaires can provide for the basic student attitude towards linguistic rights and the importance for minority language education.



does not listen to the people, however if we consider that happier people in the society are better for the stability and peace of the region, then the CCP would need to adjust its policies in favor of the people. This however would need a nation-wide survey. The main reason for these surveys is that the social attitude is needed in order to analyze the problem of what is happening with minority languages if the legal documents and regulations are well written. Here, the fault may lay within the society and their attitude to the importance of minority language protection. It is important as the provincial government and even the PRC government might not see the importance of minority language protection if the group of people that is affected by the problem does not put too much value on the issue at hand.

## **5.2 Attitudes towards language importance**

This subchapter will start with the multiple-choice questions analysis and then it will go on to discussing the open-ended questions. I collected data from students of three universities around Kunming. There were two surveys created: one focusing on ethnic attitude towards importance of language, and the second one aimed at finding out the overall Han attitude towards minority languages. After the data was input into Microsoft Excel I decided to look at the answers from different angles. The first question asked was for the students to provide an answer to the question: *on the scale of 1 to 5 where 1 is not important and 5 is very important, how important knowing your mother tongue is?* Here I decided to look at the answer from the ethnic group attitude. Below are the results I received from the answers by the respondents.

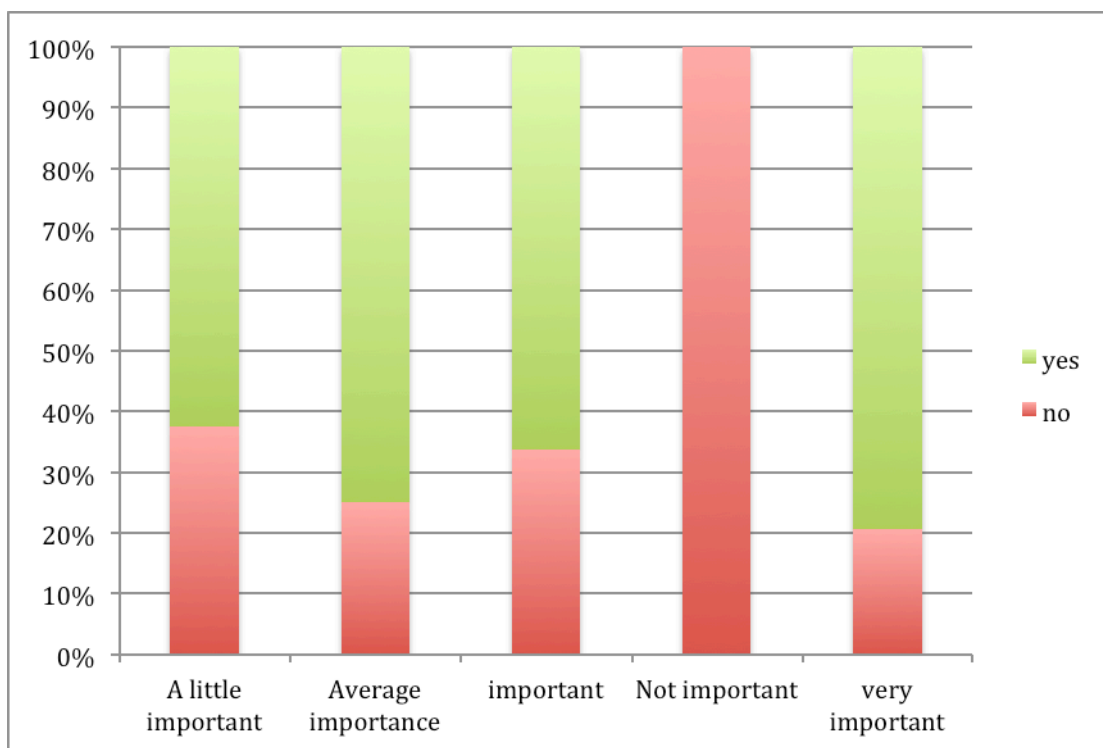


(Fig. 1.1, Yunnan 2013)

Fig 1.1 discusses the attitude towards the importance of mother tongue by representatives of ethnic groups that answered the survey conducted. Here, we can notice some important results for this research.<sup>26</sup> The first thoughts when deciding to include this question was that the attitude to the importance of mother tongue will differ between ethnic groups. Forty-four out of fifty-four responders belonging to the Yi ethnic group believed that the mother tongue is either important or very important. Other ethnic groups also majorly believe that mother tongue is important or very important. There are, however answers that state that the mother tongue is of average importance or little importance. Many issues could have caused this. Most likely the negative attitude of these responders is the long lasting result of Cultural Revolution on those minority groups. This means that the forced assimilation managed to convince certain groups that their culture is 'backward' and that they should pursue to assimilate with the Han Chinese. While analyzing this presentation of

<sup>26</sup> The number of students that responded to this questionnaire differs within ethnic groups.

the answers I asked myself other questions regarding the topic. One of those further questions was to see the relation of students that answered *yes* or *no* to question whether or not they want to go back to their home region, to the importance of mother tongue to them. Fig. 1.2 offers the presentation of these results. Out of the results, 155 responders want to live in their home region while 59 responders do not want to go back after they graduate university.

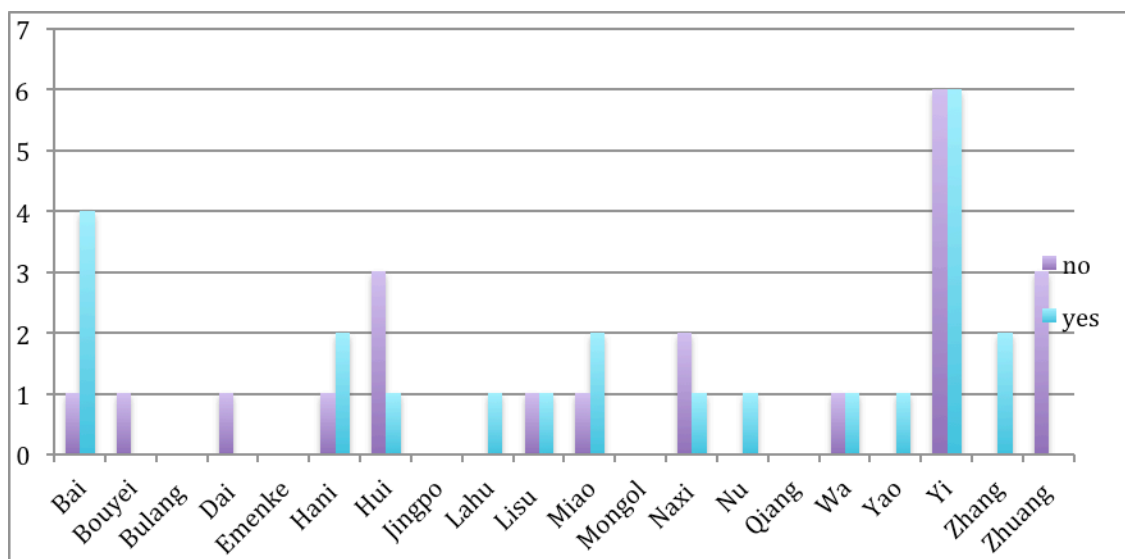


(Fig. 1.2, Yunnan, 2013)

I found this correlation to be what I have expected approaching the question of people wanting to go back to their home region and their attitude towards the language importance. Here, we can notice that close to 50% of the respondents that would like to live in their home region after graduation said that mother tongue is very important to them. Compared with the 37% of the responders who said that they do not want to live in their home region but they still think their mother tongue is important. I believe that the students who decided that they want to go back to their home region understand the importance of

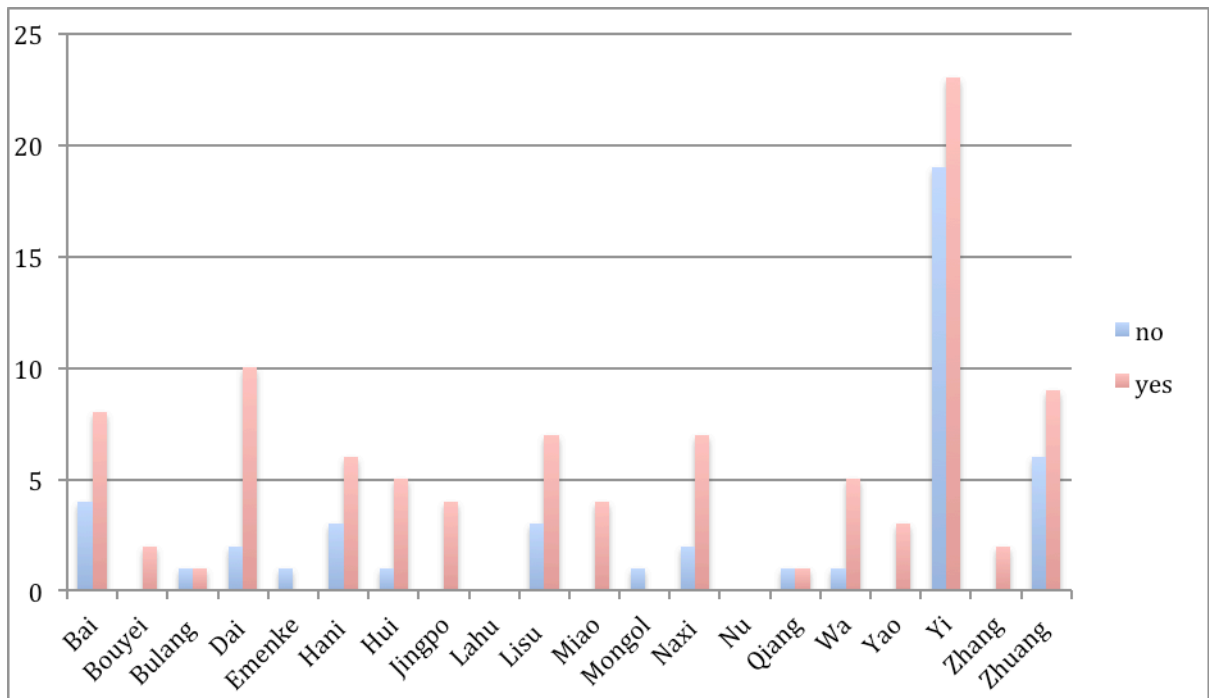
their language because they understand that not everyone in their region speaks Mandarin and therefore they need to know their own minority language to work and operate well within the region. There might be even a more important reason for why the students who want to go back to their home region think that their language is very important. The importance of language can be applied to the need for a strong ethnic identity. Due to the illiteracy in Mandarin in minority regions, people that speak their mother tongue belong to a community of their own people, thus language is a tool to understand their own people. Responders who do not want to live in their home region have an opinion of 50% that mother tongue is important. The value has shifted down, however they still feel like language is personally important to them. This may be influenced by the need of the people to still belong to a group, even though they don't plan to live in their home region, they still feel the importance of their identity and this can be expressed through language. Michael Byram in his study for the Council of Europe on language and identity even went as far as to say that if a person that does not speak a language of their group (in this case the mother tongue that they learned as a child) he or she may be excluded by the group. (Byram, 2006) Byram based his research on European minority groups so one might think that if we apply this reasoning to China, we can have different results due to the difference of cultures between groups. I do not believe that this approach would change between groups. Language plays a big part in cultural identity and if a person does not speak his or her minority language, their group might look upon them as outsiders. Many minority groups in China have more than one or even two languages. However, I still believe that this may be true in China as well because if the group has more than one language then they would still consider themselves different than the same ethnic group but with a different language.

To provide the research with a more thorough investigation I decided to look at the relation of ethnic groups to their plans to live in their home region and if they are fluent in their mother tongue. This is presented in Fig. 1.3 and Fig 1.4 below.



(Fig. 1.3, Yunnan, 2013)

The results presented in Fig. 1.3 show the relation of ethnic groups who said that they do not want to live in their home region to the question if they speak their mother tongue fluently. We can clearly notice that the responders to the survey are divided in their fluency in their mother tongue. This result has to be compared to Fig. 1.4, that presents us with the same question, but it is a chart of people who plan to go back to their home region.



(Fig. 1.4, Yunnan, 2013)

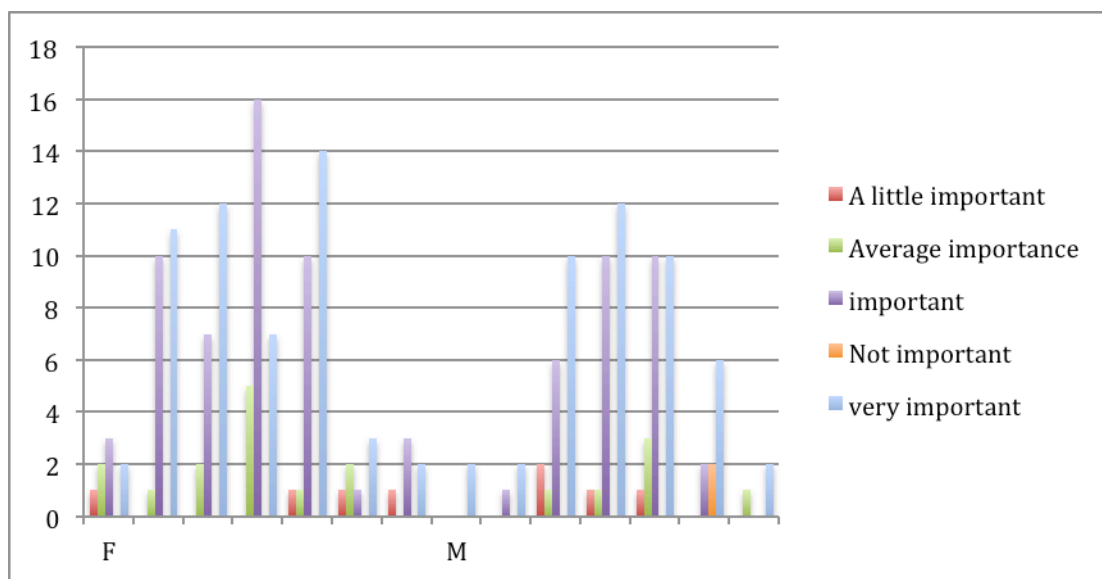
In this graph we can notice the responders who plan to return to their home region and if they are fluent in their mother tongue. Due to the word limitations of this research paper I will compare the results of the Yi, Dai and Bai<sup>27</sup> ethnic groups that responders belong to. For example if we take the Yi group of people that do not want to live in their home region, the results shown in fig. 1.3 are 50-50. This means that half of the Yi respondents that do not want to go back to their home region speak their language fluently. This would contradict my hypothesis because if we were looking at the short-term results, then the PRC policies in the development of minority languages and the increase of fluent speakers would appear to work. However, in the long-term approach the students that decide to leave their home region might speak their mother tongue fluently, but their children or grandchildren might not. When we look at fig. 1.1 we can notice that the majority of the

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<sup>27</sup> These three groups were chosen because they were the biggest groups in numbers in this target group of the survey. I also decided to discuss these three groups because all three have a written language. While it is true that the Yi group has six languages, I decided to discuss the issue from the perspective of the people who spoke the most common Yi language. Dai group also can be considered to have six different languages, and I decided to take the most common language used by the Dai people. The Bai group has a written language, same as Yi and Dai groups.

respondents that belong to the Yi ethnic group believe that language is important or very important. However, this does not provide the answer of the effective preservation of their language if they move away from their ethnic region to a place that differs greatly in terms of culture, language or traditions. Some answers like for example for the Dai responders that do not want to stay in their home region may be influenced by the fact that they do not speak their mother tongue fluently and therefore do not feel connected to their *people*. Of course, this is just an assumption as there may be a lot of reasons for the decision of each individual person. For example the propaganda carried out by the PRC strongly influences the opinions of the society, thus the responders could be promised a better life in Han-populated regions. This of course would be a part of the PRC propaganda in media. However, as shown by fig. 1.4 the Dai people who want to go back to their home regions generally speak their language fluently, thus the conclusion that language fluency might have an impact on the decision whether or not to go back to their home region. On the other hand the results for the Bai ethnic group differ from the results presented by the Dai community. Most of the responders to the question who are of Bai ethnic group, speak their mother tongue fluently, and this does not influence their decision to go back to their home region or to live somewhere else. These answers may be influenced due to their geographical influence. For example, Dai minority is one of the border ethnic groups, even with two decades of some sort of assimilation, they still remained to be influenced by outside states. Thus, resulting in the sense of identity and connection towards those said outside states such as Thailand, Laos or Myanmar. The Bai group on the other hand lived in mixed regions, thus causing them to speak their language and at the same time feel connected to the Han population. Therefore, their Han neighbors could have influenced their answers, as if they want to live outside of the region, but due to them being used to speaking majority and minority language, they may be fluent in both.

From personal experience, one question I wanted to ask from the survey was the relation between age, gender and the attitude towards the importance of language.<sup>28</sup> The reason for this was to see if the attitude can be gender and age related as well. Fig. 1.5 shows the correlation presented in the previous sentence.



(Fig. 1.5, Yunnan, 2013)

There were 123 females and 90 males taken into account while analyzing this chart. Here we can see the students that are younger generally consider language to be important, while the older students consider language to be very important. 57% of the 21 year old females and 41% of 21 year old males consider language to be important for cultural identity. 54% of 22 year old female and 60% of males of the same age consider language to be very important. On the other hand these might not be inaccuracies at all and my change of thought about language could be generalized to one sentence: the older we get, the more important language and cultural identity is to us. Another reason for this could have been

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<sup>28</sup> When I was younger, I did not think language is important and I just considered it as a communication tool only. As I grew up outside of my country, I realized at age 20 how important language is for my identity. This of course is my experience and it might differ between individuals or between cultures.



that with getting older we consider the community first (in this case the ethnic group) and not only ourselves.

Above I presented the multiple-choice questions from the first survey I have distributed to the minority groups, here I will discuss the open ended questions and answers of the same survey. I came to a conclusion to collect and group the answers together to get a more detailed view on the attitude of the students towards the issue.

One of the most interesting sets of answers I have found was to question complementing the *yes/no* question of if the students want to go back to their home region. I have asked the students to provide reasons explaining the answer to the question mentioned above. As I suspected before, the results varied a lot, this may have been due to different environments that the students grew up in as children. Most of the answers were related to culture and how being part of their ethnic group is important. This brings me to the relation in fig. 1.3 where I discussed the possibility that the students might not want to go back to their hometown because they do not speak the local language. From the answers received I could draw out conclusions that students have the need for belongingness to their ethnic group.<sup>29</sup> The results may suggest that a lot of the students took the development of culture into their own hands and they would like to go back home and work on the preservation of their culture. Some answers were based on the opportunities for a career. One student who does not speak her mother tongue would not like live in her hometown because there are "...less career opportunities due to the undeveloped economy in [her] country..." The PRC development policy in minority regions shows that in a way it is required to speak Han-Chinese to get a job in the work places endorsed by the PRC. This student mentioned that there are less career opportunities in her hometown, it could be due to some level of assimilation being required. One question I asked myself was if there would be more work opportunities for that person if she spoke her own mother tongue. I decided to take a look

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<sup>29</sup> There were many more interesting answers, however due to the word limitation of this thesis I decided to choose the most relevant ones to this study.

at other answers and came upon a male who spoke his mother tongue perfectly and wanted to go back to his home region because of “the volunteering association of protection minority culture which [he] work(s) with in [his] village needs [him] to develop it...” This sort of correlation is more or less common within the answers in the survey.

The next question I decided to analyze and group together was regarding the reasons for providing the answer that the students gave to the question about the importance of mother tongue. The answers here can refer to the previous paragraph regarding language and culture. A female in the target group said “mother tongue is very important because it represents our ethnic characteristics” and this provided me with understanding that minority groups are generally aware of the importance of language to their ethnic being. This could have been influenced by the PRC ideologies that are embedded in the constitution which emphasizes the importance of development of culture, for a fully stable functioning society. There are certain ways in how language can represent ethnic characteristics. In Chinese language the term *ethnic characteristics (minzu tese)* is understood in two ways. One understanding is “...[the] characteristics of minority groups, and the other denotes Chinese traditional culture.” (Zhao & Lee, 2010:164) Thus, we can conclude that language shapes the way the people understand their traditional culture.

I then decided to ask the students one valid question about who is responsible for language protection according to them. The most common answers by the students to these questions were as follows: the government, the minority group, academic scholars, and associations that deal with linguistic rights and cultural preservation. I believe that these answers are similar because of the PRC ideologies as mentioned before. In a way these answers are not different, they are a part of a process of the minority language protection. The first stage would start with the government and the laws that they put forward through their legislations. Chinese laws regarding language as mentioned in *Legal Chapter* may not be implemented even if the laws were passed in the parliament. The second stage would be the acknowledgment and the understanding for the protection of linguistic minorities by the minority themselves. This stage differs from the first one in a way that many minorities

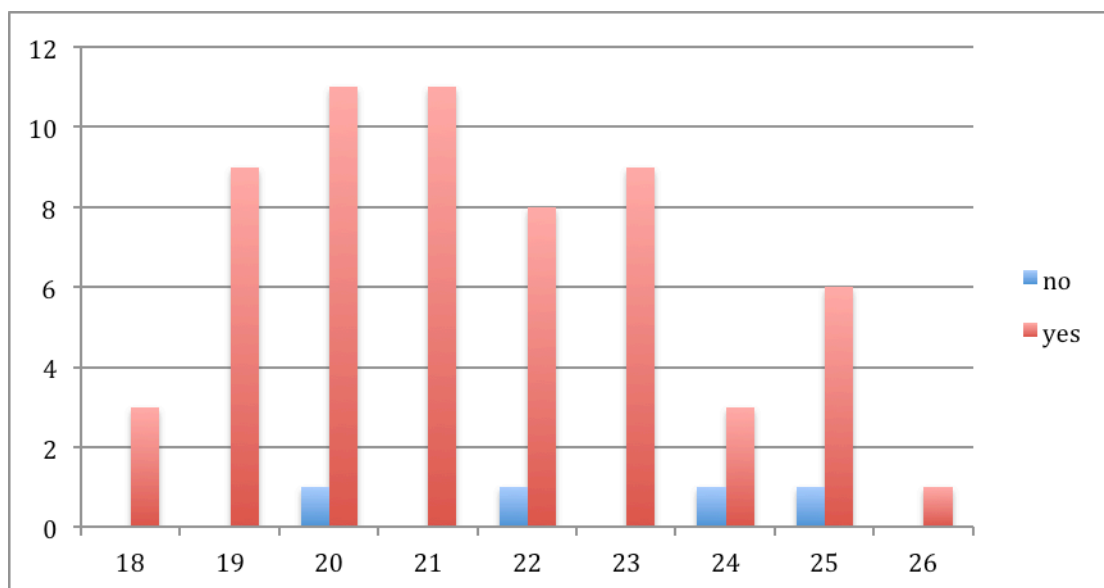
may think that language is only used as communication tool. The provisions embedded in the PRC legislations discuss the importance of preservation to culture, but the public might not understand how language and their ethnic identity is connected. It is important for the groups to realize the need for their language and the connection between language and preservation of their culture. Without the ethnic group's understanding towards the importance of language, the government might not have the necessary pressure to implement the laws they have created. On the other hand Chinese government's actions might aim to censor the opinions of minority groups. Thus, causing the groups to be scared to pressure the government. The third stage as found from the surveys would be the pressure from academic scholars on the government regarding the importance of quick policy implementation. The fourth stage could be the work of associations that work with minority culture. These organizations would be used to monitor the situation in minority regions and it would be up to them to preserve minority languages. The government would be under pressure by the associations and organizations to respect minority peoples. Here, the associations would be appointed and controlled by the government. It would allow for the relaxation on the censorship of opinion, causing the associations to be able to pressure the government. This would provide us with the shift from the *tactical concession* stage to *prescriptive status* stage of the *spiral model* created by Thomas Risse and Kathryn Sikkink. They describe the process of socialization of human rights norms.<sup>30</sup> The reason why we would look at the fourth stage is because China is a part of many international human rights treaties. I believe China is in the transitioning stage because even though the PRC has signed many international human rights agreements they still do not fully comply with those, however they give certain rights to the group that has their rights violated in order for the international community to not pressure the government more than they need to.

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<sup>30</sup> The first stage is *repression* of the society by the government. The second stage is the *denial* where the state "...denies validity of human rights norms as subject to international jurisdiction..." (Risse & Sikkink, 1999:20) During this stage, there is a domestic opposition to the government formed, which eventually leads to the third stage and that is the *tactical concession*. In this stage, the government is pressured by activists and international organizations to change their policies in favor of human rights. The fourth stage is the *prescriptive status* stage at which point the state accepts international norms and ratifies international treaties. This leads to the *rule-consistent behavior* where the state complies with human rights norms and includes them within its policies as well as the implementation of these policies. (Risse & Sikkink, 1999:20)

The reason why we discuss this transitional phase is that if the domestic associations and groups pressure the government to protect minority languages then the government would “...start a process of ‘controlled liberalization’...” (Risse & Sikkink, 1999:28) This would mean that the international human rights norms would slowly be accepted and implemented domestically. I have mentioned the four stages (according to my theory) towards which the linguistic rights can be extended and protected: *government concession*, meaning that the government would set up enough safe and secure legislations to protect minority language; second stage would be the *self-awareness of minority groups*, meaning the acknowledgment and understanding of the importance of protection of minority language by the minorities themselves; *pressure by the academia* on the government in order to improve the implementation of the laws already embedded in the PRC legislations; the fourth stage would be the *pressure of associations and domestic human rights actors* on the PRC government. All of these stages could be seen as a transitional stage from the *tactical concessions* phase to *prescriptive status* phase described by Risse and Sikkink.

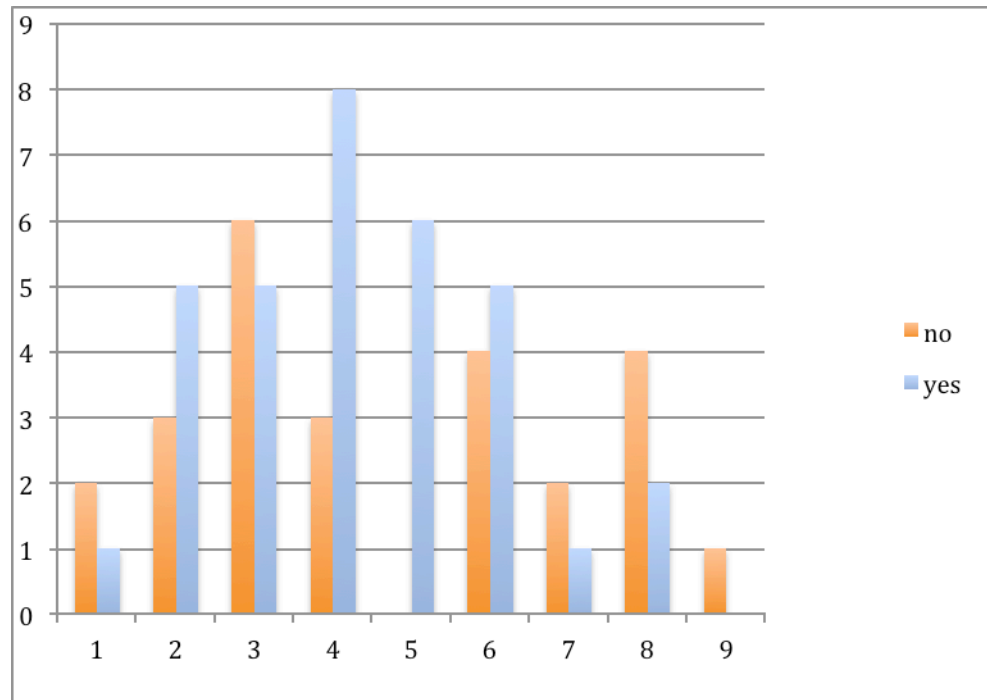
I then decided to see the attitudes of the Han Chinese because the Han population in China influences a lot of laws and actions by the government. This questionnaire was of a smaller scale as it only received 65 respondents out of which 44 of them were Han Chinese. I have found some very interesting results from this survey regarding minority language attitude from a majority group in the country. The general attitude was positive towards minority languages, for example when asked a *yes/no* question if language is in fact important and if it should be preserved the most common answers were *yes*. Fig 1.6 demonstrates the correlation of age and if language is important for culture.



(Fig. 1.6, Yunnan, 2013)

As we can see only four responders thought that language is not an important part of minority culture.

Another interesting result can be found in the attitude of responders who are from a minority region and if they think minority language should be implemented in universities.

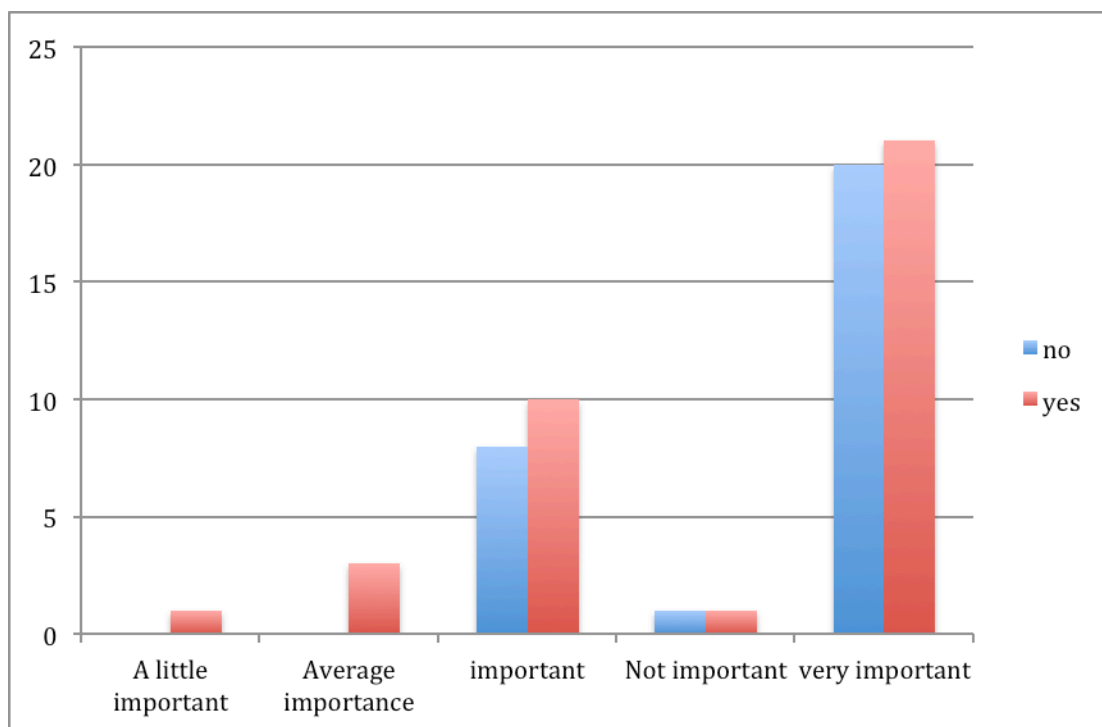


(Fig. 1.7, Yunnan, 2013)

The numbers on the x-axis are ranged from 1-9, these represent ages 18-28 of the respondents. These responders originally come from minority regions and it was important for my research to analyze this attitude if the region of origin belongs to a minority group. As a matter of fact, it just might because even if the respondents do not belong to a minority group, they still grow up within the culture. Here, they may realize the importance of language for the minority group, therefore they might have answered that in general they believe that minority language should be offered at universities. However, we can also see the answers of those that do not want minority language at universities, for example at age 20 the respondents answered *no* to the question, the same as at age of 25 where 4 out of 6 responders do not consider language as a necessity for universities. Here, the students could have thought of their future and follow what the PRC intended and that is the requirement of Mandarin to get hired. Non of these prestigious work places require a minority language

fluency. They may see it as an additional aspect while looking at the CV. (Interview with Professor X<sup>31</sup>, 2013)

The last result from the second survey that I would like to present is the correlation between the importance of language to culture (measured on a scale from 1-5 where 1 is not important and 5 is very important) and whether or not the responder comes from a minority region.



(Fig. 1.8, Yunnan, 2013)

We can notice that people coming from minority regions consider language to be very important for culture. The overall attitude of the target group analyzed through the surveys is that language is either important or very important. It's very important to consider these

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<sup>31</sup> Due to the censorship policies in the PRC, I decided to leave out the names of the scholars interviewed. These scholars are named in this paper as follows: Professor X, Professor Y and Professor Z.

results in light of what I have mentioned earlier that the PRC government might be influenced by the attitudes of the Han Chinese.

Open-ended questions of the survey gave me insight into the attitude of the Han Chinese towards linguistic minorities. Just like with the previous survey when asked about who has the responsibility to protect language, the responders answered that it is the government, minority people and other people. By other people the responders meant the rest of the society in order not to leave the minorities on their own. Here the students also thought that language is a very important part of culture as it reminds the people of their identity. Through language, you can know your peoples' history and culture. Language is a part of the term *societal culture* coined by Will Kymlicka. Beck paraphrases Kymlicka by saying that the *societal culture* is "the structure through which an individual is taught the norms of his society, and through which he is able to participate in: the schools, the political and cultural institutions and especially the language." (Beck, 2004) Kymlicka describes this term as a fundamental part of individual identity as we as individuals can learn and accept the understanding of our culture and of what it means to lead a good life. (Kymlicka, 1995:75-106)

### **5.3 Recommendations**

While the surveys could give me the general overview of the attitudes of a group of people towards the importance of language, I wanted to find out more about the issue and so I met with three different professors that deal with linguistic rights on daily basis. The opinions of the scholars differed in some areas, but they were in a clear agreement that language is vital for culture and that there is not enough done to preserve minority languages. One of the most common responses I received in the surveys and the interviews was the pressure on the government and the difficulty between balancing the resources and protection of linguistic minorities. It is true that bringing judicial or administrative courses taught in minority languages would cost the government a lot of money for the training of teachers, supplying textbooks or even maintaining a place in the university for those courses. While



the government focuses on the economic downside of spreading the minority language education to other fields of study than in literature, we can also consider the societal view on why the people are not ‘pushing’ for better language protection. Due to the PRC minority policies in history (mentioned in the *History Chapter*) the people became aware that speaking Mandarin would give them better opportunities for work. Both of these arguments can be diminished by my own theory that focuses on the long-term effect of introducing courses in minority language within the legal or administrative sphere.<sup>32</sup> My theory focuses on the human rights and development sphere that if economic skepticism about introduction of minority languages as languages of instruction in legal or administrative courses in universities exists, we can consider this a long-term investment by the PRC. As mentioned in the previous subchapter some students might not want to go back to their home region due to the fact that they do not have the necessary knowledge of professional minority language in spheres of administration and law, if such tools were provided for the students they would willingly go back to their home towns to work in the sphere they are studying. This would bring a bigger focus on the minority regions by the government in the long term and therefore increasing the economic development of that region.<sup>33</sup> This theory however, is focused on the long-term change within the poorer regions. I believe this could create a more stable economy and increase finances of the government that could be used elsewhere. Professor Y raised one of the most important issues with this theory where he said “these legal or administrative courses would need to be voluntary for minority students because if we force local people to speak minority languages the effect might not be so good...” (interview with Professor Y, 2013) I have to agree with his skepticism to this theory, however if we make the courses attractive enough for the students, we might be able to convince them to attend those. While looking for

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<sup>32</sup> Professor X seemed in agreement with my theory during the interview. Professor Y seemed a little bit skeptical about my theory because the PRC government might look for a short-term solution and not a long-term solution

<sup>33</sup> The bigger the focus on the region by the government, the more work opportunities. The PRC would notice the change of migration of students to minority regions and would be forced to focus on the minority regions as well by creating more work places for those students. This region would then be attractive for investors and more businesses would open in the region.

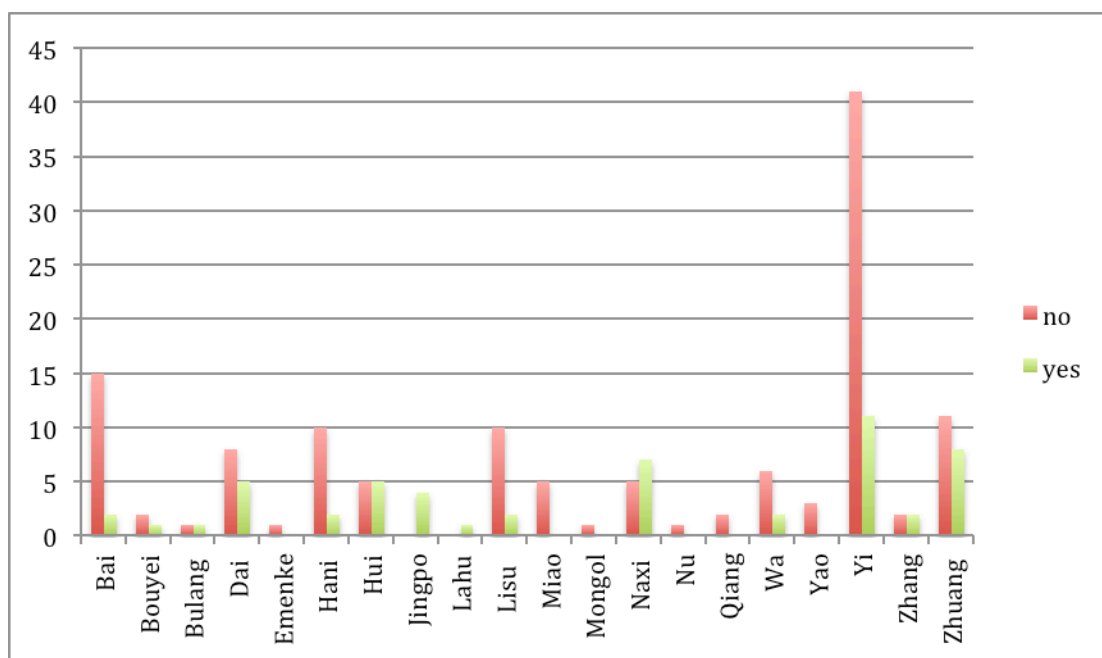
short-term solutions to the issue, we need to step outside the academia and focus on media. It is connected with the encouragement of the student body at the university to take these issues and present their *needs* and *wants*. Here, we need to focus on individual approach to the issue. Professor Y raised a very important point while discussing the individual approach to the language versus the good of the group.<sup>34</sup> I asked a question based on the willingness of the students to study the legal or administrative courses in minority languages and he responded that if one person or one minority group does not want to study in a minority language because they don't think it is important, it is their decision. At the end it does not matter as long as the language is protected and the minority has the right to choose. I consider this one of the most important differences between the western concept of individualism and the Asian concept of collectivism. In order to propose such courses and think about the long-term effect of such courses, we need to consider the idea of collective good rather than individual good. While it is true that both are important, when it comes to long-term solutions we need to think of the group before thinking about the individuals.

Language reflects culture in a way that it is used as an expression of culture by a group of people. It also reminds the group of their heritage and the cultural way in which they view the world. (Interview with Professor X, 2013) So far in this subchapter I discussed the societal and governmental obligations to protect linguistic minorities, but what does this all mean? I never meant to claim that minority language is more important than Mandarin, or that Mandarin is more important than minority language. Professor Y proposed a very important idea for this research *peace and harmony of languages* where different cultures that use completely different languages can coexist even in the bigger non-autonomous areas. Thus, allowing people to use and develop their own minority language in mixed regions. Here we need to remember that if we apply the theory of *peace and harmony of languages* then we would need to consider the changes within the language itself. If a

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<sup>34</sup> It is very important to discuss this idea because we need to consider the future of language preservation in non-autonomous regions and universities in those areas.

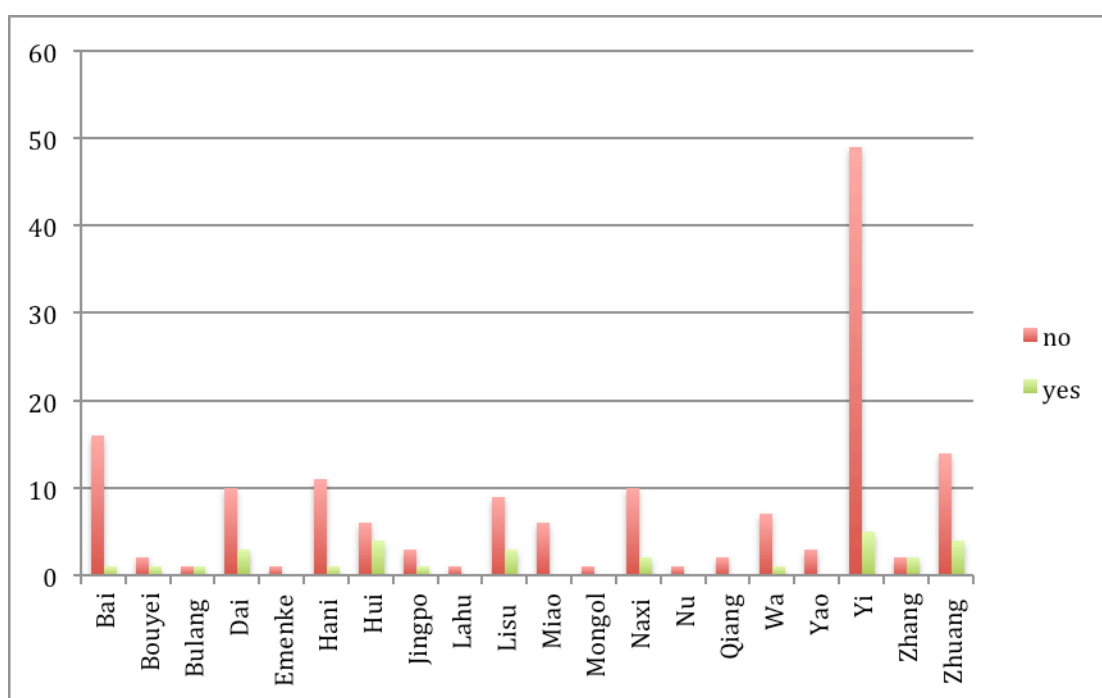
minority language was influenced by a different ethnic group, it would create a slow but steady assimilation of languages, whether through new dialects or borrowing of words from other languages. However, as he mentioned, the legal approach to this issue is vital, as the government is very important in the transition into coexistence of languages. In theory the idea sounds very simple, however in reality it is not. As mentioned in the *Legal Chapter* the idea of introducing the local minority language into primary schools and secondary schools has been set by certain provisions in the PRC laws. Here however, I would like to present my own research as to how many people actually received this sort of minority language education. Fig. 1.9 shows us how many minority students received education in their language in primary school.



(Fig. 1.9, Yunnan, 2013)

Of course the answers could come from students that lived in Han populated regions, thus attended Han schools. It does not change the fact though that the students should either way have the option to study in their own minority language. (Beijing-Oslo Recommendations, 2008: Chapter 5 on Education, pp.44-48) As we can see, the laws are not always complemented by the actions, as the majority students did not receive education in their

own language in primary schools. This could have been influenced by the fact that certain students did not grow up in non-autonomous regions. Another reason that might have influenced the results is that the schools lack qualified teachers to pass the knowledge of minority language to the primary school students. Let's take a look at the results from the survey answered by the same students regarding minority language in their secondary education. Fig. 1.10 presents us with a clear correlation between the ethnic groups and their secondary school minority language education.



(Fig. 1.10, Yunnan, 2013)

Here we can notice similar results to fig. 1.9 where majority of the students coming from minority groups did not learn in minority language in their secondary school education. Both of these results go against to what the article 17 of the education regulation of Yunnan discusses regarding education in minority language in primary and secondary school. In primary schools the teachers are required to teach in both languages: Han Chinese and local minority language, as we can see from the results in fig. 1.9 the law has not been fully implemented. Even if the students come from Han-regions they still belong to a minority

group. The secondary school systems can choose which language to instruct the students in. Here, I come to a conclusion that lack of resources provided by the government causes the future teachers not to be able to learn a minority language and therefore they cannot pass on the knowledge to the students. This is why it is important to introduce minority language courses in universities in spheres other than literature courses, in order to go back to some kind of basic traditionalism.

The problem is more complex than what it seems in a way that the PRC government might put forward legislations promoting language use but they still leave it up to the schools to decide if they want to teach in minority language. Here comes the problem of financing, and one of the recommendations I made was that the state will not lose money on creating legal or administrative courses in a minority language in universities in the long run as it will eventually develop the minority regions, thus helping the state financially as well. I believe that the state should introduce the idea of *peace and harmony of languages* in order to accommodate the minority groups and not practice any form of one-sided assimilation policies.

## **Conclusion**

### **Concluding Remarks**

The findings from this study allow me to draw certain number of conclusions. First, implementation of law in China may be affected by the national attitude towards certain issues. In this case protection of linguistic minorities in non-autonomous regions must be recognized as an obligation of both: the government and the society. Secondly, I realized that the legal obligations of the government are still not perfectly abided by the government. With most of the human rights treaties signed and ratified, China still does not implement these laws within the domestic legislation. Maria Lundberg in her article said that “[T]he Chinese Constitution has been amended accordingly, introducing respect for the principles of socialist market economy, the rule of law and human rights in Articles 5, 15 and 33. The indication of the continued political importance of the law should also be seen as reminder that State organs should take its implementation into consideration in these new circumstances.” (Lundberg, 2009) Here we can conclude that even if certain human rights standards are introduced into the PRC legislations, they have no choice but to implement the provisions discussing human rights into every day’s life.

The future danger of minorities moving to non-autonomous regions where linguistic rights are not fully protected is great. The danger might not be seen at the moment, but if people tend to live in Han populated areas they might seem to assimilate. Even in autonomous areas the promotion of Han Chinese (Article 19 of the Constitution) might cause the decline in the interest in promoting minority languages. (Lundberg, 2009) Here I have to agree and take it even one step further that if this is the affect on autonomous regions, the effect of these practices may influence minority groups living in non-autonomous regions completely, thus eventually assimilating them. On the other hand these practices are a result of a new legislation to promote the commonly used language which may also have an effect on the local dialects of Han Chinese. Thirdly, I considered the reasons on why the students might decide to go back or not to go back to their home regions. Results presented

in *Analysis Chapter* may portray a small portion of the general attitude. Some students wanted to go back to their home region to work with associations dealing with culture preservation. Other students wanted to belong to their community and moving away would just hurt their sense of identity. The most interesting results seen in this study show that more students who spoke their mother tongue fluently were willing to go back to their home regions. One of the reasons could be that they felt like they know how to communicate with their own people through the fluent knowledge of their language. Other students that did not want to go back to their home region could feel like they would be excluded from their ethnic group because they do not speak local language. Fourthly, I wanted to discuss the need for professional (legal or administrative) courses in universities instructed in minority languages. This would in fact give more opportunities for the students to go back to their home region. China is a specific country where for example, many farmers living in rural minority regions do not speak Mandarin and only speak local language. Here, my opinion is that even if these minorities are allowed a translator in judicial proceedings for example, they still would have a difficulty in showing their case to a lawyer that needs to listen to translations provided by the local judiciary branch. It would be easier for the lower social class citizens to communicate with their lawyers one on one if said lawyer spoke legal local language. This would create a more effective, cheaper and fair trials.<sup>35</sup> My last concluding remark has to do with the recommendation I have presented in the *analysis chapter* where the investment from the state in courses in minority languages would increase the productivity and effective development in minority regions. This however, would need further study in order to prove my hypothesis.

We need to consider the need for the cooperation and participation in decision-making process where the minority group has the right to effectively participate (and if not) then express their *wants* and *needs*. The importance for this cooperation is of great value to

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<sup>35</sup> By mentioning *fair trials*, I have in mind that the local citizen would be able to express themselves in their own language, which the lawyer would then present in the legal proceedings. By this, nothing would be lost in translation as the lawyer listens to the facts presented by the local citizen and then formulates his or her speech presentation in Mandarin, while understanding what the citizen him/herself meant.

further transition into human rights regime by the PRC because it puts the obligation of protection of linguistic minorities onto the minorities themselves. Without effective participation in decision making, these minorities will not be able to pressure the PRC to adjust the laws. Of course, we need to take into consideration the fact that human rights can be differently understood from the Chinese perspective, however linguistic rights already exist in the Chinese legislation, thus providing the grounds for further discussion on the issue with the officials. For example due to the increasing interest in protecting linguistic minorities in China, a group of experts from different research institutes and universities drafted Beijing-Oslo Recommendations in 2008 that further explored the issue of implementation of linguistic laws by the PRC. In my opinion in order to further this study there would need to be more interest by the scholars in non autonomous regions as the ethnic minority does not only constitute people living in minority regions. We need to take the scope of territoriality of minority rights in China and change it into a more individual approach based on human rights. Of course this idea has to do with the concept of *individualism v. collectivism* however I believe that in this instance we can consider the danger of collectivism. A perfect example of cultural collectivistic approach was presented when Professor X told me during the interview that as long as the collective right is respected, we should not focus on the individual that does not want to learn a minority language. Of course I agree that we should give ethnic minorities the right to choose if they want to teach minority languages to their children, etc. However, here we need to remember that a lot of students that live outside of their home regions consider language as a very important part of their culture (as presented in fig. 1.1 in the *analysis chapter*). Here my question is what constitutes as a group in order to think about them collectively. We cannot merely focus on territoriality and we should extend the scope of protection of linguistic minorities to people belonging to ethnic minorities that live outside of their home regions. Here I would like to mention the *Framework Convention for Protection of National Minorities* (FCNM) done by Council of Europe. I believe that if we want to discuss the territoriality approach we need to think about providing minority rights on territories of the states and not only of autonomous regions. Article 6(1) states that “The Parties [to the convention] shall encourage a spirit of tolerance and intercultural dialogue



and take effective measures to promote mutual respect and understanding, and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity..." (FCNM article 6, 1995) Even though the approach is based on European minorities, we need to remember that the minority groups living outside the autonomous regions still require some sort of help by the State, thus spreading the territoriality approach towards the whole state.

### **Recommendations for further research**

This study only took a small target group of people to answer surveys, therefore we need to consider that the results might change if we spread the target population to more non-autonomous areas in China. This research can extend to a PhD study on protection of linguistic minorities within every level of education throughout non-autonomous regions in the country. Further research could consider the amount of graduate students after universities that went back to their home regions and interview them on the possible difficulties related with the lack of knowledge of professional local language. By professional I mean in legal or administrative spheres. The research could then connect the correlation of results found by university students and how many of them actually went back to their home region and to what extent would it be easier if they learned professional minority language. The study would contain the legal, sociolinguistic and economic approaches to the issue to prove the hypothesis that if courses were extended to be taught in minority languages then people would willingly go back to their home region due to the opportunities presented for them. The economical approach would be valuable for the research to analyze the effect of the increase or decrease of minority people going back to their home region after graduation on economy. If I could prove that the development of minority regions would increase by this investment, then it would seem attractive enough for the state to consider this recommendation. This would be connected with the recommendations on the change of linguistic law and its implementation in non-autonomous regions.

Further transition of PRC into human rights regime could help the minority groups in many ways. In order to conduct this study, a researcher would need to travel around China interviewing government officials, economists dealing with minority regions, as well as linguistic scholars. In order to further the investigation on the societal attitude towards language, the surveys that were conducted in this research would need to be spread nationally.

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ICESCR

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ICCPR	International Covenant on Civil and Political Rights, adopted by General Assembly Resolution 2200A (XXI) of 16 December, 1966
LONC	League of Nations Covenant, 1919
UDHR	Universal Declaration of Human Rights, adopted by General Assembly Resolution 217 (III) of 10 December, 1948
UN CHARTER	United Nations Charter, 1945
UPR	Universal Periodic Review (A/HRC/WG.6/4/CHN/1)
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