

## **Who Owns My Language? A Call for First Nations' Linguistic Rights**

What are linguistic rights? Who has them and what are they in Australia? Who has the right to decide what happens to my language? What can I do to assert my linguistic rights?

### **Linguistic Rights**

Linguistic rights are the right to use one's language of choice in the legal, government, justice, and education fields. There is also the right to media in one's first language.

*'Linguistic Rights protect the individual and collective right to choose one's language or languages for communication both within the private and the public spheres.'*<sup>1</sup>

In Australia, there is a National Indigenous Language policy 2009 which rather than a step towards establishing legal linguistic rights through legislation, specifies some national commitments.

*The new National Indigenous Languages Policy is aimed at keeping Indigenous languages alive and supporting Indigenous Australians to connect with their language, culture and country.*

*The most recent report on Indigenous languages in Australia, the National Indigenous Languages Survey (NILS) Report 2005, found that the situation of Australia's Indigenous languages is grave and requires urgent action. Of the 145 indigenous languages still spoken in Australia, 110 are critically endangered. All of Australia's indigenous languages face an uncertain future if immediate action and care are not taken.*

*The Australian Government is committed to addressing the serious problem of language loss in Indigenous communities.*

*It requires coordinated action among the bodies involved in support of Indigenous languages, including government, language organisations and educational and research institutions.*<sup>2</sup>

The Australian Government has an, 'Australian Government Language Services Guidelines' which states,

*All Australians have the right to communicate and engage with the Australian Government and other essential services, irrespective of their first language preference, their English language ability and their cultural*

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<sup>1</sup> Linguist Rights – Minority Group Rights International

<sup>2</sup> National Indigenous Languages Policy 2009

*and linguistic backgrounds. Australia has a rich cultural and linguistic diversity.<sup>3</sup>*

The Australian Human Rights Commission indicates that people belonging to minority groups 'shall not be denied their rights',

*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 and practise their own religion, or to use their own language.<sup>4</sup>*

A number of documents establish linguistic rights for Indigenous peoples but the National Indigenous Languages policy is the only policy platform which indicates some linguistic rights.

### **Universal Declaration of Linguistic Rights**

The Universal Declaration of Linguistic Rights is often referred to as the Barcelona Declaration as it was signed at the conclusion of a World Conference on Linguistic Rights in 1996, in Barcelona.

The Declaration is a document signed by the International PEN Club, and several non-governmental organizations to support linguistic rights, especially those of endangered languages.

As of 2023, the Declaration has not gained formal approval from UNESCO.

### **Linguistic Rights History**

Acknowledgment of, and protection for linguistic rights, in particular for the linguistic rights of traditional language speakers, has a long international history including

- 1948 Universal Declaration of Human Rights
- 1966 Convention against Discrimination in Education.
- 1966 International Covenant on Civil and Political Rights.
- 1988 Framework Convention for the Protection of National Minorities.
- 1989 The Convention on the Rights of the Child.
- 1992 European Charter for Regional or Minority Languages.
- 1996 The Universal Declaration of Linguistic Rights.

The Universal Declaration of Linguistic Rights contains 50 Articles which cover individual rights and collective speech community rights. The Declaration

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<sup>3</sup> Australian Government Language Services Guidelines'

<sup>4</sup> Rights of members of ethnic, linguistic and religious minorities, Australian Human Rights Commission

includes rights to use language in a private manner such as the right to use language between speech community members, and rights in the public domain.

The Rights does not hold any legal ground in Australia, despite the proposal by Ghil'ad Zuckermann to enact 'Native Tongue Title' in 2014, which would compensate speech communities for linguicide (forced language killing).

### **Commonwealth, State and Territory Policies and Legislation**

As of 2023, the Commonwealth Government has not enacted legislation, and of the states and territories, only New South Wales has enacted legislation, the *NSW Aboriginal Languages Act 2017*.

The Commonwealth Government launched a strategy for preserving Indigenous languages called the *Indigenous Languages: A National Approach 2009*. The same year, the *National Indigenous Languages Policy (2009)* was released.

The National policy's objectives are

1. National Attention: To bring national attention to Indigenous languages – the oldest surviving languages in the world; and the pressures they face.
2. Critically Endangered Languages: Reinforce use of critically endangered Indigenous languages that are being only partly spoken to help prevent decline in use and to maintain or extend their common, everyday use as much as possible.
3. Working with Languages to *Close the Gap*: In areas where Indigenous languages are being spoken fully and passed on, making sure that government recognises and works with these languages in its agenda to *Close the Gap*.
4. Strengthening Pride in Identity and Culture: To restore the use of rarely spoken or unspoken Indigenous languages to the extent that the current language environment allows.
5. Supporting Indigenous Language Programs in Schools: To support and maintain the teaching and learning of Indigenous languages in Australian schools.<sup>5</sup>

A number of actions related to each of these objectives are indicated in the policy. However, these relate to governmental action rather than linguistic rights, or supporting movement towards enshrining linguistic rights in legislation. The actions, in a national Indigenous languages policy, reinforces the central role of English,

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<sup>5</sup> National Indigenous Languages Policy  
<https://web.archive.org/web/20150301034938/http://arts.gov.au/indigenous/languages>

*The learning of English is also a fundamental skill that all Australians, including Indigenous Australians, must have in order to maximise their learning opportunities and life chances.* <sup>6</sup>

## **International Decade of Indigenous Languages 2022-2032**

The United Nations General Assembly declared the International Decade of Indigenous Languages between 2022-2032 as a means of drawing attention to the highly endangered indigenous languages across the world. The declaration aimed to encourage action on the preservation, revitalisation and promotion of languages.

The Australian Commonwealth government responded with the establishment of a Directions Group and with commitment to embed best-practice within the Closing the Gap national agreement. The Directions Group is developing an *Australian National Action Plan*, to provide strategic policy direction and advise on key governmental projects.

The five themes the Directions Group will be working on are:

1. stop the loss
2. Aboriginal and Torres Strait Islander communities are centre
3. Caring for Country
4. Intergenerational knowledge transfer
5. Truth telling and celebration.

It is noted that there is no suggestion of movement towards a Commonwealth Indigenous languages legislation in either the National Indigenous Languages Policy or the work of the Directions Group.

## **Closing the Gap Outcome and Target 16**

The Commonwealth Government's Closing the Gap implementation plan contains Outcome 16:

*Aboriginal and Torres Strait Islander culture and languages are strong, supported and flourishing.* <sup>7</sup>

The associated Target 16 is:

*By 2031, there is a sustained increase in number and strength of Aboriginal and Torres Strait Islander languages being spoken.* <sup>8</sup>

Priority actions identified in the plan are

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<sup>6</sup> National Indigenous Languages Policy 2009 'Indigenous Languages and literacy and numeracy.'

<sup>7</sup> [www.niaa.gov.au/2023-commonwealth-closing-gap-implementation-plan/delivering-outcomes-and-targets](http://www.niaa.gov.au/2023-commonwealth-closing-gap-implementation-plan/delivering-outcomes-and-targets)

<sup>8</sup> ad ibid

1. Working in partnership to support First Nations languages – through a Language Policy Partnership.
2. International decade of Indigenous Languages 2022-2032
3. Establishing language centres through shared decision-making.
4. Maintenance and renewal of First Nations languages.
5. Equitable access to interpreting services.
6. Protection of First Nations Traditional knowledge and cultural expression.
7. National Culture Policy.<sup>9</sup>

A summary of the actions being undertaken by the Commonwealth Minister for the Arts to achieve each of these actions, can be found online.

### **Language Rights of Linguistic Minorities : A Practical Guide for Implementation 2017**

*The Language Rights of Linguistic Minorities* is a document produced by the United Nations to advise policymakers and linguistic rights holders of their rights, and best practice.

This document aims to:

1. clarify the various rights of linguistic minorities relevant to language use and preferences;
2. clarify the obligations of state authorities towards linguistic minorities;
3. support the development and continuous improvement of effective (including cost-efficient approaches to and practices for, these rights of linguistic minorities; and
4. promote consistent approaches to the participation and inclusion of minorities in public life and the implementation of their language rights

This document is a very useful tool to begin policy planning within a fair and equitable framework.

### **The Cost of Linguistic Rights**

In a period of time where social outcomes must be qualified by a fiscal figure, what is the cost of ignoring Australian First Nations' linguistic rights?

What is the cost of a first language speaking child's loss of cognitive optimization when education is only available in English? As stated in the 'Universal Declaration of Linguistic Rights':

*What is the cost of a pseudo-education in predominating languages which*

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<sup>9</sup> ad ibid

*does not capacitate one using them properly?*<sup>10</sup>

What is the cost of linguistic marginalization:

- for an individual
- for a family of people
- for a First Nation
- for Australia?

What is the cost of the knowledge, heritage and cultural loss brought about through linguistic marginalization?

What is the cost when a First Nations language speaking individual is disengagement in the educational, legal, health and social spheres of Australia life?

What is the cost of a life linguistically disconnected to employment, education, a place in wider society, and perceived as 'English-incapacitated'.

What is the cost of disavowing a person of their linguistic identity?

## **Conclusion**

Australia, as of 2023, does not have First Nations' Linguistic Rights Legislation. The existing *National Indigenous Language Policy 2009* indicates the actions the Government is undertaking with regards to First Nations languages, but does not go so far as to indicate linguistic rights.

In a country with 250 or more First Nations languages, comprehensive legislative protection for the use, enjoyment, teaching, learning, protection and veneration of these languages, is long overdue.

The recent results of the national referendum for a constitutionally proposed Voice to Parliament has shown us that the Commonwealth Government needs to scaffold wider Australia's understanding, commitment, and progress towards a more fair Australia. The *National Indigenous Languages Policy* needs to be addressed to include commitment to First Nations linguistic rights, and commitment to development of a First Nations languages legislation.

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<sup>10</sup> Universal Declaration of Linguistic Rights