

Unworthy partner: the schools issue as an example of human rights abuses in Transdnistria

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1. Introduction

Nearly twelve years after achieving independence, the Republic of Moldova is still a divided country. The disintegration of the Soviet Union led to independence for the 15 Newly Independent States, and also to the creation of several self-proclaimed republics, namely Abkhazia and South Ossetia (Georgia), Nagorno-Karabakh (Azerbaijan), Chechnya (Russian Federation) and Transdnistria — on the territory of the Republic of Moldova. Some of these entities, with foreign help, have succeeded in creating state structures and institutions and manage to exercise control over the territory and population, mostly with the same success as the recognised states.

Perhaps the most glaring example in this sense has been the survival of the so-called ‘Dniester Moldavian Republic’ (‘DMR’).² With initial backing from the ex-14th Soviet Army and subsequent tacit as well as the overt material, financial and political support of Russia, the local leadership first declared the existence of the ‘Transdnistrian Autonomous Soviet Socialist Republic’ and finally, on 2 September 1990, independence.

This article will attempt to shed some light specifically on the right to education and will demonstrate how gravely this particular right is systematically curtailed. Elucidating the policies of the ‘DMR’ authorities towards pupils of ‘Romanian’, *i.e.* those who prefer to study in the Latin script³, as opposed to ‘Moldovan’ (in the Cyrillic script) is a complex matter compounded by the staunch denial of any wrongdoing by the *de facto* authorities. Their actions affect thousands of individuals and while the first generation of those who are perceived as ‘domestic enemies’ or a ‘fifth column’ is about to graduate, the issue remains preciously little exposed and can be confusing even for the initiated. It would seem that all except the victims have reconciled themselves with fate.⁴ The authors argue that violations

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² A territory of 4,163 sq. km (c.f. Luxembourg with 2,586 sq km) and a population of 660,000 (about 17% of Moldova's total), wedged between Ukraine and Moldova proper.

³ On the interminable and highly politicised dispute as to whether the majority of the population is ethnically ‘Moldovan’ or ‘Romanian’ the authors are of the opinion that the majority of the population is ethnically ‘Romanian’ and the language spoken is Romanian, at best a dialect referred to as ‘Moldovan’.

⁴ See <http://www.azi.md/news?ID=21122>, 11 October 2002. It remains a fact that the negotiations are equally stalled on many other pressing issues, including weapons disposal and Moldova is often referred to as a ‘failed state’. See: ‘Outsiders aren’t helping’, *The Economist*, February 15th-21st 2003, p. 48.

of human rights by unrecognised entities, including the right to education, should be of concern not only to States confronted by separatism directly, but to the entire international community. The authors believe that even in a less than ideal world the impunity with which separatist authorities transgress accepted norms of behaviour should be liable to sanctions. Moreover, regimes that flout human rights standards should receive the message that their own behaviour *a priori* negates aspirations to statehood.⁵

Gradually the 'DMR' established separate executive, legislative, administrative and judicial bodies and created its own economic, customs, monetary, tax as well as educational and other systems. Not recognised by any other State, the 'DMR' has border guards who under their own flag and with a Coat of Arms illegally demand passports at borders.⁶ Many Soviet-era laws, some amended and supplemented, remain in force.⁷ Most importantly the 'DMR' created separate law-enforcement bodies including an agile KGB-style secret police and a formidable army that according to military specialists is superior to the Moldovan one.⁸ The population of the 'DMR' is disenfranchised and cannot participate in national elections and when allowed to elect their own 'Parliament' and 'President', international electoral standards are flouted.⁹

The unrecognised 'states' on the territory of the ex-Soviet Union owe their survival not only to foreign help. While there are indeed too many factors to elaborate upon here, suffice it to mention one: The vested interests of individuals who have monopolised power and who benefit from or depend on maintaining the *status quo* constitute one of the most important explanations for their continued

⁵ On the question of who is responsible: '... the de facto authorities of the Transdniestrian region are fully responsible before the international community and before their own people for observing accepted human rights standards. The fact that Transdniestria is an unrecognised entity does not release its authorities, including particularly those responsible for public order and the respect of rights and liberties of the population, from awareness, publicising and acting in accordance with international human rights standards.' Former Head of OSCE Mission to Moldova, Ambassador John Evans, 'Human Rights in the Republic of Moldova', Chisinau 1999, p. 74.

⁶ See 'JCC Work Continues to Be Tremendously Difficult and Almost Fruitless', <http://www.azi.md/news?ID=1140>, 1 February 2001.

⁷ E.g. the 1961 Penal Procedural Code of the Moldavian Soviet Socialist Republic, the 1964 Civil Code or the 1964 Civil Procedural Code.

⁸ See Waters Trevor, 'Instabilities in Post-Communist Europe. Moldova', Conflict Studies Research Centre. RMA Sandhurst. January 1995, Interfax news agency, 7 August 2001, Mihai Gribincea, *The Russian Policy on Military Bases: Georgia and Moldova*, Oradea, 2001, pp. 217-235.

⁹ The Transdniestrian authorities have consistently prevented the population from participating in national elections (1994, 1998 and 2001) by prohibiting the creation of polling stations in the region. When Presidential and Parliamentary elections in Moldova were held, a 'state of emergency' was declared (e.g. a 'state of emergency' from 12 January 1996 until 1 July 1997 was declared by 'DMR Presidential decree No. 6'). See *U.S. Department of State, Country Report on Human Rights Practices for 1998*, http://www.state.gov/www/global/human_rights.

existence. Benefits span beyond the stated political aim of statehood, as the profits from untaxed trade and production of cigarettes, trafficking, alcohol, petrol, drugs and weapons channelled through these 'black-hole republics' are significant.¹⁰ Yet another reason is the obvious failure of the international community (*e.g.* the United Nations, OSCE, EU or NATO) to resolve frozen conflicts. This begs the question of whether it is because they are considered unimportant, or simply too distant, if not 'Russian affairs'. Time has demonstrated that both universal and European security organizations deliberating in the imposing surroundings of Vienna or Brussels produce little more than declarations and toothless 'expressions of concern'. To date, policies devised to deal with separatism, with the exception of maintaining tenuous cease-fires, have singularly failed. While the declared aim of the international community is territorial integrity, actual relations with separatists and economic interests, as we will see below, would indicate otherwise.

Consequently, although not altogether incomprehensible to the seasoned observer, the indulgent and selective attitude of the international community to human rights violations on the territory of unrecognized states remains a glaring inconsistency. As the recent non-extension of the OSCE Assistance Group mandate in Chechnya demonstrates, an overtly intrusive interest in human rights is easily equated with interference in the internal affairs of sovereign States.¹¹ Only recently the stance appears to have hardened with 'targeted' sanctions announced by the USA and EU: 'Under these conditions, we declare our intention to adopt, following our respective internal procedures, targeted sanctions in the form of travel restrictions on members of the Transnistrian leadership considered to be primarily responsible for the lack of co-operation into promoting a political settlement of the conflict'. Only time will show whether they will deliver any desired effect.¹²

As in the times of the Soviet Constitution, respect for fundamental rights and freedoms is guaranteed by a similar document in the 'DMR'. Predictably, every 'official' Transdnistrian source claims that human rights are fully respected and that policies are '... directed toward the construction of the open democratic society'.¹³ Moreover, as early as in 1992 the Transdnistrian 'Supreme Soviet' issued a decree declaring a readiness to observe a number of international human rights documents.¹⁴ On the other side of the separation line when the Republic of

¹⁰ Charles King, 'The Benefits of Ethnic War. Understanding Eurasia's Unrecognized States', *World Politics* 53.4 (2001), 524-552; Michael Wines, 'Trans-Dniester 'Nation' Resents Shady Reputation', *The New York Times*, 5 March 2002.

¹¹ 'Russia to Shut Monitoring By Europeans In Chechnya', *The New York Times*, 1 January 2003, p. 5 or 'OSCE Chairman regrets end of OSCE mandate in Chechnya' in: http://www.osce.org/news/generate.php3?news_id=2986, 4 February 2003.

¹² *Moldovan News Bulletin*, Embassy of The Republic of Moldova, Washington, 27 February 2003.

¹³ See I.N. Smirnov ('President of DMR'), *Atlas, Dniester Moldavian Republic*, Foreword to 2nd Edition, Tiraspol 2000.

¹⁴ 'On the attitude of the Dniestr Moldovan Republic with regard to international and other documents on human rights', in: *Dnestrovskij Meridian*, No. 39 (110), 25 September – 1 October 1992.

Moldova ratified the European Convention on Human Rights and Fundamental Freedoms (ECHR), it entered a telling declaration: ‘... that it will not be able to ensure observance of the Convention in respect of omissions and actions made by the authorities of the self-proclaimed Transdniestrian republic in the territory, which is de facto controlled by such authorities until final resolution of the Transdniestrian conflict’.¹⁵ Although the Transdniestrian ‘Supreme Soviet’ is not known to have reacted in any way and the declaration went untested for years, in 2001 the European Court of Human Rights dismissed Moldova's preliminary objection arguing that the Republic of Moldova had ratified the Convention with effect throughout the whole of its territory and stated that ‘... the Court considers that the aforementioned declaration cannot be equated with a reservation within the meaning of the Convention, so that it must be deemed invalid’.¹⁶ A legal nicety that unfortunately skirts the crux of the problem: the real, *de facto*, authority continues to be exercised by the separatists and there is no recourse to justice when human rights are trampled upon.¹⁷

2. Education in the Moldovan/Romanian Language in the ‘DMR’

As one of the results of Gorbachev's *perestroika* (*i.e.* still under Soviet rule from Moscow), ‘Moldovan’, written in the Latin script, was reintroduced as the ‘state’ language in August 1989.¹⁸ This meant that pursuant to newly-adopted laws the language of tuition switched throughout Moldova, including in Transdniestria.¹⁹ Russian teaching schools remained unaffected and indeed continue to exist to suffice the demands of parents who consider Russian to be their mother tongue.²⁰

¹⁵ The ECHR was ratified on 24 July 1997, see *Monitorul Oficial al Republicii Moldova*, No. 54-55/502, 21 August 1997.

¹⁶ See Grand Chamber Decision on the admissibility of Application no. 48787/99 by Ilie Ilascu, Alexandru Lesco, Andrei Ivantoc and Tudor Petrov-Popa against Moldova and the Russian Federation, The European Court of Human Rights, 4 July 2001 see <http://www.echr.coe.int/Eng/Judgments.htm>.

¹⁷ ‘Human rights in the Transdniestrian region of the Republic of Moldova’, The Interdepartmental Commission for Co-ordination of the State Policy in the Settlements on the Left Bank of the Dniester River, Chisinau 2002 (2nd edition, updated).

¹⁸ Until then the Cyrillic script was in use and ‘Moldovan’ was officially decreed to be distinct from Romanian (a view also adopted by the ‘DMR’ today).

¹⁹ The main linguistic issues are regulated by the following laws of the Republic of Moldova: ‘Law of the Soviet Socialist Republic of Moldova on the Status of the State Language’, ‘Law of the Soviet Socialist Republic of Moldova on reintroducing the Latin script’, ‘Law of the Soviet Socialist Republic of Moldova on Functioning of Languages on the Territory of the SSR of Moldova’. All adopted on 31 August 1989. Article 13(1) of the Constitution declares the national language as Moldovan ‘... based on the Latin Alphabet’ and Article 13(2) ‘... protects the rights to preserve, develop and use the Russian language and other languages spoken within the national territory...’.

²⁰ In the 1999/2000 school year 637,700 students attended 1,118 schools that taught in Romanian and 142,000 attended 270 schools which taught in Russian, 114 taught in Romanian and Russian, 5 in Ukrainian and Russian, 4 in Bulgarian and Russian, 2 in English and one in English and Russian. See UN Doc. CERD/C/372/Add.2.

The outbreak of the 1992 armed conflict between the Government and separatist forces of the 'DMR' displaced over 100,000 persons (50,000 of whom were refugees who fled into Ukraine) over a six-month period and fundamentally changed life for those who remained on separatist-held territory. One of the first changes to be implemented was that schools were forced to switch back to the Cyrillic script as was customary during Soviet rule.

At present, according to official 'DMR' statistics, there exist 183 primary schools (general educational institutions) with some 92,000 enrolled students.²¹ While in 82% of the schools the language of tuition is Russian, in 13.5% it is 'Moldovan' in the Cyrillic script, in 3.8% it is Romanian and in 0.7 % it is Ukrainian.²² There are 32 schools where the language of tuition is 'Moldovan', 15 'mixed' schools (with tuition also in Russian)²³ and six in Romanian.²⁴ The latter institutions are the focus of this article as that is where the problem is most acute and where an agreement between the separatist authorities and the Government has proven to be impossible to attain. In simple terms, schools that follow a curriculum approved by the Ministry of Education and Science of the Republic of Moldova are deemed to be 'private' institutions. How this translates into practice and how such schools interact with the local authorities is at the core of the problem.

In order to understand the Transdnistrian policy of three official languages (Russian, Ukrainian and 'Moldovan'), it is necessary to examine the broader context.²⁵ The OSCE mandate to promote respect for human rights in general and to redress flashpoints that could spark into violence in particular has delivered piecemeal results. Successfully negotiating with the *de facto* authorities to permit at least limited access to several schools that would teach in the Latin script involved reaching a compromise that allows such 'alternative' (private) schools to be financed from the budget of the Republic of Moldova. This international blessing of an irregular situation, however, unwittingly generated undesirable side-effects. The first is that while the six schools continue to struggle for their existence, the

²¹ See *Atlas*, p. 52.

²² *C.f.* ethnic composition of 'DMR': 33% Moldovan, 29% Russian, 29% Ukrainian, 3% Bulgarian, 2% Polish, 2% Gagauz and 2% other see *Atlas* p. 24. Moldovan Government sources claim that the percentage of Moldovans is actually over 40%.

²³ Around 12,000 'DMR' students studied in the 'Moldovan' script in 2001. 'Scolile romanesti din Transnistria in rol de ostatici' in <http://www.azi.md/comment?ID=14195>, 15 October 2001.

²⁴ Until mid-2002 they were situated in Tiraspol (school No. 20 – 800 pupils), Tighina (Bender school No. 19 – 1,980 pupils), Ribnita (740 pupils), Roghi (147 pupils) and Corjova (255 pupils). The Dubasari school (620 pupils) moved into no man's land in 1997 and many students from Grigoriopol have attended school on Government-controlled territory in Cocieri since 1995. The Grigoriopol school maintained a dual clandestine existence for most of its remaining 740 pupils. Since 2002 they too attend school in Dorotcaia on Government territory. The *Atlas* (p. 42) counts 4,300 pupils and the Moldovan Ministry of Education puts the figure at 5,000, see also <http://www.azi.md/news?ID=21122>, 11 October 2002.

²⁵ While only one 'DMR' school teaches in Ukrainian international organizations were never petitioned in this regard.

authorities have received *carte blanche* to block similar efforts of others.²⁶ It is also disturbing to observe that even OSCE emissaries are often snubbed and their efforts to mediate are brushed aside.²⁷ In sum, the fate of the schools hinges on the whims of the 'DMR' leadership, which opposes teaching in the Latin script and anyone who attempts to do so is automatically perceived to defy the system. An order of the 'Ministry of Education' of the 'DMR', dated 18 August 1994, explicitly forbids studies in 'Moldovan' in the Latin script in all Transdnestrian schools.

Attempts to expand the number of such schools are met with heavy-handed repression.²⁸ Indeed, while informal surveys indicate that many parents would actually opt for 'Moldovan' to be taught in the Latin script, appeals to conduct a transparent poll are ignored. The one known attempt to teach Romanian clandestinely in a 'DMR state-funded school' failed. Teaching staff and parents were blatantly vilified in the local press as 'enemies of the State'.²⁹ One by one they were invited to 'reconsider', threatened with loss of employment and the corresponding entitlement to housing *etc.* Children (and teachers) were intimidated when they were forced to write explanations as to why they used the Latin script and local officials routinely visited classes to check whether tuition was being 'properly' conducted. The parent-teacher association was abolished and its head arrested.³⁰ Ratcheting up the pressure further in early 2003 the 'Collegium of the Ministry of Education' decided to '... compel the leadership of Romanian schools to introduce the Transdnestrian curriculum by 1 March or clarify their status by 1 April'.³¹

'Authorised' or not, schools face daily harassment and administrative obstructions.³² Their uncertain legal status and the pressure on them to close is unrelenting in spite of the fact that as inhabitants of the 'DMR' the parents pay their

²⁶ 'Protocol on intentions in the field of public education between the Republic of Moldova and Transnistria', 18 February 1995 (on file with the authors).

²⁷ In 2001 an advisor to the OSCE HCNM was prevented from entering the 'DMR' for a scheduled meeting at the 'Ministry of Education' on the orders of the 'Ministry of the Interior' and when subsequently the OSCE HCNM himself visited Moldova, he was received only by low ranking officials.

²⁸ The Grigoriopol administration used police and Cossacks to stop the activity of Moldovan School No. 1 and on 28 September 1996 occupied the building of the school. On 2 October three teachers were arrested and taken to Tiraspol. After they had been detained for several hours in the 'Department of Internal Affairs', they were transferred to the so called 'Ministry of Security'. On 7 October 1996, as a result of a *demarche* by the President of the Republic of Moldova and the OSCE Mission, the teachers were released. Violence was also reported in Slobodzia.

²⁹ Vadim Iuriev, 'A big scandal in a small town', *Dnestrovskii Kurier*, 8 March 2002. See also <http://www.unhcr.md/article/ld15.htm>.

³⁰ Mihai Speian was arrested on 28 August and held until 12 September 2002. See OSCE Mission to Moldova, *Activity Report*, November 2002.

³¹ OSCE attempts to reverse the decision have fallen on deaf ears and the 'DMR Minister of Education', Ms. Bomeshko, has signed the order into force.

³² Only the Rogi and Rybnita schools have enjoyed near normal relations with the local administration (*e.g.* they were not charged rent and even teach in the Latin script unobstructed) while the others are systematically discriminated against.

taxes and should normally expect that primary education is made available to their children on an equal footing. Local administrations deprive them of daily needs and since they are qualified as private schools they are not only expected to apply for special licences, but also to pay for rent and utilities at higher rates than other institutions. The Tiraspol City Council has refused to provide additional space since 1997 irrespective of the fact that nearly 800 pupils share only 9 classrooms of the 33 required in three shifts. In neighbouring Bender 2,000 pupils are divided over three separate buildings and over 700 pupils study in classrooms that do not comply with applicable standards; 180 children commute to Hagimus village (a suburb of Bender controlled by the Government).

Moreover, previous assurances to the OSCE from the Transdnistrian authorities are ignored and attempts to renew licences are routinely denied or obstructed.³³ Electricity, phone lines and heating are being shut-off and critical repairs of municipal buildings are not being carried out. Pupils have no access to sports facilities and rights available to other children are out of reach. It is not uncommon that they study in three shifts and suffer unsatisfactory sanitary facilities. Many have no other option but to attend school in makeshift classrooms in war-damaged buildings while their 'more loyal' peers attending 'state' schools enjoy normal standards (e.g. subsidies for school lunches or amenities like laboratories or canteens). Instead of providing suitable premises, the local authorities threaten them with closure for violating sanitary and fire codes. The 'DMR' authorities are also known to have confiscated teaching aids (that have to be smuggled from Government-controlled territory) and to have placed serious obstacles to the delivery of international aid by trying to tax it, deny building permits or simply by closing the frontier for deliveries.

One should certainly not dismiss the fact that this pathetic situation has deep roots and is a consequence of a protracted and emotionally laden struggle between Moldovan parents (and teachers) and the pro-Russian Transdnistrian authorities.

The latter consider Romanian to be a foreign language which in their view has no place in 'State-run' schools, except perhaps alongside other foreign languages like English or French, to be taught optionally.³⁴ Aggravating the problem are factors such as differing curricula that imply attendant ultra-sensitive issues like teaching history and geography from diametrically opposed points of view. OSCE

³³ 'DMR Presidential decree', No. 145 dated 5 April 1999, introduced the reregistration of all educational institutions and at the last count some 12 documents are required together with a fee (e.g. school statute, curriculum, information on personnel and the founder of the school, sanitary certificates, fire protection agreements, lease contract, state engineering supervision report). Rules are designed and applied in such a way that the reregistration of schools teaching in the Latin script has become an exercise in futility. See 'Romanian Schools in Transnistria Coming Across License Problems', 25 September 2001, <http://www.azi.md/news?ID=13912>.

³⁴ Headmasters of the affected schools even consider it 'a genocide unleashed by the Tiraspol administration', see 'Headmasters of Romanian-language Schools from Transnistria Meet Prime Minister', <http://www.azi.md/news?ID=13400>, dated 21 August 2001.

efforts to assist by enlisting international experts to draft new text books acceptable to both sides are one of the few promising initiatives in this area. 'Nationalist' allegiances aside, parents also realise that a graduate from a 'DMR' school is unlikely to master Romanian and will be at a disadvantage if admitted to a university in Moldova proper. The only other option is to study in Moscow or Kiev — which for some may be unappealing or simply financially prohibitive. Problems exist by virtue of incompatible grading and examination systems and many realise that they would graduate with a diploma of doubtful value as Transdnestrian University degrees carry little weight abroad. In sum, the school issue has fallen prey to an ongoing ideological battle where deep distrust reigns and loyalties can be easily measured once parents opt for a separatist or Government-controlled school.

In their own defence the Transdnestrian authorities continue to advocate the old Soviet nationality theory of two distinct peoples inhabiting Moldova and Romania, each with their distinct languages: 'Moldovan' and Romanian. Hence the logic that it is only natural that the 'Moldovan' language should be taught exclusively in the Cyrillic script (after all the Latin script is for Romanian). The Transdnestrian authorities portray themselves as the protectors of the last bastion of a distinct Moldovan nationhood against 'Romanisation'. In this respect the 'Supreme Soviet' of the 'DMR' adopted a decision that reads: 'Lately in MSSR [Moldovan Soviet Socialist Republic] the process of Romanisation of Moldovan people has accelerated. Mass-media, the politicised civic nationalistic organization and the official state institutions of all levels conduct an anti-national policy of denial of the peculiarities of the Moldovan people, of its culture, language and traditions. These anti-national forces present all that is Moldovan as being Romanian: the land, the people, the language, the script, the traditions ...'.³⁵

Soon thereafter, presumably also in order to thwart 'Romanisation', the 'Moldovan language' was declared one of the three official languages (alongside Russian and Ukrainian) by the 'DMR's' own language law. Article 6 not only prescribes that the written form of the Moldovan language is exclusively in the Cyrillic script, but also ominously states that the '*... usage of the Latin alphabet implies responsibility as foreseen by the law*'.³⁶ It is also interesting to note that in neighbouring Ukraine in areas inhabited by Moldovan minorities schools are allowed to conduct tuition in the Latin script.

Despite all the efforts to convince the population of only one true 'Moldovan' identity, thousands of teachers, parents, and students consider that the 'Moldovan'

³⁵ 'On urgent measures to maintain the originality of Moldovan people, as well as the originality of its culture and language' 12 March 1991. According to the Newspaper *Sfatul Taurii*, No. 53 (833), 12 April 1991 and *Moldova Suverana*, No. 76 (17685) dated 3 April 1991 the measures adopted included replacing the course 'The History of Romanians' with 'The History of the native Land' and the 'History of the Soviet Union' and that 'Moldovan' language publications had to be printed only in Cyrillic. All language laws adopted in the Republic of Moldova were declared null and void.

³⁶ 'Language law of the Transdnestrian Moldova Republic', 8 September 1992 (unofficial translation from Russian original).

language is actually Romanian (this situation is further confused by the fact that even the Moldovan Constitution refers to the State language as Moldovan). Moreover, and as mentioned above, many today realise that properly mastering only one alphabet is disadvantageous to graduates who increasingly wish to be eligible for higher education in the rest of Moldova, in Romania or further afield in Europe.³⁷ During the last decade a significant number of parents, at considerable risk, have made sacrifices to ensure that their children study in the Latin script. Teachers and parents have attended demonstrations, organised strikes and written petitions to international institutions and to the Ambassadors of the guarantor States (Russia and Ukraine).³⁸

This has always infuriated the Transdnistrian authorities to the point that they have responded with investigations and sophisticated attempts to shut down the offending schools. Numerous parents were threatened or investigated by the security services, and some have lost their jobs or been advised to leave.³⁹ Those who disobey stand collectively accused of being the ‘fifth column’ of the Republic of Moldova in Transdnistria. While some adopt a ‘hostage type mentality’, others become bitter and hostile. On occasion, their sense of Romanian identity is so entrenched that any dialogue between themselves and the TD authorities as well as their own Moldovan Ministry of Education suffers.

In practice many children are forced to take additional lessons in the Latin script at home. In January 1997, for example, in Grigoriopol about 150 pupils took lessons at home from 16 teachers.⁴⁰ A few years later, in April 2001, about 90% of students of the school secretly followed the central Government curriculum alongside the Transdnistrian one. When in 2002 it transpired that the absolute majority of parents decided to legalise the whole situation and petitioned the local authorities to allow classes to be conducted in the Latin script, the response was swift and resolute.⁴¹ A total of 54 out of 57 teachers were threatened with criminal proceedings ranging from violating the language law to accepting a second (and untaxed) salary from the Chisinau authorities for their ‘unauthorized’ work. Teachers were given an opportunity to repent and were encouraged to sign

³⁷ According to the ‘Deputy Minister of Education of the DMR’, Mr. V.G. Surinov, in 2001 600 students enrolled into Moldovan, 250 into Russian, 150 into Ukrainian and 4,500 into Transdnistrian institutes of higher education (discussion on 28 February 2002 on file with the authors).

³⁸ BASA-press, No. 2728, 1 October 1996. OSCE Mission to Moldova, Spot Report No. 30/96: Situation in Moldovan Schools in Transdnistria.

³⁹ In January 1997 unidentified men visited the home of the director of the Moldovan School in Grigoriopol and told her husband that his wife and children should leave if they would like to stay alive. Seriously frightened the Director (who had already been detained by the Transdnistrian authorities previously) left the next day. It should be noted that while she has since returned, she continues to be harassed by the security forces. BASA-press, No. 2750- 1, 3 October 1996; FLUX, 7 October 1996.

⁴⁰ OSCE Mission to Moldova, Monthly Report for January 1997.

⁴¹ A petition with signatures of over 500 parents was dismissed by the local authorities either as a forgery or that they were extracted from parents under pressure.

statements that they will henceforth respect 'DMR' regulations currently in force. The alternative was disciplinary measures. The school was 'reorganized' and all teachers had to requalify for their own jobs.⁴² OSCE interventions were ignored, international staff was denied entry to Transdniestria and, finally in spite of appeals to the representatives of guarantor States, the teaching of Romanian was terminated.⁴³ The 'unreasonable' teachers were sacked and the pupils were driven out and nearly two hundred of them now attend a school on Government-controlled territory in a village about 11 km away.⁴⁴

Not all parents openly resist. Some send their children across the separation line to the 'nearest' school. Those who cannot cope with the pressure consider leaving the region altogether, a matter that has alarmed the Office of the United Nations High Commissioner for Refugees (UNCHR) in Moldova. The prevention of internal displacement as a result of human rights violations in Transdniestria, including the right to education, remains a concern for the international community to date. Conscious of the fact that practically no international funds were being allocated to foster positive measures, the UNCHR drafted a reconciliation project to be funded through the World Bank and a substantial grant was secured from the Japan Social Development Fund (JSDF). The main objective was reconciliation between the divided communities and to ameliorate the discrimination through repairs of the deprived institutions.⁴⁵ The project had a difficult start and when both sides failed to provide sufficient guarantees to exercise oversight, the UNCHR had to withdraw.⁴⁶

It should also be mentioned that even the 'official' Moldovan schools in Transdniestria that teach in the Cyrillic script suffer difficult conditions. The schools are poorly equipped with teaching materials as the authorities show little interest in their well-being. Students in Moldovan schools have to make do with out-dated books from Soviet times, whereas their Russian and Ukrainian peers have modern textbooks (sometimes donated by Russia and Ukraine). As a result an increasing number of Moldovan parents send their children to Russian schools while Moldovan schools continue to empty. According to a report of the 'Ministry of Education' of the 'DMR', while in 1999 students of Romanian/Moldovan ethnicity represented 32.6% of all Transdniestrian pupils, only 13% attended 'Moldovan'

⁴² 'We, the school teachers will not violate the school regulation, which stipulates the use of the Cyrillic script and curricula drafted by the Tiraspol administration' was stated in a document given to teachers to sign by the Grigoriopol school director acting on local council instructions. In total 32 teachers were sufficiently intimidated to sign.

⁴³ Open letter to the Ambassadors of Russia and Ukraine dated 20 February 2002 (on file with the authors).

⁴⁴ On the evacuation of children to Dorotcaia, <http://www.azi.md/news?ID=21122>, 11 October 2002 or FLUX 31 July 2002. FLUX, No. 8711, 10 September 1999.

⁴⁵ INFOTAG, 1 October 2001 or <http://www.azi.md/news?ID=13961>, 28 September 2001.

⁴⁶ The conditionality imposed by the project description is considerable but once the grant was approved, the temptation to implement irrespective of circumstances is strong. It remains to be seen whether the reconciliation objective of the project will be attained.

schools. In special and higher education institutions only 6% studied in 'Moldovan'.⁴⁷

3. International law on the rights of children to education

In theory at least, linguistic rights of persons belonging to national and ethnic minorities or persons in a similar position benefit from a range of international human rights law guarantees. The right to use one's own language encompasses the right to use it in private and in public, freely and without interference or discrimination. Article 27 of the UN International Covenant on Civil and Political Rights (1966) and Article 30 of the UN Convention of the Rights of the Child (1989) are explicit and specify that a child belonging to an ethnic or linguistic minority 'shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language'.⁴⁸ The 1990 CSCE Copenhagen Document contains the commitment of the participating states to endeavour to ensure that persons belonging to national minorities notwithstanding the need to learn the official language or languages of the state concerned, have adequate opportunities for instruction in their mother tongue.⁴⁹

The 'DMR' authorities strenuously deny that any rights are being violated and on occasion they even argue that they are under no obligation anyway as there is no general agreement as to what constitutes a (national) minority: a classic defence which is raised by many offenders. However, let us recall that the former OSCE High Commissioner Max Van der Stoel opined already in 1993: '(...) I won't offer you [a definition] of my own. I would note, however, that the existence of a minority is a question of fact and not of definition. In this connection, I would like to quote the Copenhagen Document of 1990, which (...) states that 'To belong to a national minority is a matter of a person's individual choice.' (...) I would dare to say that I know a minority when I see one. First of all, a minority is a group with linguistic, ethnic or cultural characteristics, which distinguish it from the majority. Secondly, a minority is a group which usually not only seeks to maintain its identity but also tries to give stronger expression to that identity'.⁵⁰

⁴⁷ The highest concentration of Moldovan speakers is in the regions of Grigoriopol (69%), Camenca (44%), Slobozia (43%), and Dubasari (40%).

⁴⁸ Moreover, the UN 1992 'Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities' states that the linguistic identity of minorities shall be protected and that conditions for the promotion of the linguistic identity shall be encouraged. Article 2 of the Additional Protocol No. 1 ECHR provides that no person shall be denied the right to education and the state shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions. Article 28 of the CRC (1989) recognises a child's right to education, notably to make primary education compulsory and available free to all and not to discriminate in this regard.

⁴⁹ Given the fact that ethnic Moldovans/Romanians in Transdnistria are in fact the majority as the largest single ethnic group does not detract from these rights (if only because the 'majority' does not speak Moldovan or Romanian).

⁵⁰ Max van der Stoel. *'Peace and Stability through Human and Minority Rights'*. Speeches by

It is evident, at least to the authors, that the Moldovan-speaking population in Transdnistria is a group seeking 'to maintain' and to give an expression to their identity.

The above-mentioned 1992 decree of the 'Supreme Soviet' certified that the 'DMR' subscribes to several international documents on human rights (including the International Covenant on Civil and Political Rights) irrespective of its formal membership/ratification of the respective organizations/documents. What is perhaps typical of such situations is that in violating educational rights, the Transdnistrian authorities not only violate international norms, but also their own 'legislation' (e.g. when exerting impermissible pressure on parents and teachers). Appealing to local courts or the 'Prosecutor's Office' has been attempted; however, as long as these institutions are answerable only to the 'DMR' leadership, such attempts have little chance of success.

4. The OSCE and the Moldovan schools in Transdnistria

The main OSCE body dealing with the issue of Moldovan schools in Transdnistria is the OSCE Mission to Moldova.⁵¹ Given its mandate, the Mission from the very outset took an active interest in the problem of Moldovan schools. It continues to receive appeals from the staff and parents and visits the schools, attends meetings with local authorities and regularly appeals to the 'Minister of Education' and other 'DMR' leaders, including 'President' Smirnov to exercise restraint. The Mission has in particular drawn to the attention of the leadership of 'DMR' that 'it should be the right of parents to choose the language and script of their children's education, while it is the duty of the authorities to provide parents and children with adequate facilities in a non-discriminatory fashion'.⁵² While the Mission has endeavoured to help parents, students and teachers to solve their problems, it evidently lacks the means to achieve compliance with international standards.

Ambassador William Hill, the past and present Head of the OSCE Mission, has noted: 'We in the OSCE Mission in Moldova are deeply concerned about the schools and school children in Transdnistria, in particular those children that wish to be educated in the Moldovan or Romanian language in the Latin script but either are not able to receive such an education or whose education in this script is restricted. I have raised this issue personally many times with all the Transdnistrian leadership and we continue to raise the issue. We believe that children have the right and that the parents have the right to have their children educated in the language and the script which they choose and that the state should not impose any arbitrary or unjust restrictions on the education of children. We continue to work to find adequate support for the education of children on the left bank in the language that their

the OSCE High Commissioner on National Minorities. Edited by Wolfgang Zellner and Falk Lange. 2nd enlarged edition. Nomos Verlagsgesellschaft, Baden-Baden, 2001, p. 44.

⁵¹ The Mission was deployed in Chisinau on 25 April 1993 and maintains a branch office in the 'capital' of the 'DMR' Tiraspol. [Http://www.osce.org/moldova](http://www.osce.org/moldova).

⁵² See OSCE Mission to Moldova, Report No. 12, 8 November 1993, BASA-press news agency, Chisinau, 10 October 1996.

parents desire. We are working closely with the UNCHR and other international organizations to find financial support and to offer support to the schools on the left bank that educate children in Romanian in Latin script. This is an ongoing problem and it is one that we have had success in improving conditions for education, but there is still much left to be done and we will continue to urge and to press officials on the left bank to allow children to be educated in the language that they choose and to prevent, not to allow discrimination, threats, violence against these children and these schools'.⁵³

The Moldovan schools figured prominently on the agenda of the OSCE High Commissioner on National Minorities Max van der Stoep who investigated the problem during his first visit to Moldova in December 1994. During the visit, he met with local authorities and leaders of national minorities in Tiraspol and in the neighbouring city of Bender (Tighina). He identified possible solutions for the 'school crisis' and visited Moldovan-language schools in the region 'where he spoke with teachers and parents anxious for their children to study the Moldovan language in the Latin script, rather than the Cyrillic alphabet mandated by the Transdnistrian authorities'. He appealed to the authorities 'to show flexibility on this controversial issue and to ensure that it was resolved to the satisfaction of all persons concerned and in full accordance with international norms'.⁵⁴

As nothing improved, Mr. Van der Stoep returned to the issue during his two subsequent visits to Moldova (May and September 2000). In May he reiterated 'his concerns about the difficulties encountered by Moldovan children in Transdnistria to learn the Moldovan language using the Latin script' and called on the Transdnistrian authorities to put an end to their practices. With reference to the harassment faced by the few schools teaching Moldovan in Transdnistria, he also cautioned '... that the authorities should not hinder the enjoyment of the rights of citizens to education in their mother tongue by imposing unduly and burdensome legal and administrative requirements regulating the establishment and management of educational institutions, whether private or public'.⁵⁵ During his September visit the High Commissioner met, among others, 'President' Smirnov and urged him 'to adopt a more lenient attitude towards the seven schools teaching in the Latin script'.⁵⁶

The unresolved issue has since been taken up by the current High Commissioner on National Minorities, Rolf Ekeus, who took office on 1 July 2001. Visiting Moldova in April 2002, Mr. Ekeus 'expressed his concern for the plight of a number of schools in Transdnistria which face difficulties in teaching the State language in the Latin script'. Mr. Ekeus expressed solidarity with the teachers and parents who face intimidation, praised the humanitarian work of the UNCHR in

⁵³ Interview <http://www.azi.md/iv?iv=15&lang=Ro> 12 November 2001.

⁵⁴ *Quiet Diplomacy In Action: The OSCE High Commissioner on National Minorities*. Edited by Walter A. Kemp, Kluwer Law International, The Hague/London/Boston, 2001, p. 232.

⁵⁵ *Ibid.*, p. 234.

⁵⁶ *Ibid.*, p.235.

supporting the schools, and called on the Transdnestrian authorities ‘not to obstruct the work of the schools. The rights and welfare of children should not become the victims of political agendas. There must be practical solutions to immediate and solvable problems to prevent a worsening of the situation’, he warned.⁵⁷

5. The need for more international community involvement

When speaking about the rights of children to education it is important to remember that minority rights and human rights are interdependent, indivisible and inviolable. According to international norms and standards, unrecognised authorities controlling territory are not absolved of their responsibilities, including their obligation to respect the human rights of everyone. The Final Document of the Moscow Meeting on the Human Dimension of the CSCE (10 September - 4 October 1991) states: ‘... issues relating to human rights, fundamental freedoms, democracy and the rule of law are of international concern, as respect for these rights and freedoms constitutes one of the foundations of the international order’. At the same time the participating States ‘*categorically and irrevocably*’ declared ‘that the commitments undertaken in the field of the human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned’. The participating States also expressed: ‘... their determination to fulfil all of their human dimension commitments and to resolve by peaceful means any related issue, individually and collectively, on the basis of mutual respect and co-operation. In this context they recognize that the active involvement of persons, groups, organizations and institutions is essential to ensure continuing progress in this direction’.⁵⁸

In other words, international norms and standards require that any authority that controls territory and people must respect the human rights of everyone, including persons belonging to national, ethnic or linguistic minorities (or of persons in a similar position). By the same token monitoring compliance should be the legitimate focus of international attention — even if the so-called ‘DMR’ is not a political entity recognized by the international community. The issue of human rights in Transdnestria (as well as in other separatist republics), including the right to education, should be a ‘matter of direct and legitimate concern’ to all OSCE participating States and OSCE institutions.

On 17 June 1999, John Evans, the then Head of the OSCE Mission to Moldova, in his Statement at the 235th Meeting of the Permanent Council, stated: ‘The Trans-Dniestrian problem is like a combination lock: we must dial the right numbers in several places in order to open it. We, the OSCE and the international community in general, may be able to assist, but the parties themselves know their conflict better

⁵⁷ Press release, OSCE Mission to Moldova, 10 April 2002. OSCE High Commissioner on National Minorities: ‘Resolving Ethnic Issues not a Zero Sum Game’, *HCNM.INF/2/02*, 10 April 2002.

⁵⁸ *Documents on the Human Dimension of the OSCE*. Collection prepared by Dr Dominic McGoldrick. Warsaw, 1995, p. 70.

than does the outside world, and bear the ultimate responsibility for resolving it'.⁵⁹

In our opinion, this statement sheds some light on one of the basic policy flaws with regard to so-called 'frozen' conflicts on the territory of the former Soviet Union. Not only as if one crucial element of a potential solution is always absent and the stalemate just continues, but when willingness to pursue real solutions falters, the only action is an appeal to the 'parties'. Another problem in this regard is that the international community tends to focus exclusively on the 'major issues' (which in the Transdniestrian context means the disposal of weapons and the withdrawal of Russian troops pursuant to the 1999 Istanbul Summit). Sadly, unless human suffering hits the headlines, even gross and widespread human rights violations are at best perceived as isolated incidents or attributes of a regrettable state of affairs — insoluble until the 'big issues' are resolved. Too little effort is exerted by the international community to press for change or to promote confidence-building measures.

In this regard it is most interesting to note that according to independent sources, 80% of the foreign trade of the 'DMR' is with Western Europe and the United States. No wonder the semi-official 'DMR' press actually boasts '... that the lack of official legal status does not create obstacles when concluding and implementing economic agreements'.⁶⁰ Some 50% of Moldovan foreign trade is with the Russian Federation. In our opinion, these figures indicate that the international community in general, and some countries in particular, have considerable leverage, if they so wish, to do more to curb Transdniestrian excesses in the sphere of human rights. Unfortunately, to date this has not been the case, and one cannot avoid the question: How can the failure to act be reconciled with the numerous obligations placed on Newly Independent States before their admission to the 'club' of democratic countries?

6. Conclusion

Serious human rights violations so many years after the collapse of Communism beg for fresh and more serious international attention. Existing international norms and standards require that any authority controlling a territory and population must respect the human rights of everyone, including those of persons belonging to national, ethnic or linguistic minorities. Consequently, even if the so-called 'DMR' is not a political entity recognised by the international community, the issue of human rights in Transdniestria (as well as in other separatist republics), including the right to education, should be a '*matter of direct and legitimate concern*' to all OSCE participating States and OSCE institutions. It also follows that the illegal regime in Transdniestria and its atrocious human rights record manifested *inter alia* by complete disregard for educational rights as well as numerous other OSCE and Council of Europe standards can hardly hope to be recognised.

⁵⁹ PC.FR/17/99, 21 June 1999.

⁶⁰ '*Transdniestria strengthens trade links with Europe*', Olivia Press, <http://www.olvia.idknet.com/ol08-02-03.htm>, 3 February 2003.

On the other hand, as long as the interest to keep conflicts 'frozen' prevails, progress will be unattainable and violations of human rights will continue. The failure of the international community to act effectively has led many to conclude that the 'DMR' is a prime example of an unspoken policy of *divide and rule*. By selectively encouraging separatism, former masters continue to exercise control and influence in the region, and respect for human rights becomes an empty phrase.

The language issue in Transdniestria is of course but a small component of the larger struggle that is spurred by the disregard of rights for a substantial part of the Romanian-speaking population, undermining any prospect of respect for minority rights. Even if one were to accept the official line that 'Moldovan' is one of three 'state' languages, in practice even ethnic Moldovans/Romanians who opt for the Cyrillic are marginalized. Admittedly, the situation in Transdniestria has improved somewhat since 1998 and repression no longer as a rule results in disappearances or other extreme forms of physical and psychological violence. On the other hand, violations of elementary human rights continue in a more subtle form. The President of the Republic of Moldova, Vladimir Voronin, has stated that the failure to resolve the Transdniestrian conflict, along with poverty and corruption, is one of the most important problems of the country and region. Consequently there is a growing perception in Moldova that unless the Transdniestrian conflict is resolved, it could lead to the dissolution of Moldova. Being conscious of this the current leadership of Moldova supports an OSCE-drafted project for Moldova's federalization, although in the opinion of many independent observers, its implementation runs contrary to Moldova's national interests.⁶¹ Given the fact that the negotiation process started more than ten years ago with no final resolution in sight, it is important for the international community to pay renewed attention to the violation of human rights in Transdniestria. One should therefore consider whether *de facto* policies of 'quiet' diplomacy vis-à-vis a regime that thoroughly disregards democratic values actually delivers sufficient results or whether it only extends the agony. After all, the OSCE is defined by the linkage between human rights and security and the Transdniestrian example again demonstrates that a party that abuses the human rights of people under its jurisdiction should not be considered a worthy partner for discussion. The educational issue, just as other ongoing human rights violations, should be accorded more attention and become a prominent component of the negotiation process.

⁶¹ See 'The OSCE and 'Federalization' Failing in Moldova', Vladimir Socor, *IASPS Policy Briefings: Geostrategic Perspectives on Eurasia*, No. 13, 27 January 2003.