

Language rights, literacy, and the modern state¹

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I.

In this essay I am concerned with arguments for language rights and (which is different) language preservation. In particular I am concerned with the ways in which they sometimes proceed as if language consolidation arises in a vacuum, as if it's simply a bad idea on the part of malicious majority-language policymakers. I will argue that questions of language policy and language rights cannot be understood in isolation from the social and political changes that have created such strong trends toward monolingualism at the state level. That is not to say that these trends should not be resisted; it is to say that they cannot be ignored.

In section II I argue, first, that there are substantial pressures toward linguistic consolidation that arise spontaneously, especially at the time when literacy becomes a widely-available option; second, that this transition toward literacy and linguistic consolidation forms part of the background for the emergence of the modern state, with its interrelated tendencies toward nationalism and democracy; third, that the modern state in turn hastens and often forces linguistic consolidation. In section III I examine the consequences of this for the idea that the imminent desuetude² of many languages poses a moral problem that demands political solutions. In section IV I outline three arguments in favor of (some) language rights

¹ I am grateful to the participants at the seminar out of which this volume grew for the stimulating discussion that helped me shape these arguments, and in particular to Will Kymlicka and Alan Patten for detailed and very helpful comments. Moreover, the footnotes herein inadequately convey my indebtedness to the many writings of two other participants: John Edwards, especially Edwards (1994), and David Laitin, especially Laitin (1992, 1998). Some of the work on this chapter was done while I was a visiting fellow at the Social Philosophy and Policy Center, Bowling Green State University.

² I will in general refer to language desuetude and disuse, rather than using the more common, more vivid and poetic, images of death, extinction, genocide, and so on. I think that the latter have a generally pernicious influence on debates about language policy. They stack the deck in favor of preservationism; who, after all, is in favor of genocide? See for example Fletcher (1997), which uses the moral weight attached to concepts associated with violence and resisting violence to reach the conclusion that there is a right to preserve languages in the face of their erosion. Moreover, such images make it too easy to blur the difference between language shift and violence. This either makes the former seem worse than it is, or cheapens our moral language for talking about the latter. There have been enough examples of states killing minority language-*speakers* that talk about "killing a language" seems to me a dangerous dilution of important moral concepts.

that do not rest on the idea that language preservation is a good in its own right, and so can come to terms with the reality of language consolidation.

II.

Even independent of any injustices in the world, there are real pressures toward linguistic homogenization in a modern world made up of modern states. These pressures are intensified by the spread of mass literacy and printing; and literacy and printing in turn intensified and even made possible some of the social trends that pointed toward homogenization.

Literacy itself, it seems to me, is under-noticed in discussions of language and multilingualism.³ In laments for the lost world of casual polyglottism, or enthusiastic reports of that world's persistence in parts of Africa and Asia, one fails to see acknowledgment that it is much harder to be literate in several languages than it is to be conversant in them. Once "knowing a language" comes to include the ability to read and write in it, each language (including the native language) requires a much greater investment of time, energy, and education to acquire. This of course does not force anyone into monolingualism. But it does put downward pressure on how many languages any one person is likely to know.⁴

Moreover, *any* downward pressure on the number of languages any person is likely to know also places downward pressure on the number of languages can sustainably be spoken in any given region. A pre-literate linguistic equilibrium might include several languages, including one or two with very small numbers of native speakers. The latter are not (very) disadvantaged, and so do not face pressure to linguistically assimilate, so long as their neighbors are willing and able to learn to converse in their language(s). But that equilibrium is upset by literacy. Once language acquisition has become more costly, members of the larger groups reduce the number of languages they are willing and able to learn, and so cease acquiring the languages spoken by smaller groups.⁵ This in turn makes life more difficult for

³ For important exceptions see (Laitin 1998, Edwards 2001).

⁴ It is no doubt true that literacy in a second language is easier to acquire than literacy in a first, and that it also (often, depending on the languages involved) improves one's literacy in the first. For a while, at least, there are increasing returns to marginal investments of time in learning languages. But that does *not* change the fact that learning additional languages does require an additional investment in time; the need to become literate in one language may still displace a preceding tendency to be conversant in two or three.

⁵ I will sometimes say "larger/ smaller language" as shorthand for "the language spoken by more/fewer persons" or "the larger/ smaller group of colinguists." That is all I shall mean by "larger/ smaller language;" the phrasing should not be read to refer to the range of vocabularies or concepts in the languages themselves.

members of each smaller group. They must either a) invest time in language acquisition that members of the larger groups do not have to invest (in the simplest case, members of a minority have to learn the majority language while the reverse is not true); b) limit interactions to members of their own linguistic community; c) depend on interpreters and translators, who then form a bottleneck and may gain unfair power over members of the smaller group; d) give up their ancestral language and assimilate; or e) migrate out of the area. As some members opt for (d) or (e), (b) becomes progressively more difficult and less appealing.

Sometimes two or more of the smaller language communities might converge on a single language, in the hope of making (b) a more credible choice, of stanching the flow of members to (d) and (e), and of providing members of the larger group(s) with more incentive to learn the language. German may pose less of a threat when the local Slavic dialects have coalesced into a single written language. The same may be true of the languages of European conquerors and colonists relative to the languages of those conquered and colonized. This common strategy will be discussed below when we turn to nationalist movements; for now the interesting thing to note is that even this option results in a decline in linguistic diversity. It is a special case of linguistic assimilation—a defensive or preemptive or competitive case—not an alternative to it.

This set of choices is, of course, faced by members of any small linguistic minorities surrounded by larger language groups. Even in the absence of literacy there's an upper limit to how many languages can be sustained in a given area and population. But any change that makes members of the larger group(s) less willing to learn additional languages—such as the spread of literacy—makes the dilemma of members of the smaller group(s) more acute. The level of multilingualism that was sustainable before literacy is probably not thereafter.

I have been discussing "languages" as if they were wholly discrete; but another part of what literacy does is to force a spectrum of dialects into the form of a small number of discrete languages. Linguistic frontiers turn into linguistic boundaries. Before literacy, there is little advantage to millions of persons who will never meet each other all using a common form of a language. Literacy—perhaps even more than the migration and labor mobility of such interest to Ernest Gellner, though the two are not independent—changes that decisively.

And all of that is true even if there is no difference in how quickly literacy spreads in the various communities and languages, how many speakers of each there are elsewhere, how much (and what) there is to read in the languages, and how strong a market there is for new written work. It is also true even if there is no difference in the political power of the groups involved. (Perhaps all the local groups are subject to an imperial state foreign to them all.) If, however, literacy spreads in the languages spoken by larger groups while the others still lack written forms altogether, then the smaller linguistic communities face still greater difficulties.⁶

The account so far has lacked any reference to politics; the spread of literacy by itself decreases the number of languages any given person is likely to learn and, therefore, the number of languages that can likely be sustained in a given area. But the spread of mass literacy is also tied up with the development of nationalism and of democracy, which are in turn tied up with each other. And nationalism and democracy accelerate the trend toward local linguistic homogeneity.

This part of the story has been told by many others, with varying emphases. Some version of it is common to all the theorists and historians who understand nationalism to be a distinctively modern phenomenon (Gellner 1983; Anderson 1983; Taylor 1993, 1997, 1998). Here is one version: the spread of mass literacy makes possible the growth of a national consciousness, spread in part through newspapers, in part through a shared awareness of the new linguistic boundaries being formed by the crystallization of discrete languages. But nationalism is a project, not only (not even primarily) a sentiment. It is the project of forging a multitude of persons and groups into a self-conscious collective. Though modern nationalism could not get off the ground before linguistic consolidation began, it did not wait for that consolidation to reach an endpoint by itself. One of the most universal components of nationalist projects is the attempt to speed linguistic consolidation along to a particular conclusion. If the nationalists—and, which is the same in this context, the nationalizers—do not control a state, then they use whatever tools are at hand to propagate the now-standardized and now-written language. They exhort, write dictionaries, found schools, link the language to the churches, translate well-known works including the locally-appropriate scriptures, publish newspapers, and so on. If they do control a state, the means at their disposal multiply. The state

⁶ If the language spoken by a local minority is stronger along these dimensions— literacy spreads more quickly, there is more written and more of a market for written material, etc.— then that helps to

may create or subsidize schools that teach the standardized language, curtail or prohibit schools that do not, conduct official business only in the official language, instruct conscripted soldiers in it, ban publication (and, later, broadcasting) in other languages and dialects, require personal names to take forms particular to the official language, and much more. This list mixes means foul with ones relatively fair; I will turn to the question of distinguishing between the two in section IV.

Literacy makes information about official business much more accessible to the populace; the shared awareness of being part of a(n increasingly) unified linguistic community contributes to a feeling that the populace is becoming a people. Both of these trends contribute to the spread of democratic ideas. In turn, democratic states enthusiastically engage in the kinds of nationalizing projects described above. They attempt to cement and perpetuate the feeling of being a people; they seek to create and maintain the possibility of communication among citizens and between citizens and officials; they are thought to function more smoothly and legitimately if majorities and minorities are temporary and shifting rather than permanent and entrenched; and so on. Moreover, the existence of democratic politics increases the attraction of speaking the language of state and of political discourse, even in the absence of deliberate assimilationist policies. Democracy creates yet another arena to which access can be gained by learning the dominant language. Both the animating principles and the practical demands of a democratic state call forth more nationalizing projects in general and more linguistic homogenization in particular than may be the case in multiethnic empires. The decline of polyglottism contributes to, but is also speeded by, the replacement of such polities with national democracies.

As the wars of the French revolutionary and imperial era showed so vividly, a nationalist democratic state—even one that was then far from linguistically unified—could marshal military power unavailable to older kinds of polities. And so the events of 1789-1815 inspired competitive nationalizing projects throughout Europe. Military necessity, both real and imagined, contributed still more to the pressures to shape each populace into a people and to make each people legible to its state for purposes of taxation and conscription (Scott 1998). At best, linguistic minorities created administrative difficulties for the bureaucratic apparatus of the emerging modern state and drew attention to the untruth involved in claiming that a state's people made up a nation. At worst, they were potentially disloyal; if they perceived

counterbalance the disadvantages of being a local minority.

themselves to be members of a nation that was not the nation of the state, then they might secede or provide the pretext for revanchism. Even in the absence of such a conscious link between security and homogeneity, a security competition among modern states may hasten assimilation. Shared service in the sort of mass armed forces created during the revolutionary conflicts has been one of the most powerful forces for language consolidation and for the creation of national sentiment. In other words, the army helps to create nations directly, above and beyond the impetus given to nationalizing projects from security concerns.

It is important to remember that this drive toward uniformity and language consolidation was (and is) characteristic of *both* categories of nationalists: those who wanted to make extant states into nations, and those who wanted to make ostensibly-extant nations into states—partisans of nationalizing states and of state-seeking nations, in Brubaker's (1996) terms. The two types competed over which community was to claim the status of nation, which language would become "the" language of the people, which group it was that would become a homogenous unit. But they did not disagree about the need to speed along the process of language consolidation in the interest of national and popular unity. And so, while the French Third Republic worked to replace regional languages with French, activists in the provinces tried to shore up their languages' fortunes by standardizing them, committing them to print, and smoothing out the variation in local dialects (Weber 1976:67-94).

Like most other versions of the story of the nation, the modern state, and democracy, this one is drawn in the first instance from the European experience. But the interaction of literacy, nationalism, and linguistic standardization and homogenization is not uniquely European or uniquely early-modern. It was evident in the nationalist movements that challenged European empires in the twentieth centuries; Tagalog and Bahasa Indonesian have political biographies similar in kind to those of Czech and Serbo-Croatian. It remains evident in indigenous-nationalist political movements today. Pan-Mayan nationalists in Guatemala are pushing for language consolidation as part of the process of creating a Mayan nation that can credibly challenge the Ladino state, both politically and in the opportunities it can offer to its members. Dozens of languages are, on this agenda, to be replaced by one that can have a standard written form, can be taught in bilingual schools, and can unite the Mayan majority in a single alternative society. There are real advantages to fluency in a language that is written and shared by a large number of people, in addition to

the advantages of fluency in the language of state. In order to balance out those advantages, nationalists pursue homogenization and literacy among the groups that they hope to make into a nation (Brubaker 1996, Kymlicka 2001:50-53).

Thus there are spontaneous trends toward linguistic consolidation—not “natural” in that they are the results of human action, but spontaneous in that they are not the result of deliberate design—and there is also linguistic consolidation brought about, often coercively and unjustly, by deliberate political action. But the line between the two is blurred, because the same social changes that contribute to spontaneous consolidation also contribute to the political action in favor of consolidation. The widespread tendency of states to suppress minority languages is not due only to malicious intent on the part of state actors, though there has been no shortage of such intent.

None of this requires us to think that the post-literacy, or even the post-literacy-and-democracy-and-nationalism, equilibrium will be monolingualism, either at the individual level or at the state level; Laitin (1993) offers a compelling argument that it will not be. But it does mean that the equilibrium number of languages (at both levels) will be much smaller than was its premodern counterpart. The idea that the world will become monolingual is a red herring in debates over multilingualism, and is in no way predicted by the analysis here. But a universal embrace of English is hardly necessary for many thousands of languages to fall into desuetude; neither is it necessary for monolingualism to reign within each region. It is only necessary that, for their second or third languages, most people prefer to learn written languages of wide currency—the language of the central state if that is not their own, the language of their province if *that* is not their own, the language of a neighboring state, one of the languages of global business or diplomacy—instead of the language of a small local minority. First nonnative speakers of the minority language stop learning it; then, as its usefulness contracts, so do the children of native speakers.

There is something pernicious in the frequent invocation of benign preliterate polyglottism in contemporary debates about language policy. That invocation makes multilingualism seem easier than it really is today. The acquisition of multiple languages is more difficult, both because many children now live in linguistically homogenous areas and so are not immersed in a multilingual environment, and—more simply—because it is more difficult to become fully literate than to become fully conversant. Poorly-

designed bilingual education programs, for instance, rather than recreating an idyllic Hapsburg or Baltic mosaic, can now result in large numbers of students who are illiterate in two languages.

III.

The foregoing is relevant, I think, to the normative case for language preservation.⁷ The figures are by now familiar—out of some 6,000 or so languages currently existing, half are in imminent danger of ceasing to be used or spoken. Roughly 1,500 languages have fewer than 1,000 speakers each; as many more have fewer than 10,000 speakers. The endangered languages are most concentrated in India, the Pacific islands (especially New Guinea), and among the indigenous peoples of Australia and the Americas. The list of vulnerable tongues also includes many from sub-Saharan Africa, from southeast Asia, and some of those spoken by the indigenous peoples of Siberia and Scandinavia.

It is evident at a glance that this list includes many of the poorest and least powerful groups in the world. The relationships among that poverty, that lack of power, and that linguistic vulnerability are complicated, run in each of the possible directions, and tend to reinforce one another in spiraling ways. When May (2001:4) observes that "the vast majority of today's threatened languages are spoken by socially and politically marginalised and/or subordinated national-minority and ethnic groups... [L]anguage death seldom occurs in communities of wealth and privilege, but rather to [*sic*] the dispossessed and disempowered," the observation is right but the inference he draws is wrong. Language vulnerability has sometimes been a condition that the powerful violently inflicted on the powerless—all too often by killing the language's speakers. But most of the languages that are most vulnerable today are *not* vulnerable as a result of their speakers' subordinated status. The causation runs in nearly the opposite direction.

Nearly all of the languages likely to fall into desuetude are unwritten or have adopted written forms only very recently. While a few have large numbers of speakers, vanishingly few are widely read and written. As we saw in section II, it should not surprise us that unwritten languages are vulnerable. But there was nothing in the analysis of section II to predict that *all* written languages would continue to be

⁷ Language preservationism is a position that can be held with grater or lesser degrees of moderation and sophistication. I will often refer to May (2001) work in this section; it is perhaps the most philosophically persuasive statement of the position. More widely-known and influential statements have come from many linguists, sociolinguists, and anthropologists, from UNESCO, from NGOs like Terralingua, and of course from activists on behalf of particular languages. UNESCO has been particularly influential in promoting

used. Language consolidation might well continue after the unwritten languages are swept away. But literacy appears to increase the durability of languages a great deal. Once there are a few hundred thousand readers and writers of a language geographically concentrated, once books and newspapers are widely commercially published in it—published by people trying to sell books and newspapers, not by those who give them away as part of a language plan—then its likelihood of fading away seems to fall dramatically. This is of a piece with the durability of ethnic, cultural, and national identities more broadly. While all of these do change over generations, and while there is a great deal of fluidity in each at the individual level, as a rule people shed them neither quickly nor lightly.

But a language in which there is *not* widespread literacy, a language for which there does not exist mass publishing or mass readership, has a much more difficult time persisting, despite its speakers' predictable attachment to it, and regardless of the attitudes or actions of outsiders. The opportunity cost of leading one's life primarily in that language are simply too high, once movement into a larger and literate language-group becomes feasible. Language activists and outside preservationists may race to create a written form and to spread knowledge of it. Their race against the speed of language shift is quite difficult to win. By the time dictionaries are standardized, the most important local stories have been committed to print, and a few major books in outside languages have been translated, a generation of children may have grown up reading another language. The revivalists' attempts to create a social world based on the new written form are badly behind from the outset. The urge to maintain an ethnic and cultural identity and tradition remains strong; but the odds are against that identity being expressed in the traditional language.

While this situation is less common, even a literate language faces similar difficulty if its number of speakers (and readers and writers) falls or begins below some critical level. The horizon of options of lives lived in the language is too constrained. A successful shift from nonliteracy to literacy will probably not save a language of 500 speakers. In section II I described the process of language consolidation as the reduction of the number of languages that could continue to be spoken by a person or within a territory. It might equally be described as an increase in the minimum number of speakers required for a language to be viable. An increase in the number of speakers of a neighboring language—like the spread of literacy

and legitimizing particularly simplistic versions of the position (Bjeljec-Babic 2000; Ortiz de Urbina 2000; Wurm 2001).

among its members, or economic development or social differentiation and modernization within its society— increase the opportunity costs of remaining in our own language community, and so lead to a marginal increase in the number of our colinguists shifting to the other language. That further exacerbates the shift difference in the two languages' number of speakers, encouraging a further marginal shift, and so on. The durability of cultural and linguistic identities provides some push in the other direction; but when the differential between the two language communities grows too great, that push will not be enough. The range of options available to a speaker of a language spoken by half a billion persons is too much greater than the range available to the member of a 500-person language group.

May complains that arguments of the sort I am making here "simply represent a particular *value judgement*—a judgement that equates minority-language loss, and language shift to a majority language, with progress and modernity... [I]f minority languages are consistently viewed as low status, socially and culturally restrictive, and an obstacle to social mobility, is it little wonder that such patterns of language shift exist?" (May 2001:148, 149) He further maintains that "the notions of 'communicative currency' or 'languages of wider communication' come to serve as linguistic proxies for the legitimation of the greater sociopolitical status of the majority-language group" (May 2001: 147). In general he argues that we should view the differences in the ranges of opportunities available to speakers of minority and majority languages as constructed (often maliciously) and subject to deliberate change.

In the world as it is, with all the unfairnesses and injustices that went into its creation as well as all the inequalities that just happened, it's not prejudiced or stigmatizing or arrogant to say that here and now the life chances of a monolingual speaker of an unwritten tribal language in the far northeast of India spoken by a thousand people are horribly constrained, and that no amount of state support or egalitarian rhetoric can change that fact. That is not, of course, due to any intrinsic characteristic of the language; it's not because the language is inferior or incapable of incorporating the concepts that are available in other languages. Neither is it because of any injustice in the allocation of resources or occupational roles. It's not that the high-status positions have been constructed so as to exclude speakers of the tribal language. Rather, the social world that includes high-status positions developed and evolved in isolation from that of speakers of the tribal language, and vice versa. The same is true of speakers of tribal languages in Papua New Guinea. Some of the world's poorest people and many of the most endangered languages are in places

that weren't ravaged by colonialism but were rather isolated from it.⁸ But even when the current language vulnerability *is* (at least in part) a result of serious past injustices, as is the case for indigenous languages in the Americas and Australia, it's still true that a massive disparity exists between the options made available by teaching a child the vulnerable language and those made available by teaching some other language (again, whether the vulnerable language is being taught as a primary or an auxiliary language). Even if the state that has committed the injustices bears the entire *financial* cost of the minority language revival program, it is still the children of the victimized group who will bear the greatest costs. There's no need to think that communicative range is the *only* value served by a the ability to speak a language; I do not mean to deny the communal, aesthetic, and symbolic values associated with language preservation. But to deny that there are differences in the communicative ranges, or to think that these are exclusively the result of unjust power relations, seems to me a serious mistake. And if communicative range matters *at all* in our evaluations of what languages it is in children's interest to learn— as surely it must— then we must often admit that language preservation policies are not in children's interest.

This means that language is an unusually difficult case for compensatory or remedial justifications for cultural rights. When vast areas of land have been expropriated from a minority in the past, there is no apparent difficulty with restitution *in terms of the interests of the members of the minority*. (There are considerable difficulties that have to do with the interests of third parties who many have innocently come to possess the stolen land in the interim.) Histories of discrimination, coercion, expulsion, violence, and enslavement can justify a wide range of current policies of cultural rights and special protections, both as compensation and as protection against future abuses. And these are generally taken to be less problematic, more clearly-justified, cases of cultural rights than are non-remedial examples.

But if the history of injustice has driven a critical mass of a language's speakers away from it, or has prevented it from evolving and taking on modern and written forms that it otherwise might have, or has interrupted its transmission for a generation or two, then the attempt to make up for past wrongs can be

⁸ No doubt, this relationship between language vulnerability and isolation is in part an artifact of selection bias. That is, the most-vulnerable languages *that are still in use* are in areas that were isolated from colonialism; comparably vulnerable languages in the regions most affected by colonialism have long since disappeared. I do not mean to suggest that colonialism was somehow good for the preservation of the languages of the colonized. I do mean to suggest that the conjunction of poverty, nonliteracy, powerlessness, small language communities, and (in some global sense) low status is not a creation of colonialism or of oppression.

quite problematic. In the world that we have, complete with its unjust history, the interests of the children and grandchildren of the language's speakers may have to be overridden in order to pursue language revival. A revival project that tries to minimize the burden on children— say, by continuing to encourage fluency and literacy in the language(s) that drove out the ancestral language, as in the case of Ireland's policy of trying to revive Irish while still encouraging knowledge of English— may not do much reviving. The opportunity costs of such a policy are low; few options are foreclosed for the children involved. But the extent of language revival is low as well. A revival policy could instead give primacy to the ancestral language, or discourage the acquisition of the rival language(s). As the policy moves farther along this dimension— as it approaches encouraging monolingualism in the ancestral language— the likelihood of success rises, but so does the opportunity cost for children. Whether the opportunity cost of years of education in the ancestral language is improved literacy in the local majority language or acquisition of a more-widely-used second or third language, it is likely to be high.

This is not to say there is a blanket moral prohibition on revival policies. Shoring up a language that is declining is markedly different from trying to revive one that is past its tipping point and is falling into general disuse. And there is no general obligation on the part of parents, educators, or the state to simply maximize the range of communication that an education makes possible. A native-French speaker who learns Breton instead of German as a second language trades more options (people to talk with, books to read, job opportunities, and so on) for fewer, but "more" and "fewer" are not the only relevant considerations. Parents who chose such a course of education for a child would not do their child an injustice. But our intuition that this is so comes from the sense that knowledge of French already provides the child with "enough" options. I will not try to operationalize "enough" here. Sufficiency requires a complex balance of local, statewide, and global options— and the appropriate balance will vary dramatically from case to case. But if there is an obligation to provide something like sufficiency as part of an education, then we must be willing to ask of language revival policies whether they provide it. A monolingual education in a language that is rapidly falling into disuse does not. Even if the language being

revived is taught as a second language, the revival policy may well violate the requirement of sufficiency—depending on the options made available by the first.⁹

The argument that we should not, on balance, try to prevent thousands of languages from falling into disuse is an uncomfortable one. It entails allowing many past injustices to go unrectified. It requires drawing distinctions between viable and unviable languages, a process that feels all too much like distinguishing between worthy and unworthy ones. But there is no real alternative, other than to rail against the world created by literacy and the modern state (and the modern economy and...). If we do not allow ourselves to draw such distinctions, if we're unable to recognize the difference between a viable literate language of a national minority that has come under some pressure and a nonliterate language spoken by a few hundred people in New Guinea, then we lose the ability to say anything coherent about protecting the former. In the next section I will consider possible defenses of minority language rights that do not rest on the general preservationism criticized in this section.

One final note about language preservation. So far the discussion has proceeded mainly in terms of protecting minority languages against incursions from the local majority language or the local language of state. But many policies of language preservation—here we might call them linguistic protectionism—aim to preserve the latter kind of language against incursions by a global one. The policies don't seem very different; actions taken to protect French against English in France are reminiscent of those taken to protect French against English in Quebec. I think the similarities between the two situations are telling, but that there are important differences as well. Even if there were good will on the part of a state to try, it would be very difficult to craft linguistic protectionism in a way that did not further disadvantage internal minority vernaculars. Global languages might be the ostensible target, but the primary effect may well be on smaller local languages. It is therefore disingenuous to try to ally the cause of linguistic protectionism to that of preservationism more broadly. The primary threat to small local languages is almost never a global

⁹ Note that the concern about opportunity costs be sidestepped by calling attention to the decreasing marginal costs of acquiring languages after the second. The native English speaker who learns Gaelic might then have an easier time learning French. But this would presumably be just as true for the native English speaker who learned Hindi before learning French. If knowing Hindi would open more opportunities than knowing Gaelic, then a price has been paid. Even if sufficiency is not violated, we should not lose track of this fact entirely.

language as such; it is almost always the local majority language or the local language of state.¹⁰ All that can be said on behalf of language protectionism that cannot be said in favor of preservationism more generally is that the former rarely shores up a doomed language and thereby sacrifices the interests of the young. But that is because such policies are generally redundant in any event. The languages they have both the population and publication base to be safe from any real threat *and* the advantage of being institutionalized in a modern state. Even without protectionism, that advantage is a powerful source of support for any language's persistence, above and beyond the security provided by mass literacy.

IV.

None of this is to say that there are no good reasons for special measures to protect minority languages. Preservationism is not the only available defense for language rights. But other defenses must be able to come to grips with the facts of languages shift. Many languages have ceased to be spoken since the beginning of mass literacy, and many more will cease to be spoken as mass literacy spreads through Africa, south and southeast Asia, and the Pacific. This is perhaps to be regretted on aesthetic or cultural grounds, but on balance it is not to be regretted in terms of the lives of the persons most affected. Here I consider three defenses of language rights that do not depend on preservationism; I call them present-tense language rights, linguistic egalitarianism, and counterbalancing.

The first focuses attention is not on the future but on the present. The currently-living speakers of a minority language can face serious disadvantages, especially the adults coming into contact with the majority language for the first time. It may be that they cannot, or that they cannot reasonably be expected to, acquire the majority language and to live in the society demarcated by that language.¹¹ It is surely unreasonable to govern them as if they spoke that language when they do not. At a minimum, the state governing such a population must make attempt to make the governing comprehensible to the governed, whether through the provision of translators or by conducting official business in the minority language when appropriate. A state that as a matter of policy subjects those it governs to trials they cannot understand for violating laws they cannot understand acts unjustly.

¹⁰ Sometimes, as when English threatens American Indian languages, the threat does come from a global language, but primarily because it is *also* the local language of state.

It may turn out that, once interactions with the state are made comprehensible (via translation or via conducting the state business in the minority language to begin with) then the minority language can be sustained on its own. If the group speaking the language is fairly large, if the language is a written one, if perhaps it is used by many people elsewhere in addition to being used by the local group, if a range of lives can be lived in the language, then it may well turn out that the linguistic community is stable. Young people may not feel compelled or tempted to abandon it. In that case, this sort of language rights will be permanent despite being justified only in present-tense terms. By the time current speakers of the minority language die, their children and grandchildren will have the same kind of moral claims for language rights. The policies aim at the present not the future; but it will always be somebody's present.

But matters will not always turn out that way. Present-tense language rights will sometimes be transitional language rights, aiming to slow and ease—not stop—the switch from one language to another. They will sometimes be policies aimed at avoiding unfair and excessive disruption to older generations while younger ones assimilate. It is unreasonable to expect adults to simply cease living in their lifelong language. But the present is also always preparing the ground for somebody's future, and the need to insulate adults in the present must not be an excuse to prevent children from seeking a future in another language. This would sneak preservationism in by the back door, and would require using the children as mere means. The children have lives of their own to lead, and should not be used as instruments to prop up an unsustainable language.¹²

The second, linguistic egalitarianism, has been ably articulated and in part defended by Alan Patten (2001), and I will not rehearse his arguments at length. He refers to it as the model of "official multilingualism," and contrasts it with both language rationalization and language maintenance or

¹¹ Patten (2000) argues, I think persuasively, that it is to cases like this that Will Kymlicka's (1989) original argument for cultural rights most forcefully applies.

¹² Compare Edwards (1994:11): "Just as the school exists as an arm of the state, so it is often singled out by language communities as the linchpin of their continuing cultural and linguistic identity. Wherever societal heterogeneity exists, schools may be asked to play a part— perhaps the central part— in maintaining and encouraging identities thought to be at risk. Schools and teachers have increasingly, in fact, played the role of agents of social change and have correspondingly experienced more difficulties since this does not always mesh well with their more traditional task of transmitting core or basic skills... Thirty years ago, a sensitive observer of the educational thrust of the Irish revival warned that 'children's minds must not be made the battleground of a political wrangle,' and another decried the use of children as 'digits in the Irish revival statistics.'"

preservation. "A language is recognized in public life... when public services are offered and public business can be conducted in that language. The official multilingualism model maintains that each of the various languages spoken in the community should be accorded the same recognition" (Patten 2001:695). That is, this model demands that a society's languages be treated equally, even though this might mean that language rationalization that would be desirable from the perspective of national solidarity or democratic politics will not take place, or might alternatively mean that language preservation will not take place. The defense proceeds in terms of fair processes rather than desired end-states.

Patten recognizes that it is individuals and not languages that have a right to equal treatment, and so he endorses some degree of per-capita prorating of the provision of services in the minority language. But he also argues that public recognition of a language's political status cannot be entirely prorated away. To have one's language formally recognized as equal to other languages by the state— most prominently by its inclusion in the list of the state's official languages— can help satisfy morally compelling interests in symbolic affirmation and identity promotion, in addition to the practical benefits conferred by the ability to communicate in one's own language.

It should be noted that, in Patten's formulation, linguistic egalitarianism takes the present-tense argument for granted (under the heading of "communicative interests"). The reverse does not hold, however; a commitment to transitional language rights does not in itself require any commitment to the public symbolic recognition of a minority language.

Patten suggests that a fully-developed theory of language rights would require attention to both linguistic autonomy in the private sphere and to public recognition of languages. He offers an account of the latter, and says that thinking about the moral claims at stake in public recognition first will help us sort out questions about linguistic autonomy later. The third non-preservationist defense of language rights reverses that order; it justifies public recognition as instrumentally valuable in helping to maintain the political balance that protects and respects rights of linguistic autonomy. This argument— and the one I will spend the balance of this essay defending— rests on the need to *counterbalance* the predictable tendency of modern states to engage in unjust nationalizing projects (Levy forthcoming). We know, for reasons already discussed at length in section II, that there are pressures for language consolidation that are

not unjust, but arise from the transition to literacy, the competitive pressures created by other languages consolidating and creating a broader horizon of opportunities for their speakers, and so on. But we also know that modern states— certainly including democratic states, perhaps *especially* democratic states— often try to speed the process along, and often try to prevent the outcome that language consolidation still leaves two or more languages. The tendency of a modern state to try to turn its populace into a nation, which often entails linguistic homogeneity, is widespread and predictable. And these nationalizing projects are often coercive, violent, illiberal, and inhumane. They often violate individual rights of freedom of speech, association, religion, and so on that Patten refers to as linguistic autonomy.

One of the key concepts of constitutionalism— which is concerned with institutional design, not only with philosophical justifications— is counterbalancing. If we have good reason to expect that states will commit a particular kind of injustice, then we ought to try to design institutions that will lean against that tendency. That will often require us to design institutions that aren't demanded by justice in their own right, but are needed to prevent injustices from another direction. In the case of language, that may mean that linguistic minorities are provided with a level of government over which they have control, with control over some part of the state school system, or with guaranteed representation in the decisionmaking bodies of the central state.¹³ It may also mean special provision in the military for minority-language units, to push against the centralizing tendency that armies have had. If that is impractical for security reasons— because the minority-language divisions are considered too likely to have divided loyalties— then that much more counterbalancing will be necessary in other contexts.

Counterbalancing is not an entirely freestanding justification for language rights. It depends on some account of what the injustices are that need to be leaned against. Earlier I described the policies available to state nationalizers as including both foul and fair means. How much counterbalancing justifies depends on the correct theory about which such means are foul and which are fair. *Whatever* one's philosophical account of what justice demands with respect to language, counterbalancing may provide us

¹³ This last highlights the commonality between what I am calling counterbalancing or constitutionalism and what Kymlicka (1995) uses as the justification for representation rights. The difference is that I think the argument applies not only to guaranteed representation but also— and often more importantly— to

with strategic reasons to provide more institutional weight and power for linguistic minorities than the account demands. This style of reasoning may, for instance, be used in conjunction with a pure negative-liberty account of language rights, with the present-tense account, or with linguistic egalitarianism, with different results that will be considered below. But the policies recommended by counterbalancing may not depend very much on the details of the particular account of language justice that lies beneath it. The kind of large-scale institutional over-correction that counterbalancing recommends will often make subtle differences between philosophical accounts irrelevant. I will return to this point after discussing how counterbalancing can work with different underlying justifications.

Negative freedom

I take it as obviously unjust to beat children who speak a minority language or to forbid private education, broadcasting, publishing, and personal names in it. Such actions violate core personal freedoms. While this is more controversial, I also take assimilation-by-conscription to violate individual liberty. No more than this is needed to trigger the need for counterbalancing in much of the world, because all of these policies are very much in use. If justice demands only the protection of the negative liberty to speak, use, publish in, and educate in the minority language in the privately-funded private sphere, then the need for language rights may be limited in some states. Where freedom of speech, freedom of the press, and freedom of association are secure and vigorously protected in general, it is possible that linguistic freedom will be fully protected as a matter of course. The minority may still face the assimilative pressures of, for example, a monolingual state-funded educational system; but this is not a violation of negative liberty. If such a system is not a foul means, then there is no morally compelling need to counterbalance against its possibility.

It cannot simply be taken for granted that linguistic freedom is secure in liberal democracies; freedom for the majority language may coexist with restrictions on the minority, for instance when the minority language community is thought to pose a security threat to the state. But in the United States, for example, it is clear as a matter of constitutional law that minority-language private education, publishing, and speech may not be banned. Official English statutes pass constitutional review only insofar as they do

what he calls self-government rights, but that the arguments he uses in defense of the latter do not succeed,

not restrict these liberties. Linguistic freedom is protected incidentally, as a subset of liberal freedom of speech, the press, association, and contract.¹⁴ Counterbalancing in conjunction with a pure negative-liberty account of language rights may not justify any special provision for linguistic minorities in very liberal democracies.

Present-tense

If, however, the present-tense argument is right, then justice also demands some affirmative provision for some minority-language speakers, such as making documents and state services available in the minority language(s). These affirmative measures are less likely to be offered incidentally, and are accordingly more likely to require institutional arrangements to ensure their availability. Even an explicit constitutional commitment to bilingualism has not protected Canada from occasional judicial rulings against, for example, providing judicial proceedings in French. (Réaume 2000) Present-tense rights are likely to be even less secure for minorities that lack the institutional weight of francophones in Canada. Counterbalancing in conjunction with present-tense arguments are thus likely to justify at least some special provision for linguistic minorities even in free societies.

Here I should note that the normative approach I have elsewhere described as “the multiculturalism of fear” (Levy 2000) is not synonymous with the negative-liberty approach even as modified by counterbalancing; it includes present-tense language rights as well. A very significant range of language rights can be justified using the counterbalancing-and-negative-liberty approach; but a concern with preventing state violence, cruelty, and coercion requires something more. The moral importance of making at least criminal proceedings comprehensible to the defendant seems to me very high. The criminal justice system exposes more citizens more often to the direct threat of violence and coercion than does any other branch of the state. We hem that system in with an unusual number of procedural guarantees that sometimes impede efficiency or truth-finding in order to protect against those threats. For similar reasons we should take especially vigorous action in that setting to protect those who cannot speak the state's

as they're based on either nationalist or cultural-preservationist premises.

¹⁴ *Pierce v Society of Sisters* and *Meyer v Nebraska*, which respectively forbade laws banning private schools and laws against teaching in languages other than English, were decided in large part on freedom of contract grounds. Presumably if they had been heard during the Warren Court era rather than during the

language. And so, according to an approach that is concerned with the prevention of the evils that the state often visits upon ethnic minorities, some language rights are justified even in liberal democracies that scrupulously protect the basic negative liberties.

Linguistic egalitarianism

The demands made in the name of justice by linguistic egalitarianism are still more extensive than those made by the present-tense argument. But they are also somewhat different in kind; many of the institutions and rules that are available as part of counterbalancing strategies are demanded as part of the first-best outcome by linguistic egalitarianism. To be sure, there are predictable tendencies on the part of states not to abide by the strictures of linguistic egalitarianism, so counterbalancing may be called for. But the balancing measures sought will often be the same as the provisions egalitarianism recommended in the first place.

Institutional convergence

Constitutional engineers have only relatively blunt tools at their disposal, at least when compared to the fine work done distinguishing philosophical theories. For this reason, it may not make a decisive difference which of these theories counterbalancing is combined with.

For instance, one of the policies that any kind of counterbalancing may call for in a given state is the central policy of linguistic egalitarianism, namely recognition of minority languages as official languages and the entrenchment of that recognition. Such symbolic recognition cannot eliminate the trends and incentives that lead modern states down the path of enforced language consolidation. But the symbolic exclusion associated with official monolingualism matters. It matters not only in the insult to minority-language speakers, nor even only in the unjust practical barriers to communication it can create between members of the minority and the state. It also matters because a state's avowed self-understanding acquires normative force of its own. A state that is committed—say, by the terms of its constitution—to a nationalist and monolingual self-understanding might respect the legitimate linguistic autonomy of its citizens in the private sphere. But such constitutional commitments can, in part, structure the options that

Lochner era the same conclusions would have been reached on other grounds, but as it now stands *Pierce*

are perceived to be legitimate in ongoing politics. A state that is officially nationalist and monolingual might have a range of publicly acceptable views that range from toleration of minority languages when spoken in the private sphere to severe restrictions and prohibition. A state that is officially bilingual or multilingual will also have a range of publicly acceptable views; but the center around which they vary will be quite different, and coercive monolingualism is much less likely to be in that range. That is not to say that official bilingualism or multilingualism guarantees that the actual language policies enacted will be just. Those policies may well err on the side of an unjust preservationism. But it seems to me that states' tendencies toward nationalism are pervasive enough that they are unlikely to err as severely in that direction as they often have in the other.¹⁵

There is a problem with this view of the potency of official symbolism—the old problem of tying the bell on the cat. Say that we agree that it would be desirable to shift the center around which publicly-acceptable views on language vary in some particularly nationalist-Jacobin state like France or Turkey. Say that we agree that the constitutional commitments of the state, its official self-understandings, shapes politics in ways that make them unlikely to fully respect linguistic autonomy and all-too likely to commit severe injustices. We might then think that changing those constitutional commitments would help, that if the state endorsed multilingualism instead of monolingualism at the constitutional level then ordinary politics would shift too. But constitutional commitments don't magically appear; symbolic affirmation of multilingualism is hard to imagine unless the politics about language had *already* changed.¹⁶ This may often mean that official language neutrality—shifting from one official language to none rather than from one to many—is the most that can plausibly be won by minorities. Of course, no state can *be* linguistically neutral. But removing the "one nation, one language, indivisible" claims from foundational documents might at least open up the possibility of adopting minority-language policies through normal politics. Their presence is a barrier, as has recently been made clear in France. An important proposal for Corsican

and *Meyer* are unusual in being *Lochner* cases that remain good law.

¹⁵ If the end of the era of the modern state is upon us, as some hope and others fear, then this balance-of-probabilities may no longer be appropriate. But I confess this seems much less likely to me than it does to many. The kind of state the French Revolution bequeathed to us, and its characteristic faults, may well be with us for some time to come.

¹⁶ This is just one instance of the problems with constitutional design in divided societies discussed in Horowitz (2000).

autonomy adopted through normal politics was rejected as incompatible with France's constitutional commitment to unitary nationalist republicanism.

In any event, symbolic recognition as an official language will likely be less important than more concrete institutions, for any variety of counterbalancing. Where this is feasible, the most important such institution is some variety of federalism or confederalism, with boundaries drawn so as to give speakers of the minority language(s) control over some provincial government(s) and—crucially—its education system. This provides the necessary bulwark against nationalizing projects by the central state. It is very likely that the province will overprotect its language. An advantage of this constitutionalist defense of language rights is that it allows us to admit this. We can think that robust Quebecois autonomy on linguistic questions is legitimate and necessary without going through the intellectual contortions of trying to defend the details of Bill 101 and its progeny. It is in the nature of second-best solutions that not every aspect of them is justifiable.

Of course, the province may well engage in unjust nationalizing projects of its own, for all the familiar reasons. A balance of power among the two or three largest language groups in a state does not necessarily do anything to protect the smaller ones. It sometimes makes them worse off, since the local majority feels more vulnerable—and is thus more aggressive in its nationalization—than does the statewide majority. Sometimes constitutional balances may be possible within a province: guaranteed representation in the provincial legislature, control over city or county or canton governments, and so on. Sometimes these smaller minorities ought to have a separate standing in the federation. In the United States and Canada, for example, Indian reservations have direct government-to-government relations with the center instead of being understood as local governments within the state or province, and for good reason (Levy 2002). Throughout, the aims ought to be first, to prevent unjust and coercive assimilation, and second, to allow for voluntary language shift. The two are equal in their moral importance—individual freedom is restricted either by forced assimilation or by forced preservation—but the prevention of assimilation comes first in institutional design, because forced language consolidation has been so pervasive.

Even if fair institutions are designed and coercion and nationalization are prevented, widespread language shift and desuetude is to be expected. Linking the cause of minority language rights too closely to the goal of general language preservationism only makes the former seem implausible. But even after the language consolidation brought about by literacy and the modern state has run its course, even once we live in a world of hundreds of languages rather than thousands, there will be good reasons for some minority language rights.¹⁷ Even if a language as a whole is relatively impervious to attacks by a modern state, its speakers are always persons who are all too pervious. Language rights were not needed to ensure the viability of Catalan under Franco and are not needed to protect the viability of Kurdish in Turkey today; they were and are needed to protect *individuals* against their states' nationalizing projects. We need not accept the unconditional defense of minority languages in order to justify the defense of those languages' speakers.

Works cited

- ANDERSON, BENEDICT (1983) *Imagined Communities* (London: Verso Books)
- BJELJEC-BABIC, RANKA (2000) "6,000 Languages: An Embattled Heritage," *The UNESCO Courier*, April 2000: 18-19
- BRUBAKER, ROGERS (1996) *Nationalism Reframed* (Cambridge: Cambridge University Press)
- EDWARDS, JOHN (1994) *Multilingualism* (London: Routledge)
(2001) "The Ecology of Language Revival," *Current Issues in Language Planning* 2/1: 231-241
- FLETCHER, GEORGE (1997) "The Case For Linguistic Self-Defense," in R. McKim and J. McMahan (eds) *The Morality of Nationalism* (Oxford: Oxford University Press): 324-339
- GELLNER, ERNEST (1983) *Nations and Nationalism* (Cambridge: Cambridge University Press)
- HOROWITZ, DONALD (2000) "Constitutional Design: An Oxymoron?," in I. Shapiro and S. Macedo (eds) *NOMOS XLII: Designing Democratic Institutions* (New York: New York University Press)
- KYMLICKA, WILL (1989) *Liberalism, Community, and Culture* (Oxford: Oxford University Press)
(1995) *Multicultural Citizenship* (Oxford: Oxford University Press)
(2001) "Western Political Theory and Ethnic Relations in Eastern Europe" in W. Kymlicka and M. Opalski (eds) *Can Liberal Pluralism Be Exported?* (Oxford: Oxford University Press): 14-105
- LAITIN, DAVID (1992) *Language Repertoires and State Construction in Africa* (Cambridge: Cambridge University Press)

¹⁷ We could almost say that there will be *better* reason, because it will be less likely that minority language rights result in the sacrifice of children's interests.

(1993) "The Game Theory of Language Regimes," *International Political Science Review* 14/3: 227-39
 (1998) *Identity in Formation* (Ithaca: Cornell University Press)

LEVY, JACOB T. (2000) *The Multiculturalism of Fear* (Oxford: Oxford University Press)
 (2002) "Indians in Madison's Constitutional Order," in J. Samples (ed) *James Madison and the Future of Limited Government* (Washington: Cato Institute): 121-34
 (forthcoming) "National Minorities Without Nationalism" in A. Deickhoff (ed) *Nationalism, Liberalism, and Pluralism*, Lexington / Sciences Po

MAY, STEPHEN (2001) *Language & Minority Rights* (Essex: Pearson Education Limited)

ORTIZ DE URBINA, ARACELI (2000) "In Praise of Multilingualism: An Interview with Joseph Poth [then head of UNESCO's Languages Division]," *The UNESCO Courier*, April 2000: 29

PATTEN, ALAN (2000) "Liberal Egalitarianism and the Case for Supporting National Cultures," in N. Miscevic (ed) *Nationalism and Ethnic Conflict* (Chicago and La Salle IL: Open Court Publishing): 197-217
 (2001) "Political Theory and Language Policy," *Political Theory* 29/: 1-716

RÉAUME, DENISE (2000) "Official-Language Rights: Intrinsic Value and the Protection of Difference," in W. Kymlicka and W. Norman, (eds) *Citizenship in Diverse Societies* (Oxford: Oxford University Press)

SCOTT, JAMES (1998) *Seeing Like A State* (New Haven: Yale University Press)

TAYLOR, CHARLES (1993) "Why Do Nations Have to Become States?" in *Reconciling the Solitudes* (Montreal: McGill-Queens University Press)
 (1997) "Nationalism And Modernity," in R. McKim and J. McMahan, (eds) *The Morality of Nationalism* (Oxford: Oxford University Press): 31-55
 (1998) "The Dynamics of Democratic Exclusion," *The Journal of Democracy* 9/4:143-156

WEBER, EUGEN (1976) *Peasants Into Frenchmen* (Palo Alto, CA: Stanford University Press)

WURM, STEPHEN A. (2001) *Atlas of the World's Languages in Danger of Disappearing* (Geneva: UNESCO)

Cases:

Pierce v Society of Sisters 268 US 510 (1925)

Meyer v Nebraska 262 US 390 (1923)