

Civic Nationalism and Language Policy

Civic nationhood is meant to describe a political identity built around shared citizenship in a liberal-democratic state.¹ A “civic nation,” in this sense, need not be unified by commonalities of language or culture (where “culture” refers to the traditions and customs of a particular national group). It simply requires a disposition on the part of citizens to uphold their political institutions, and to accept the liberal principles on which they are based. Membership is open to anyone who shares these values. In a civic nation, the protection or promotion of one national culture over others is not a goal of the state.²

Although the concept of a “civic,” as distinct from a “cultural,” nationalism goes very far back in the literature, those employing the distinction today tend to be philosophers who wish to defend a liberal ideal of citizenship. Jürgen Habermas argues that new immigrants to a liberal state should not be required to assimilate to the culture of the majority nation, but instead must simply “assent to the principles of the constitution within the scope of interpretation determined at a particular

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1. For recent definitions of “civic” nationalism, see Michael Ignatieff, *Blood and Belonging* (New York: Farrar, Straus, Giroux, 1993), pp. 5–9; Brian Barry, *Culture and Equality* (Cambridge, Mass.: Harvard University Press, 1993), pp. 79–109; Andrew Mason, *Community, Solidarity, and Belonging* (Cambridge: Cambridge University Press, 2000), pp. 115–47.

2. For useful discussions of “nation” and “culture,” see Will Kymlicka, *Multicultural Citizenship* (Oxford: Oxford University Press, 1995), p. 18; David Miller, *On Nationality* (Oxford: Oxford University Press, 1995), pp. 21–27; Yael Tamir, *Liberal Nationalism* (Princeton, N.J.: Princeton University Press, 1993), p. 69.

time. . . .”³ Immigrants and national minorities must only integrate into a common “political culture” unified around these constitutional principles. Habermas claims that although “in many countries the majority culture is fused with the general political culture . . . this fusion must be dissolved . . . the level of the shared political culture must be uncoupled from the level of subcultures and their prepolitical identities.”⁴

Brian Barry has also recently defended a version of civic nationalism: he suggests that liberal governments should maintain a fair set of rules within which individuals have equal opportunity to make free choices (perhaps based on their cultural preferences).⁵ All that a civic state can legitimately require of its citizens is that they take account of their fellow citizens’ interests and are willing to sacrifice for the common good, not that they adopt the cultural practices of the majority nation.⁶ Civic nationalists agree that it is not the role of the state to privilege or endorse one national culture over others.⁷

Civic nationalism is not the only view of political identity to claim compatibility with liberalism, however: an influential alternative is “liberal culturalism.”⁸ Liberal culturalists believe, on the contrary, that the state *ought* to privilege and endorse particular national cultures, those that have historically been associated with a given territory. In addition to guaranteeing the basic civil and political rights of all citizens, liberal culturalists argue that it is “a legitimate function of the state to protect and promote the national cultures and languages of the nation(s) within its borders.”⁹ The state should tailor its distribution of rights and opportunities in order to protect the identities of its historic nation(s),

3. Jürgen Habermas, “Struggles for Recognition in the Democratic State,” in *Inclusion of the Other*, ed. Ciaran Cronin and Pablo de Greiff (Cambridge, Mass.: MIT Press, 1998), p. 228.

4. Habermas, “The European Nation-State: On the Past and Future of Sovereignty and Citizenship,” in *Inclusion of the Other*, p. 118.

5. Barry, *Culture and Equality*, pp. 27–33.

6. *Ibid.*, pp. 78–79.

7. As we shall see in Sections II and III, this does not mean that a civic nationalist state is never permitted to promote a common language. A civic nationalist state may support a common language to the degree that this language is instrumental to achieving other justified public purposes. But it may not promote a particular language as part of a cultural “project.”

8. For the original use of this term, see Will Kymlicka, *Politics in the Vernacular* (Oxford: Oxford University Press, 2001), pp. 39–48.

9. Kymlicka, *Politics in the Vernacular*, p. 39. Parentheses added.

which can include entrenching their claims to territory; limiting migration to protect a nation's cultural integrity; extending special representation, language, and self-government rights; and enacting policies that ensure that a nation's history, symbols, and holidays are publicly acknowledged.¹⁰

Like Habermas and Barry—and against culturalists—I believe that civic nationalism is the proper liberal account of political identity. Civic nationalism is morally preferable to culturalism, in my view, because it insists that the state is not the property of any particular nation(s). For the state to privilege one or more national cultures would mean devaluing citizens of other nationalities, consigning them to second-class status. Because it defines some kinds of citizens—those who belong to the historic nation(s)—as preferred members of the political community, while others—more recent immigrants, perhaps—do not enjoy the same standing, liberal culturalism seems unfair.¹¹ We can locate the unfairness by focusing on the important link between political status and self-respect. As John Rawls has argued, the primary good of self-respect has certain social bases, including the public features of social institutions and the patterns of conduct these institutions encourage.¹² Civic nationalists hold that social institutions ought not to be organized in a way that distributes the social bases of self-respect along national lines.¹³

10. These policies are all advocated in Kymlicka, *Multicultural Citizenship*, pp. 26–33. Other prominent “liberal culturalists” include David Miller, Margaret Moore, and Chaim Gans. Whereas civic nationalists believe it is *sometimes permitted* for the state to promote a particular language—as long as it does not do so as part of a project to favor a particular culture—liberal culturalists believe that it is *required* that a state promote particular language(s), and that it should do so as part of a project to favor particular culture(s), those of the historic nation(s) associated with its territory.

11. In this, the argument for civic nationalism is similar to the argument against an established state church. Even if other citizens are left free to practice their religion and are not coerced to belong to the state church, establishment seems to put the symbolic imprimatur of the state behind a certain creed, thereby devaluing those who affirm other beliefs. See, for example, the discussion in Martha Nussbaum, *Liberty of Conscience: In Defense of America's Tradition of Religious Equality* (New York: Basic Books, 2008), pp. 72–114, and Christopher Eisgruber and Lawrence Sager, *Religious Freedom and the Constitution* (Cambridge, Mass.: Harvard University Press, 2007), pp. 121–58.

12. John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), pp. 318–19.

13. Some liberal culturalists, including Will Kymlicka, argue that state support for the majority culture should be accompanied by minority cultural rights, a position that

Yet although I am sympathetic, on grounds of fairness, to civic nationalism at the level of abstract theory, I believe that the most developed accounts of civic nationalism currently on offer do not adequately disentangle the state from the promotion of the majority national culture in practice. In Sections I and II of this article, I draw attention to some of these problems through a closer examination of Brian Barry's position. Civic nationalists have yet to articulate a model that shows exactly how a liberal state can "uncouple" the political culture from the national culture of the majority. This omission exposes them to the charge, from liberal culturalists, that civic nationalism's claim to cultural fairness is a sham. In Section III I outline a model of civic nationalism that can better claim cultural fairness: I call this the *least cost model*. Although I cannot fully defend the least cost model here, in Sections IV through VI, I explore its consequences for what is usually seen as a hard case for civic nationalists: language policy. I argue that civic nationalists need not support a policy of full assimilation to the majority language, but should instead advocate a policy of *layered multilingualism*, which is best realized through a federalist system of decision making about language policy.

The argument of the article can be briefly outlined in six steps:

- (1) A civic nation should not publicly privilege or endorse a national culture (including its language) if it is to treat citizens who belong to other nations with equal respect;
- (2) An implication of (1) is that a civic nation should not aim at complete linguistic homogeneity. Instead, it should promote rationalization in a common language at *least cost* to its citizens'

pluralizes the cultures extended state recognition. Does this position escape my charge that culturalism privileges some citizens (those belonging to the favored nations) over others? It does not. Even Kymlicka still marks out some cultures and not others as privileged possessors of nation-building rights within a particular territory, even if in his case, this group includes minority as well as majority nations. Kymlicka distinguishes between the rights of groups that have long been settled on a territory—*minority nations*—and newly arrived immigrant groups. The latter are granted only a weaker bundle of *polyethnic rights* to promote their integration into one of the historic national cultures. My argument makes no use of this distinction between historic nations and immigrant groups. Instead, I suggest that no group's language interests should be privileged merely because they are historically associated with the territory; "we were here first" is not a sufficient argument for favored linguistic status.

- other language interests, by allowing minority languages to be promoted alongside the common language(s);
- (3) The best way to implement the *least cost model* is through decentralization;
 - (4) Minority language(s) are expensive public goods, not all of which can be provided at once. One person's interest in a particular language is not alone sufficient to ground a right to publicly promote that language;
 - (5) The aggregated interest of a sufficiently large group in a particular language, however, is sufficient to ground a right to publicly promote that language alongside the common language(s);
 - (6) Local majorities may promote their languages alongside the common language(s), although they are not required to do so. Linguistic groups that are sufficiently large but do not form a local majority will also have a claim to support for their language where public support is not prohibitively costly.

I. ASSIMILATION: A PROBLEM FOR CIVIC NATIONALISM?

Given the rather sharp distinction between civic nationalism and liberal culturalism at the level of theory, it is surprising to find some civic nationalists insisting on the importance of a shared national culture in practice. Brian Barry, as we have seen, argues on liberal grounds for a unitary model of citizenship according to which “everybody enjoys the same legal and political rights,” with no distinctions made between citizens on the basis of group membership, class, caste, or ethnicity.¹⁴ This unitary model, asserts Barry, “entails a rather robust attitude towards cultural diversity. It says, in effect, Here are the rules which tell people what they are allowed to do. What they choose to do within those rules is up to them, but it has nothing to do with public policy.”¹⁵

Yet what Barry gives with one hand, he seems to take back with the other. Later in his book, he claims that “it is an appropriate objective of public policy in a liberal democratic state to facilitate the achievement of a state of affairs in which all immigrants—or at least their descendants—become assimilated to the national identity of the country in which they

14. Barry, *Culture and Equality*, p. 7.

15. *Ibid.*, p. 32.

have settled.”¹⁶ One clear sense in which a liberal state requires cultural commonality, for Barry, is that its citizens will need to speak one language:

[P]olitical communities are bound to be linguistic communities, because politics is (in some sense) linguistically constructed. We can negotiate our way across language barriers but we cannot deliberate together about the way in which our common life is to be conducted unless we share a language. Where historic communities based on language exist already, there is no satisfactory alternative to recognizing them as political communities as well, at any rate where they occupy geographically compact areas.¹⁷

Barry suggests that requiring immigrants and small or territorially dispersed linguistic minorities to adopt the majority language is no derogation from civic nationalism. Indeed, he argues for assimilation to the majority language while conceding that the majority culture merits no special protection and noting that “it can be said of language as of no other cultural trait that it is a matter of convention.”¹⁸

Barry not only argues that a civic nation will need to facilitate acquisition of the majority language; he also favors the view that a liberal state should refuse to publicly promote any other languages. He contends that projects to maintain substate languages are nearly always coercive and illiberal, even when they are merely pursued alongside education into the majority language:

Compelling children to learn a minority language as a second language is, obviously, much less damaging to their job prospects than not ensuring fluency in the mainstream language. Even here, however, the opportunity costs that are involved in studying a regional language are often equivalent to the non-acquisition of a foreign language that may be of greater practical use. Thus, ‘Wales is linguistically the most “Celtic” strand in the United Kingdom’s “Celtic fringe,” with approximately 20 percent of the population still speaking Welsh.’ . . . It is therefore scarcely surprising that compulsory instruc-

16. Barry, *Culture and Equality*, p. 72.

17. *Ibid.*, p. 227.

18. *Ibid.*, p. 107.

tion in Welsh in the schools has aroused opposition from English-speaking parents; and the principles put forward here would lend support to their case. . . .¹⁹

Barry's argument in favor of the majority language, and his refusal to support any other languages, open civic nationalism to an important challenge: whatever their pretensions to fairness, civic nationalists do not merely limit themselves to promoting a just background framework within which individuals may make personal cultural choices. Instead, they support the imposition of linguistic and cultural requirements upon citizens, sanctioning projects of majority nation building. Barry supports using both the state's coercive power (through taxation) and its power to shape incentives (through public education, subsidies for art or entertainment, and the provision of state services) to promote assimilation to the majority language, albeit without repression. Once we take this into account, a "civic nationalist" project may look less fair and evenhanded than it at first seemed. In this vein, it is often argued that civic nationalism, however fair in theory, turns out to be assimilationist in practice.²⁰

Indeed, one of the most commonly cited conclusions of recent work on multiculturalism is that the liberal state cannot attain cultural and linguistic neutrality of the sort to which "civic" nationalists are taken to aspire. Will Kymlicka, the originator of this claim, argues that under the guise of "ethnocultural neutrality," most so-called civic nations simply promote the majority language and culture:

[T]he idea that the government could be neutral with respect to ethnic and national groups is patently false. . . . When the government decides the language of public schooling, it is providing what is probably the most important form of support needed by societal cultures. . . . The government therefore cannot avoid deciding which societal cultures will be supported. And if it supports the majority culture, by using the majority's language in schools and public agencies, it cannot refuse official recognition to minority languages on the ground that this violates 'the separation of state and ethnicity'.²¹

19. Barry, *Culture and Equality*, p. 107.

20. Bernard Yack, "The Myth of the Civic Nation," in *Theorizing Nationalism*, ed. Ronald Beiner (Albany: State University of New York Press, 1999), p. 108.

21. Kymlicka, *Multicultural Citizenship*, pp. 110–11.

Kymlicka's claim about the impossibility of state neutrality toward language and culture is widely repeated in the literature, and it is a key element in the case for group-differentiated rights. These minority rights, according to Kymlicka, are simply a response to a preexisting unfairness on the part of the liberal state: it is culturally non-neutral. The fact that the state acts in a non-neutral way—indeed, that it *must* do so, given that it operates and educates its citizens in a particular language—generates a claim to compensation on the part of national minorities whose languages are disfavored.

II. NEUTRALITY AND CULTURAL FAIRNESS

But is it unfair to facilitate citizens' use of a common language, as Barry urges we should? Not necessarily. In my view, multiculturalists have been overly hasty in concluding that the state always acts unfairly in supporting some language(s) over others in education policy and official business. In what follows, I argue that so long as a policy promoting a common language is narrowly tailored in accordance with criteria I introduce in the next section, it is not culturally unfair. In order to see why, though, we need a more fine-grained account of what equal treatment in matters of language and culture might require. Kymlicka holds that equal treatment requires "ethnocultural neutrality" on the part of the state, or, failing that, the "second-best" provision of compensatory nation-building rights to minority cultures. But is "neutrality" the right account of equal treatment in linguistic matters, and if so, what does it entail?

In the most general sense, a principle of neutrality requires that the state "not take sides" among the conflicting ways of life and conceptions of the good pursued by citizens in a diverse and pluralistic society.²² But discussions of neutrality generally distinguish between different

22. There is a large literature that disputes whether liberal principles can be neutrally grounded without presupposing the truth of "comprehensive moral doctrines." I mean to sidestep these controversies about ethical neutrality here, opting for a neutrality principle that can simply serve as a heuristic tool for interpreting the requirements of equal treatment, but does not make any further claims about the grounding of liberal principles. This heuristic use of neutrality has played an important role in U.S. constitutional jurisprudence about religious freedom and equal protection.

conceptions of the principle.²³ Two broad views have been especially influential. One, *neutrality of impact*, sees neutrality as a thesis about the *consequences* of government action. It holds that the state should pursue no policies that have the end result that one way of life is advantaged, favored, or assisted in ways others are not. The other, *neutrality of justification*, sees neutrality as a thesis about the kinds of *reasons* for which governments should act. The state should pursue only those policies that can be justified independently of any appeal to the superiority of one way of life over others. On this view, a law's neutrality is not impugned by the fact that it may burden some practices more than others, as long as it can be justified by a reason that is independent of any view about the relative merit of those ways of life.

Many theorists have complained that neutrality of impact is difficult, even impossible, to put into practice across the board.²⁴ This is because all laws and policies unavoidably favor some practices more than others: laws creating public parks, for instance, will favor ways of life that value nature over ones that do not, and laws that prohibit speeding will more heavily burden those who value driving fast cars.²⁵ The fact that a law has a differential impact on people does not show conclusively that it is unfair, since virtually every law will have a greater impact on some people, and we cannot eradicate this liability to differential burdening without doing away with the enterprise of law altogether. The infeasibility of a general presumption of neutrality of impact, however, is compatible with the position that principles of fairness might require us to pay extra attention to the impact of *some kinds* of laws.²⁶ Although we do not have special reason to care about the law's undue impact on a person's preference for driving sports cars, many have argued that we should

23. The following discussion draws from the useful introduction to *Perfectionism and Neutrality*, ed. George Klosko and Steven Wall (New York: Rowman and Littlefield, 2007).

24. See, e.g., Brian Barry, *Justice as Impartiality* (Oxford: Oxford University Press, 1995), pp. 142–45.

25. Barry uses this example in *Culture and Equality*, p. 34.

26. From 1963 to 1990, the U.S. Supreme Court offered heightened scrutiny to laws that had a negative impact on citizens' free exercise of religion. This framework continues to apply to federal law and the law of some states. Under Title VII of the Civil Rights Act of 1991, the United States must engage in heightened scrutiny of employment decisions that have a "disparate impact" on different racial groups.

care about the law's impact on a person's free exercise of religion, or about the law's impact on him or her as a member of a stigmatized social group.

Brian Barry adopts a variant of neutral justification that we can call *formal neutrality* in arguing for an assimilationist language policy. He suggests that the state has a legitimate interest in facilitating assimilation to the majority language because it helps to guarantee at least two basic rights:²⁷

The Right to Economic Opportunity: One important reason for adopting a common language is to take advantage of the economic returns in social coordination around a widely used medium of communication. The level of economic mobility that speaking a given language provides is a function of how many people also speak that language.²⁸ Barry argues that since the range of jobs open to individuals not fluent in a language of broad use is likely to be small, it is important each child be educated in such a language in order to guarantee his basic right to economic opportunity. No individual should find himself trapped in a segregated economic ghetto simply because he has not been taught the language required for economic success. So states have reason to promote the acquisition of a language of wide social mobility among their citizens: this is justified by interests those citizens share as *economic agents*.

The Right to Democratic Participation: As members of a democratic state, citizens also have good reason to be informed about and to participate in politics. Theories of deliberative democracy have emphasized that citizen deliberation in a common public sphere is an important element of legitimate law making.²⁹ Yet it is difficult to see how citizens can come to a shared view of what the issues in public debate are, much less rationally evaluate the competing arguments, if they do not share a language in which each citizen feels comfortable expressing herself, and if they cannot intelligently consume the mass media of that society. To the extent that political debate is conducted

27. Barry discusses these reasons in *Culture and Equality*, pp. 104–9; pp. 225–28.

28. Phillippe van Parijs has neatly analyzed the interdependence of economic language decisions in "The Ground Floor of the World: On the Socio-Economic Consequences of Linguistic Globalization," *International Political Science Review* 21 (2000): 217–33.

29. See, e.g., Jürgen Habermas, *Between Facts and Norms* (Cambridge, Mass.: MIT Press, 1996), pp. 325–87.

in another language, there is an important risk that democratic politics may become the province of an educated linguistic elite, in which the concerns of the socioeconomically and educationally disadvantaged are systematically ignored.³⁰ Thus, a democratic state also has good reason to promote the use of a common political language among its citizenry: this is justified by interests they share as *political participants*.

Although Barry himself does not appeal to these considerations, it is sometimes argued that the state has two other interests in promoting assimilation to a common language.³¹ First, a common national language might facilitate social solidarity. Democratic politics sometimes requires a willingness to sacrifice our own private interests in favor of compatriots, as when we are asked to contribute to redistributive programs from which we do not benefit directly.³² Sharing a language may help to develop this sort of democratic solidarity and trust. Second, sharing a national language reduces administrative and economic costs. The existence of multiple languages often means that the state must devote valuable resources to translating documents, providing interpreters, and educating schoolteachers in more than one idiom. Reducing these costs allows the state to spend its resources in other areas.³³

30. Kymlicka, *Politics in the Vernacular*, pp. 212–15.

31. Alan Patten discusses these considerations in favor of a common language in “The Justification of Minority Language Rights,” *Journal of Political Philosophy* 17 (2009): 102–28.

32. Will Kymlicka and Christine Straehle, “Cosmopolitanism, Nation-States, and Minority Nationalism: A Critical Review of Recent Literature,” in *Politics in the Vernacular*, p. 69; David Miller, *On Nationality*, pp. 83–85.

33. Social solidarity and administrative costs are far less compelling state interests than the interests in facilitating economic opportunity and democratic participation. The Supreme Court struck down a law in *Meyer v. Nebraska* (1923) prohibiting teaching students in any language other than English, where it was argued that the prohibition of bilingual education would promote social solidarity and forestall ethnic separatism. The Court argued that the law in question was an unreasonable interference with the liberty of parents and children, a fact that outweighed its benefits to social solidarity. See Steven Macedo, *Diversity and Distrust: Civic Education in a Multicultural Democracy* (Cambridge, Mass.: Harvard University Press, 2000), pp. 96–103, for useful discussion of the case. So even if there is a state interest in social solidarity, it ought to be carefully balanced against other considerations. The same can be said for lowering administrative costs: we might lower costs by getting rid of bureaucratic agencies like the Food and Drug Administration, but that provides little reason to do so, given the more compelling public safety considerations that bear on the case.

Notice that none of these reasons for promoting a common language references the intrinsic superiority of one language over another: they merely invoke a common language's instrumental importance in securing legitimate state interests, which can be framed apart from any view about the relative merit of national cultures. In adopting these policies, the state does not aim to bring about the marginalization of minority languages. Whatever environmental disadvantages minority languages suffer are merely unintended by-products of a state's effort to realize other legitimate goals. If the *formal neutrality* model is the right one to adopt, then a state that promotes only the majority language does not treat members of linguistic minorities unequally, so long as it can produce a neutral justification for this policy—like the importance of economic opportunity, democratic participation, social solidarity, or lowered administrative cost—and as long as the policy applies generally to everyone, i.e., the state does not make exceptions for some groups but not others. Such an approach will likely result in a relative indifference to the fate of linguistic minorities, since even fairly trivial state interests—like slightly lower administrative costs—could justify imposing linguistic rationalization in the majority language.

III. BEYOND FORMAL NEUTRALITY? THE LEAST COST MODEL

To reject Barry's *formal neutrality* as the right view of equal treatment in language matters, we must show why the state should allow the promotion of some minority languages even when otherwise neutral reasons could be invoked to justify full linguistic assimilation. Even when an assimilative language law can be neutrally justified, I believe a civic nation ought to care about the impact of its policies on minority languages. Against Barry, then, I claim that the formal neutrality of a state's language policy, while necessary, *is not sufficient* to show that the state is a *civic nation*, i.e., that it does not privilege or endorse a particular culture. Instead, I believe that to conform to civic nationalist ideals, a state's language policy must go beyond formal neutrality to meet two further criteria:

- (1) The state ought to promote linguistic rationalization only when it serves truly important public purposes (such as securing basic rights) and not for merely trivial reasons (like slightly lower administrative costs).

- (2) The state ought to adopt the language policy, from among a menu of possible policies, that achieves these important public purposes in a way that is not unduly burdensome to the competing interests of citizens who would like to invest in other languages.³⁴

Why should a civic nation promote its common language in this more narrowly tailored fashion? A civic nation has reason to embrace these further restrictions because it places special value on publicly acknowledging the equal standing of its citizens of different nationalities. This public acknowledgment ought to be reflected in the qualities of the state's institutions, in the way the citizens of a civic nation treat one another, and in the attitudes and expectations they have of those who are not members of the majority culture. In this sense, civic nationalist values are not simply constraints on the reasoning of public officials, or on their private intentions. They are values that ought to be expressed openly by our institutions.³⁵

34. These two criteria are less restrictive than the strict scrutiny test applied by the U.S. Supreme Court, which requires that the government must have a "compelling interest" in order to restrict religious liberty, and that this interest be achieved by the "least restrictive means." The strict scrutiny test has often been called "heightened in theory, fatal in practice," because it creates a very strong presumption that a law is illegitimate, and thus most laws to which strict scrutiny is applied are struck down. However, I intend the two criteria stated above to create a somewhat weaker burden of proof: civic nationalist governments must show an important public interest in linguistic rationalization, and they must establish that this interest is achieved in a manner that is not overly burdensome. This is analogous to the "intermediate scrutiny" applied to sex-based classifications. The main point is that when a credible complaint is made by a linguistic minority against a language policy, the burden of proof must shift to the public authorities.

35. Another possible strategy for justifying some promotion of minority languages would cast speaking one's native language as a fundamental liberty interest, like freedom of religion. Religion is strongly felt by many people to impose weighty obligations that cannot be overridden without grave ethical or spiritual consequences. And religion is concerned with ultimate ethical questions about the meaning of life. I reject this strategy because I cannot see why the public use of a language is a fundamental interest in the way religion may be. There are three reasons for my skepticism. First, speaking a language does not impose weighty spiritual obligations. My mother tongue is English, but by learning and speaking—even assimilating to—German or Chinese, I do not violate an important duty to my fellow speakers or to God. Second, the choice of a language does not represent a judgment about the objective nature of the good. There is no objective truth about which language is the best or the right one. Third, we might question whether it is really plausible to conceive of one's liberty as set back when one's native language is not publicly used. Consider an individual who grew up speaking Somali, but was relocated to the United States as a teenage refugee. Is this individual's freedom impaired because he finds himself

To see why formal neutrality alone might not be sufficient to express civic nationalist values, consider an analogy. Imagine a “neutral and nondiscriminatory” principal of a school composed of Jews, Sikhs, and Christians. The school’s mission statement proclaims that it is open to students of all faiths and cultures, and does not favor one group over others. Suppose one day our principal decides to introduce a new uniform that requires each student to wear a collared shirt, coat, and cap. His stated reasons for imposing the policy are that it helps to improve discipline and eliminates status competition over material goods among students. Some Jewish and Sikh students, however, raise the complaint that the policy disadvantages them because they cannot wear *yarmulkes* or turbans, whereas Christian practices are not burdened in any way. The principal responds that it was no part of his aim to interfere with anyone’s religious customs; he is simply trying to promote discipline and reduce status competition.

Do the students have a complaint? On my view, the students do have a complaint if there exists an alternative feasible policy that achieves the school’s important aims at less cost to them, and if this alternative does not impose significantly greater costs on the school or on other students. If a uniform without a cap can promote discipline and discourage status competition just as well, then it seems arbitrary to require one.³⁶

A key problem with the principal’s action is that it is indistinguishable from the action of a “pro-Christian” principal, who believed that Jews and Sikhs held no pride of place in his school, and implemented the same uniform policy simply to alienate them. Of course, our “neutral” principal might be differently motivated than the “pro-Christian” one, but from the students’ perspective, it is difficult to be sure about this. Where a less burdensome option was available, the students might reasonably conclude that the principal chose the uniform merely out of a

in a context where Somali is not the prevailing mode of public speech? As long as he gains sufficient competence in English to enjoy access to a diverse range of occupations, relationships, and social activities, there seems to be no harm done to his freedom. In my view, these considerations cast doubt on any claim that the public use of our native language is a core element of our personal liberty.

36. Anthony Appiah makes a similar claim about the discriminatory nature of policies that burden groups when alternative policies that would achieve the same aim without imposing a burden are available. Appiah, *The Ethics of Identity* (Princeton, N.J.: Princeton University Press, 2005), pp. 90–91.

sense of favoritism. If they do conclude this, then their confidence in the school's commitment to its mission will be undermined. Surely, though, the school has an important interest in expressing the goals outlined in its mission statement. It should do what it can to make sure its policies are publicly seen as reflecting its values.

Now suppose a state that styles itself a "civic nation" implements a public education scheme that instructs students wholly in the language of the majority national group, while refusing all public support for minority languages. Public schools accommodate only majority holidays and display only majority symbols, while refusing parallel recognition to the holidays and symbols of the minority. When queried, the government justifies its policy by pointing to the importance of a common language for economic opportunity and democratic participation, as well as the lower administrative costs (recognizing too many languages, holidays, and symbols would inflate the budget).

How should we respond to this "civic nationalist" government? On the one hand, its justification *does* satisfy the requirements of formal neutrality. The government may not even be harboring any discriminatory intentions: it may genuinely have the goals it avows. Still, there is reason to be dissatisfied with the values expressed by this government's policies. Its policies are indistinguishable from those of a "liberal culturalist" government, which would implement the very same agenda simply in order to favor the majority national culture. Yet a civic state has a very important interest in expressing exactly the opposite set of values: according to its "mission statement," it does not favor or privilege any nation. In failing to differentiate its policies from those of a liberal culturalist regime, then, the government also fails to adequately express its own ideals.³⁷ In this case, a citizen might reasonably conclude that the government saw linguistic minorities as dispreferred members of the political community.

I think these reflections show the insufficiency of formal neutrality, taken by itself, for cultural fairness. By refusing to narrowly tailor its

37. I am sympathetic to the view outlined in Elizabeth Anderson and Richard Pildes, "Expressive Theories of Law: A General Restatement," *University of Pennsylvania Law Review* 148 (2000): 1503–75, especially their qualification that there are public, objective standards for the adequate expression of a value and that "the standard of adequacy is not met simply by intending to express those attitudes, or by thinking that one's actions express those attitudes," p. 1505.

language policy, the state sends the message that the majority nation “owns” the state, and that minorities have second-class status. It is important to be clear, however, that I am not claiming a civic nation ought to privatize language altogether, or to allow linguistic minorities to segregate into closed, mutually incomprehensible enclaves. As Barry has shown, a common language is instrumental to guaranteeing fundamental rights to economic opportunity and democratic participation, and so any liberal state has some very important reasons to educate its citizens into such a common economic and political language. Although the state must require some linguistic assimilation in order to secure these important interests, however, it ought to require *no more* assimilation than is necessary. If its language policy *overshoots the mark*, by aiming at linguistic homogeneity, then it becomes indistinguishable from a project of favoring the majority culture, and that creates the reasonable suspicion that the civic nation is not living up to its own values. The best way to avoid this is to adopt a more narrowly tailored approach, which I call the *least cost model*.

Least Cost Model. States should promote citizens’ fundamental interests in economic opportunity and political participation by imposing rationalization policies at the least cost to individuals invested in other languages. Lesser state interests in administrative costs and social solidarity should be balanced against the interest in publicly acknowledging the equal status of linguistic minorities.³⁸

38. In the existing literature on language policy, Alan Patten, “Liberal Neutrality and Language Policy,” *Philosophy & Public Affairs* 31 (2003): 356–86, comes closest to the position argued for here. The least cost model differs from Patten’s view, however, in two ways. First, it accepts that there are neutral reasons for state promotion of a common language. The state thus does not forfeit its claim to cultural fairness by promoting a common language, as long as it does so in a narrowly tailored fashion that avoids identifying the state with the culture represented by that language, i.e., by adhering to the criteria outlined above. Patten, on the other hand, thinks that neutrality requires evenhanded treatment of all languages spoken in the state (p. 371), and the extension of the same per capita level of assistance to these (p. 372). Thus, state promotion of a common language would violate neutrality on his view, which equates neutrality with neutral impact. Patten holds that a departure from this norm of evenhandedness may sometimes be necessary, but only in cases where the state contains only one viable societal culture, where children will need to speak the language of that culture in order to ensure social mobility (p. 381). I argue, on the other hand, that common languages will still be required even when the state contains more than one viable societal culture.

IV. THE POSSIBILITY OF MULTILINGUALISM

In the remaining sections, I explore the consequences of the *least cost model* for the question of linguistic diversity within a civic nation. I argue that if we take the least cost model seriously, in most cases the state should allow for the public promotion of minority and other languages alongside the majority language within its jurisdiction. The institutional implications of the least cost model, I claim, point us toward a multilingual regime that is best realized through a federalist system of decision making about language policy.

In his discussion of Wales, Barry seems to take the opposite view: he appeals to the fact that knowledge of Welsh does not contribute to citizens' economic opportunities or facilitate their democratic participation. Since time spent learning Welsh has important opportunity costs, he argues it is unfair to require it, even alongside instruction in languages of wider use. There are 575,102 current speakers of Welsh in the United Kingdom, many of whom are bilingual, according to data collected by *Ethnologue*.³⁹ The small size of the Welsh communication community, of course, as well as the entrenched presence of English as an alternative language, is what drives Barry's conclusion that compulsory education in Welsh is coercive and discriminatory. Welsh is a "niche" language.

Consider the case of contemporary Iceland, however: only around 290,000 people today speak its indigenous language. Would Barry come to the conclusion that compulsory instruction in Icelandic in Iceland is just as illiberal as compulsory instruction in Welsh is in Wales? In the last decade, Iceland attracted high numbers of immigrants (especially Poles, who numbered about 7,000 as of 2007); indeed, about 7 percent of Iceland's current total population consists of immigrants. Is Iceland wronging its citizens, and especially these immigrants, by requiring children to learn Icelandic, a language spoken by only about as many people as inhabit a medium-sized U.S. city? (Iceland requires a special two-week Icelandic immersion summer camp, up to 20 hours per week

39. Data on language use around the world can be accessed at <<http://www.ethnologue.com>>.

of Icelandic language classes in the first year of schooling, and 8 to 10 hours in the second year, for children of immigrants.)⁴⁰

If we accept Barry's view that *substate* projects of linguistic rationalization are morally problematic because of their opportunity costs on economic interests, then surely *state* projects of linguistic rationalization that have exactly the same opportunity costs are equally morally questionable. The example of Iceland and other small European states is especially relevant in this context because the labor market for which their children must be prepared is a European-wide one.⁴¹ Given the premise that government ought not to promote "niche" languages that do not add to economic opportunity, it seems that Iceland may have good reason, on Barry's principles, to assimilate to English or some other language. True, switching languages all at once would have negative consequences for the democratic participation of an older generation, but the balance of language instruction could be altered gradually and political use postponed for some years, so that younger generations have an opportunity to become fluent in the new language, and no one's democratic participation interests are radically compromised. Does the mere fact that Iceland is a sovereign state, then, where Wales is not, give it a better moral title to impose rationalization in its historic native language?

A liberal could bite the bullet and argue that the morally overriding concern for a state's language policy should be *maximizing* the economic mobility of its citizens, regardless of whether that policy is adopted at the state or substate level. All other things being equal, every government ought to seek out the feasible language of greatest opportunity, given its situation—whether that be English, Chinese, or Hindi—and educate its young citizens in that language. On this view, *both* Iceland and Wales should gradually abandon public promotion of their native languages, since the opportunity costs of continuing instruction in them are simply too high. This interpretation postulates a kind of regulative ideal for liberal language politics: it aims at convergence, over

40. More information on Iceland's integration policy for immigrant schooling can be found at <<http://www.mszs.si/eurydice/pub/eurydice/migranti/Iceland.pdf>>. Accessed April 2009.

41. Although Iceland is not a member of the European Union, it is a member of the European Economic Area, a treaty-based arrangement that provides for the free movement of goods, services, labor, and capital throughout Europe.

the very *longue durée*, on a worldwide shared language that would serve as the widest means of social coordination and mobility for all persons the world over.

Most of us, though, will find the conclusion that liberal principles could *require* Iceland to abandon its language a repugnant one. Surely it is acceptable for Iceland to continue teaching and speaking Icelandic, at least as long as efficient systems of instruction are available to ensure that its citizens learn English and other languages so they can compete in the European labor market. Currently, Iceland's main language of instruction in elementary school is Icelandic, but students begin compulsory English instruction at age 10, Danish at age 12, and add German, French, or Spanish in secondary school.⁴² The quality of foreign language instruction in Icelandic schools is also very high: students in secondary school spend as much course time in English and their third language as they do in Icelandic, and English and Danish are widely understood and spoken in Iceland.⁴³ The government of Iceland, then, has recognized the importance of European languages to its citizens' opportunities on the European labor market, and attempted to secure these opportunities without displacing its native language. Moreover, learning Icelandic in school, despite its opportunity costs, seems to have no tendency to promote the economic ghettoization of Iceland's citizenry. Although Iceland is currently suffering from a recession in the wake of the 2008 banking crisis, it had the eighth highest per capita gross national income in 2007, according to World Bank Development Indicators, and has consistently ranked among the world's richest nations.⁴⁴

Is a multilingual language regime like Iceland's consistent with civic nationalist principles? I will argue that if a policy promoting a minority or regional language is (a) democratically authorized and (b) revisable in the future as citizens' interests change, it is a perfectly legitimate policy in civic nationalist terms, and exactly what the least cost model should support. A layered language policy publicly acknowledges the equal

42. Information on the Icelandic curriculum can be found at <<http://eng.menntamalaraduneyti.is/publications/curriculum>>. Accessed April 2009.

43. Bernard Spolsky, *Language Policy* (Cambridge: Cambridge University Press, 2004), p. 61.

44. These data can be accessed at <<http://www.worldbank.org/data/countrydata/countrydata.html>>. Accessed April 2009. Even with the recession, Iceland's estimated 2008 GNP will make it the twentieth richest country in the world.

standing of linguistic minorities (as Icelanders are in the European context) while also serving their other language interests. The multilingual view postulates an alternative regulative ideal for liberal linguistic policy: the cultivation of a layered *language repertoire* for citizens the world over.⁴⁵ Based on the least cost model, I will argue that it is the approach civic nationalists should adopt: language policy at both the substate and state level should aim to emulate Iceland's regime. Governments should offer instruction in languages of economic mobility and democratic participation in order to guarantee their citizens' basic rights. But they may also promote regional, minority, or secondary languages alongside these.

V. AGGREGATING LANGUAGE INTERESTS: DEMOCRATIC PROCEDURALISM

In sketching the multilingual alternative, we noted that, in addition to satisfying the civic state's interest in publicly acknowledging the equal standing of minorities, multilingualism might also better serve individual interests in language that go beyond economic opportunity and democratic participation. But are there such interests, and if so, what are they? I will argue that individuals have at least three other interests in language. These interests are not strong enough to ground a basic right to the public promotion of each individual's native tongue. But they do show that people will often have a justified preference for the provision of a particular minority, regional, or secondary language. Since a civic nation has reason to allow the promotion of some minority languages, its citizens' preferences ought to be taken into account in decisions about which languages to promote:

Languages Structure Intergenerational Relationships. It is a well-known fact about language learning that adults have more difficulty acquiring competence in a new language than do children. The difficulty of learning, operating, and expressing one's own personality in a new language, then, provides good reason for why many adults might be hesitant to "switch." But it does not explain why they might wish to prevent their children from switching, since a child can circumvent these problems by learning the new language at an early age. One very good reason for wishing to speak the same language as one's child, however, is

45. I take the term "language repertoire" from David Laitin, *Language Repertoires and State Construction in Africa* (Cambridge: Cambridge University Press, 1992), pp. 4–8.

the parental need to participate fully in that child's life. This is not simply an imposition of a parental wish at the expense of the child's well-being, since parental involvement in children's lives is crucial for healthy child development. Even if a minority child retains some facility in the ancestral language for use in familial contexts, parental participation will be attenuated to a considerable degree in a fully assimilative regime, since the language of the child's public life is one in which the parents are not fluent. Indeed, the conventional pattern of linguistic assimilation often imposes severe burdens on family relationships over several generations.⁴⁶ The *children* of that assimilated child are unlikely to speak their ancestral language well at all, decreasing the extent to which the grandparents can communicate with their grandchildren. Since most people do have an interest in fulfilling family relationships, full linguistic assimilation imposes costs on them that, other things equal, it is rational for them to wish to avoid.

Language as Key to Literary and Cultural Values. A language can also be valuable as the medium of access to a set of important cultural achievements. Literature and poetry are often pervasively shaped by the language in which they are written, and lose much of their beauty in being translated. Reading Goethe or Baudelaire in English is not the same as reading them in German or French. If German or French or other languages were entirely lost to the world, we would have also lost full access to an important set of achievements. Learning a language can also serve as the means of access to a set of culturally shaped values and life options. For example, Japanese contains a complex set of rules about social decorum not found in other languages; Arabic has a unique tradition of poetry and calligraphy. It is important not to push this analogy too far, since in modern industrial societies, most life options present in one language can also be accessed in others: it is possible to be a doctor, or a scientist, or a writer in any language that is widely spoken today. But at the margins, some cultural values and styles of life are still more easily accessed in one

46. The normal pattern of assimilation in immigrant families takes place over three generations: the first generation (being adults) usually does not attain full fluency; the second generation is bilingual, speaking the ancestral language with the parents and the language of the receiving country in school and public contexts; and the third generation knows so little of the ancestral language as to have difficulty communicating with their grandparents. See Ronald Schmidt, *Language Policy and Identity Politics in the United States* (Philadelphia, Pa.: Temple University Press, 2000), p. 1.

language than in another. Preferring to continue speaking one language to another on the basis of its literary tradition or unique cultural values is therefore not unreasonable; indeed, it often serves as a reason why people choose to *study* a particular language in preference to others.

Language as Practice with which People Have a Personal History. Finally, a decision to promote a particular language may be partly justified by the fact that people currently live in that language and have particular histories of valuing it. One person's history can often make it reasonable for her to value one object, person, or practice *more highly* than another object, person, or practice that is of exactly the same objective value. To see why, suppose for a moment that I grew up playing basketball. I believe basketball is of some objective value: it provides amusement and helps to acquire strength, speed, and dexterity. In this sense, it is like many other games that serve the same ends: soccer, for example. But it is entirely appropriate for me to spend more time watching basketball, playing in a local league, and contributing my time and money to coaching a team, while not doing any of these things for soccer. I am justified in this preference for basketball over soccer just because I have a *personal history* with basketball. Analogously, it is not irrational to value one language more highly than another because I have a personal history with it. I acknowledge that, in principle, Chinese is as valuable a semantic practice as German, and even that speaking it would allow me to coordinate with a much larger number of (more needy, or economically useful, or intellectually interesting) people. Nevertheless, I prefer speaking German, simply because I have studied it for many years and lived for a time in Germany.

Taken together, these considerations show why a person might have a *justified* preference—a preference he or she has good reason to hold—for the public provision of a particular minority language, even while acknowledging that languages are purely conventional structures, and that one language is in principle no more objectively valuable than any other. Notice that our interests in language are wholly dependent on our willing engagement in a particular linguistic practice.⁴⁷ The interests outlined above do not support the view that it is good for an individual to

47. See Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press; New York: Oxford University Press, 1986), p. 292, for an argument that a person's goals contribute to his well-being in part because of the fact that he adopts or endorses them.

continue speaking a language regardless of his attitude toward that language. If a person chooses to fully assimilate to some other language, he will then be able to participate in his children's lives, access a set of objectively valuable cultural achievements and life options, and create a personal history in the new language. But full assimilation is quite costly, and it is often rational for a person to desire to maintain these goods in the language he currently speaks. His preference for speaking *this* language, then, particularizes his interest in these goods to this language.

Our argument for the least cost model showed that since a civic state has reason to publicly acknowledge the equal standing of citizens of different nationalities, it should avoid privileging the majority language and culture, and refrain from aiming at more linguistic homogeneity than is truly necessary. Instead, it should adopt a language policy that secures its citizens' interests in economic opportunity and democratic participation at least cost to their other language interests. For that reason, a civic state ought to make room for the promotion of minority languages alongside the common language. But how do we decide which language(s) ought to be promoted alongside the common one? Public promotion of a language is not a good that can be privately distributed to each individual, like a voucher that can be tailored to her personal language preferences. This is because the public use of a minority, regional, or secondary language requires the participation of a critical mass of other people.⁴⁸ Since individuals' abilities to learn languages and to use them in their daily life are limited, not all languages preferred by individuals in a given jurisdiction can be provided at once.

In implementing the least cost model, how should we weigh the competing interests of different people in the promotion of various languages? I suggest that these competing interests are best taken account of *procedurally*. Whether or not to teach other languages alongside the political and economic languages, and if so, which languages to teach, should be determined by citizens' aggregate preferences as expressed through voting. There are three reasons why voting is particularly appropriate here. First, voting maximizes the number of persons whose language preferences can be reflected in the laws under which

48. Denise Réaume, "Individuals, Groups, and Rights to Public Goods," *The University of Toronto Law Journal* 39 (1988): 1-27, at p. 5.

they live.⁴⁹ No language law will satisfy everyone, since decisions about these issues allocate costs and benefits over which different citizens have different interests, and one person's interest—taken by itself—is not sufficiently weighty to impose a duty on others to provide a particular public good. But the least cost model requires that we leave space for the public promotion of other languages alongside the majority language, and citizens' preferences for particular languages have a good claim to being weighed in the decision about which language(s) these should be.

Second, voting recognizes that a person's interest in speaking a language is shaped by personal choice. Individuals do not have an interest in continuing to speak their ancestral language if they would rather assimilate into some other language; nor should we assume that speakers of minority languages will never prefer assimilation in practice. Some immigrant parents, for example, freely decide to speak to their children only in the language of the host country, either because they wish to increase their proficiency in that language or because they have negative associations with the ancestral language. Either way, we should not assume that individuals always find it in their interest to continue speaking their native tongues.⁵⁰ Voting thus allows the decision to publicly support a language to be tied to the current language interests of citizens as they themselves understand and interpret those interests. If minority citizens do not wish to invest in the public good of their language, we should not force them to do so.⁵¹

49. See Robert Dahl, *Democracy and Its Critics* (New Haven, Conn.: Yale University Press, 1989), pp. 135–52.

50. Indeed, several high-profile initiatives opposing bilingual education in the United States were supported by linguistic minority parents. California's Proposition 227, which was passed in 1997 and attempted to eliminate bilingual education, had its roots in a boycott of a bilingual program by Latino parents. A lawsuit was also brought by Latino parents in Bushwick, Brooklyn, N.Y., in 1996 claiming that the New York City bilingual education programs unfairly disadvantaged their children. These challenges may have more to do with the segregated, poorly run bilingual education programs now prevalent in the United States than with the parents' opposition to bilingualism as such. Either way, they clearly demonstrate that we should not assume that all persons with a historical attachment to a language will support the public promotion of that language. See Sandra Del Valle, *Language Rights and the Law in the United States* (Buffalo, N.Y.: Multilingual Matters, 2003), pp. 248–58.

51. A possible, though perhaps unlikely, institutional effect of my proposal is that a local majority might vote to promote a second language that is unconnected to the population's

Finally, voting is appropriate because the use of a minority language is a costly public good that requires significant contributions from citizens in order to be provided—including burdensome tax payments to support that language's use in education and government. Voting allows us to ascertain that there exists a critical mass of people within a jurisdiction who are willing to pay these costs. The interest of one person, or of a small number of people, is not sufficient to warrant imposing these burdens on a larger number of others who would rather not face them. But the aggregate interest of a large group in its preferred language(s) is sufficiently weighty to ground a claim to publicly promote that language, and to justify imposing a duty on others in the jurisdiction to support that language by contributing via their tax payments to its public instruction, its use in local government, and its display in public signage. Where many people together have an interest in a public good, the case for that good's provision becomes much stronger.⁵²

history. Since I hold that language interests are connected to choice and individual endorsement, I do not see this possibility as necessarily problematic. Suppose a local Hispanic population votes to provide instruction in French rather than in Spanish. On my view, we should see the Hispanic minority as having waived the opportunity to promote their language. As a matter of public respect, it is important to extend minorities the *discretion* to promote their language, but also important to allow them to choose how to exercise this discretion. Where a conflict may arise is in cases like the following: suppose a local Anglo majority votes to provide instruction in Chinese, though there is a substantial Hispanic minority who would like to see bilingual education in Spanish. Acknowledging the equality of the Hispanic minority may require extending them the discretion to promote Spanish, while pure democratic proceduralism would simply entail respecting the majority choice even if that choice does not express respect for the minority population. I believe that on the least cost model the Hispanic minority has a claim to redress; in Section VI, I discuss some ways to satisfy their claim.

52. Because language is a public good, providing it requires us to impose burdens on some people who do not endorse those burdens. But the public promotion of language does not differ in this respect from many other policies that liberal states already enact: historic preservation laws, zoning regulations, noise ordinances, and laws protecting the environment all require us to regulate the behavior of people who may not themselves endorse the goals that the policy is designed to secure. As long as these laws do not infringe individuals' basic liberties, and as long as they are democratically authorized, policies to provide a minority, regional, or secondary language are no less acceptable in liberal terms than policies requiring art and music education, the provision of public parks, or the funding of a museum.

VI. SPECIFYING THE DEMOS: A PLEA FOR DECENTRALIZATION

To implement a vote, though, requires resolving the question of who composes the *demos*, the body that has the right to make the collective decision. Any use of democratic procedures depends on having clear background assumptions about the proper boundaries and units in which these procedures are to be applied. Is there a normative criterion for specifying the proper unit at which a language policy decision should be made? Coming up with a criterion raises very deep issues in democratic theory, which I cannot fully address here. Yet I do wish to argue that in developing a criterion, we will need to take the least cost model seriously. Whatever wider coordination benefits will best promote economic opportunity and democratic participation should be achieved at the least cost to the competing interests of individuals who are already invested (or may wish in the future to invest) in other languages.

What does the least cost model imply in terms of the proper boundaries of the unit(s) for making language policy decisions? I will argue that it requires disaggregating language policy decisions according to the interests at stake in the decision. Consider the following proposal:

Unit Specification Principle. Legislation bearing on a particular interest is best decided by the smallest democratic association that has the capacity to implement legislation responding fully to this interest.⁵³

On this principle, the proper boundaries for democratic decision making will depend on the decision at stake: citizens' interests in pollution regulation, trade, unemployment, or specification of basic rights will be far beyond the competence of a small unit to regulate. Dealing effectively with these sorts of broad interests may require an association containing hundreds of millions, even billions, of people. Other, more restricted interests—whether to enact a historic preservation ordinance, where to put a park, or whether to provide a minority, regional, or secondary language—are best served by local associations. In these cases, the range

53. This criterion is drawn from various writings of Robert Dahl's on the optimal size of democratic units. See, in particular, Robert Dahl and Edward Tufte, *Size and Democracy* (Stanford, Calif.: Stanford University Press, 1973), pp. 20–25, 137–42; and Robert Dahl, *After the Revolution* (New Haven, Conn.: Yale University Press, 1990), pp. 45–79.

of those whose interests are affected, and of the system that would have the capacity to implement an effective solution to the problem, is quite small.

There is a good argument on liberal principles, I think, for allowing decisions about the language(s) of economic opportunity and democratic participation to be taken at the highest political level(s): the level of a sovereign state or regional government, if there is one, or even a world government, if such a thing ever emerges. In general, it is the existence of common reciprocal interests in one another's actions and choices that makes groups appropriate units for collective decision making.⁵⁴ As economic agents on a world scale, we *all* have reciprocal interests in one another's language choices, and as citizens, we have reciprocal interests in one another's language choices wherever political authorities are (or can be) democratized. In some cases, responding to these two reciprocal interests will require a political association to legislate compulsory instruction in a single language: thus, U.S. citizens can learn English both as their political language and as their language of economic opportunity. In other cases, the political and economic languages will diverge. Yet political associations at the highest level should have control over some part of the language curriculum in order to secure these interests. Precisely what portion of schooling should be under their control is a question to be decided by education specialists, but as a rough rule of thumb, let us say that at least half of every child's schooling should be in the political/economic language(s), and that the institutions of sovereign democratic authority, as well as national public services, should operate in the mandated political language.

At the same time, though, there is also a strong argument on civic nationalist principles for preserving autonomy to smaller units over policy making about minority languages. A civic nation has reason to allow the promotion of second languages in order to publicly demonstrate its respect for members of minority national cultures. And citizens' interests in other languages are much more likely to be reflected in the laws under which they live the smaller the democratic unit in which those laws are made. Since individuals have legitimate reasons for preferring one language to another—including ease of intergenerational

54. Robert Goodin, "Enfranchising All Affected Interests, and Its Alternatives," *Philosophy & Public Affairs* 35 (2007): 40–68, at p. 48.

communication, the culture and literary achievements they value in that language, and facts about their personal history—I believe that subunit languages should reflect the preferences of the majority within these smaller units, as long as instruction in language(s) of political participation and economic opportunity remains compulsory alongside the local language. Allowing local languages to be democratically chosen at the subunit level “uncouples” the political culture from that of the majority nation, and it acknowledges that forcing minorities (and their children) to “switch” languages entirely would require them to pay higher costs than is actually necessary for the achievement of important public purposes. All subunits, on this view, should be free to determine the language of local government and to provide instruction in that language in local schools (for less than half the school day) by a democratic vote. In order to promote freedom of movement, signage should be in both the political and the local language, and public services should be provided in both languages.

What would this mean in practice? Well, it means that if a heavily Spanish-speaking school district in New York, for example, or a town council in a heavily Polish area of Iceland, votes to make Spanish or Polish the local language and to educate their children in it for part of the school day, their fellow citizens and economic partners have no greater complaint of justice against them than if that locality had decided to implement a historic preservation law or noise ordinance.⁵⁵ This is because the reciprocal interests of these fellow citizens and economic

55. Under the policy of decentralized proceduralism to determine minority language support, some people in relevant localities will be required to support the costs of minority language provision even though they themselves do not speak the language or value it. Why should they be expected to pay? I have two replies to this objection. First, minority language provision is in no worse position than other discretionary public goods with respect to this objection (see footnote 52). If the state can already tax people to contribute to parks they may not use and art museums they may not value, it ought to be able to tax them to contribute to minority language provision. Second, unlike these other discretionary public goods, minority language provision helps the state publicly express an important liberal value: its acknowledgment of the equal standing of citizens of different nationalities. Citizens can be expected to share this underlying liberal value even when they don't speak the particular language in question. I am grateful to an Editor of *Philosophy & Public Affairs* for pointing out this objection.

partners are *already secured* by the existence of a parallel regime of competence in the shared political and economic language(s).⁵⁶

Some local linguistic minorities may be sufficiently numerous to support the public use of a language, but be unable to persuade local majorities to vote for the provision of their language in public schooling. Where their numbers are sufficiently great, these minorities too will have a claim, under the least cost model, to some institutional remedy.⁵⁷ Often the institutional remedy can take place within existing units of government. For example, state education boards could establish magnet or charter schools to provide bilingual education where sufficiently large numbers of people have voted for that language's public promotion, but have been unable to secure majority status. Magnet and charter schools typically draw students from across the normal school district boundaries, and thus have a degree of freedom from local district regulations. They are therefore well suited for redressing the claims of a group that is spread across several districts or forms a substantial minority within a larger district.

Remedies within existing governmental units may not always be appropriate, however, as in cases where local majorities attempt to block or frustrate bilingual schooling for the local minority. In these cases, redistricting may be the right solution. In the decentralized U.S. education system, school districts are largely independent of other governmental units: in many cases, their sole function is to elect a local school board. U.S. school districts are also often quite small; at present 27

56. My view assumes that linguistic minorities are territorially concentrated. But what about minorities who are not spatially concentrated? Since language is a public good that requires the participation of a critical mass of people to be produced and enjoyed, supporting the promotion of a language does require that linguistic minorities exhibit a degree of concentration. But that assumption derives mainly from the characteristics of language itself, and not from anything distinctive about the approach to cultural fairness advocated here. When a minority is too small or too territorially dispersed to maintain the good of a language, supporting the language's public promotion (through the individualized provision of government vouchers, say) would not have the desired effect. Minorities who are not sufficiently concentrated may have other cultural claims—to the public recognition of their history, for example—but they do not have a claim to the promotion of their language. I thank the Editors of *Philosophy & Public Affairs* for urging me to address this issue.

57. I focus here on the feasibility of implementing bilingual education for local linguistic minorities, though in some cases it may be possible to recognize their language in other ways as well, for example, by granting it status as an official local language.

percent of school districts have fewer than 300 students.⁵⁸ These features of the decentralized U.S. system make it quite feasible to draw school districts so as to allow many linguistic minority groups, which could form local majorities but now do not, to have a district in which to promote their language.⁵⁹

Many local linguistic minorities will thus have a *pro tanto* claim to some institutional remedy, either in the form of a dual language magnet or charter school or the redrawing of school district boundaries, although their claim will not always be dispositive. The claim must be balanced against other relevant factors, such as number of languages that can reasonably be supported by the state, the adverse effects that redistricting might have on the local tax base, the possibility of gerrymandering for partisan advantage, and so on. In the United States, the legal authority to issue charters, organize magnet schools, and redraw school district boundaries generally lies with state legislatures, and my proposal would urge that state legislatures take the least cost model into account as a relevant criterion in making these decisions. Not every language can be publicly supported, but where public support is not made available, a reasonable justification must be given, and the burden of proof lies with the state. Finally, the claim of a local minority to redistricting is particularly convincing (and ought to be given extra weight) in cases where the claimants are part of a historically excluded or oppressed group. Extra efforts should be made to provide public support for their language, as long as a sufficient critical mass of individuals interested in learning and speaking that language exists.

The institutional implementation of the least cost model will differ depending on the unique features of the local situation and the balance of policy-making authority in different states. For clarity, however, let me underscore some of the possible consequences for the U.S. case. Since the United States has no official language, it is often pointed to as an example of a civic nation (indeed one state, Hawaii, is officially

58. James Johnson, Harold Collins, Victor Dupuis, John Johansen, *Introduction to the Foundations of American Education* (Boston, Mass.: Allyn and Bacon, 1985), pp. 213–29.

59. The redistricting solution is more difficult to apply in urban areas, which often form one large school district, as do New York City, Los Angeles, Chicago, Dade County, and Philadelphia. However, these large urban districts are usually divided into a number of subdistricts, and my proposal would recommend that the least cost model be weighed as a factor in determining the composition of the subdistricts.

bilingual). Unofficially, however, English is the dominant language, and some thirty states have adopted statutes designating English as their official language. Since the decentralized system of public schooling in the United States differs from the centralized systems common in other industrialized countries,⁶⁰ however, there already exist some examples of the kind of bilingual programs on the local level to which this proposal would lend support. One is Miami–Dade County’s 1998 decision to declare itself officially a bilingual metropolitan area, and to offer two-way bilingual instruction as an option to all students in its school system.⁶¹ Under the program, *all* parents—not just members of a minority group—can send their children to a bilingual school, where 60 percent of the instruction is in English and 40 percent in the second language. Most of the schools operate in Spanish, but Miami–Dade County also provides programs in German, Portuguese, and Italian. One feature of the Miami–Dade County program that my proposal would endorse is the fact that, unlike most federally funded bilingual education programs, it does not segregate students for whom English is a second language into a separate program. Instead, under the two-way program, all students are educated to be bilingual and biliterate, with those for whom English is a first language learning Spanish together with those for whom Spanish is a first language, and vice versa. My proposal would affirm the right of communities like Miami–Dade County to build local bilingualism, and it supports extending the option of bilingual instruction to all children in the community who wish to learn the minority language, not simply to those students who are of minority descent.

The system of language policy making that I recommend, then, is one in which language decisions that bear on fundamental rights of economic opportunity and democratic participation are taken at the level of the state or regional polity, while decisions on minority, regional, and secondary languages are made at a more local level. Fundamental to the success of this system is that local decisions not be allowed to undermine the policies, particularly those that bear on basic rights, that are mandated by the federal state, and that local minorities not be dominated by

60. Rosemary C. Salomone, *Equal Education Under Law* (New York: St. Martin’s Press, 1986), p. 2.

61. For discussion of this program, see Ronald Schmidt, *Language Policy and Identity Politics in the United States*, pp. 2; 245–47. For more information about the program, see <<http://bilingual.dadeschools.net/>>. Accessed April 2009.

oppressive local majorities. In cases where the higher and lower units disagree about the effects of a particular policy, the courts must take the final decision.

Although education is not one of the powers delegated to the U.S. federal government by the Constitution, the courts began expanding federal oversight of education policy (until then considered a purely state and local matter) beginning in the 1950s, and continue to play an active role in regulating education today. On my view, there are two main claims that federal courts should be involved in protecting: the rights of citizens who claim that their locality does not provide adequate competence in languages of economic opportunity and political participation, and the claims of local minorities who sue for public support for their language. Federal courts in the United States already exercise oversight powers in both education and redistricting matters. The analysis offered here would support this model, and would give individuals standing to bring federal cases against their localities, states, or provinces, if the policies enacted by those subunits fail to protect their rights. It would not support a judicial model such as the Canadian one, in which provinces can override the Canadian Supreme Court's decisions with respect to basic rights by invoking an override clause in the Canadian constitution that allows a simple majority of a provincial legislature to suspend the court's decision.⁶² The role of the courts in protecting individuals and minorities is fundamental to the success of a plan like the one proposed here.

One might worry that a U.S.-style judicial review model would risk undermining local autonomy altogether in favor of federal government control of education. This has not occurred in the history of federal judicial oversight of education in the United States so far, however. Since U.S. federal courts began to be deeply involved in the regulation of education, beginning with cases involving the racial desegregation of the schools, the courts have refrained from overwhelming local initiative in this matter. Instead, they have shown a willingness to balance the need to guarantee constitutional rights (especially the Fourteenth

62. For discussion of the override clause, see Joseph Carens, *Culture, Citizenship, and Community*, pp. 28–32, and Martha Minow, "Tolerance Reconsidered," in *Comparative Constitutional Federalism*, ed. Mark Tushnet (New York: Greenwood Press, 1990), pp. 99–101.

Amendment) with the principle of federalism, betraying an unwillingness to abandon local control of education, for example.⁶³ In the absence of evidence that judicial review undermines local autonomy, then, its advantages for guaranteeing uniform individual rights in a diverse federal system would seem to outweigh its costs in terms of community diversity and experimentation.

VII. OBJECTIONS AND CAVEATS

There are bound to be many objections to this proposal. I will list and briefly respond to just a few:

Is This Assimilation by Another Name? Language preferences are likely to change over time: younger generations already educated in the political or economic language may find that they have an all-things-considered interest in assimilation to the languages of larger units. Since language policy is not entrenched but revisable, these changes in language preferences could result in a shift in policy within the subunit toward assimilation. I cannot see this as a drawback of the proposal, however. Languages do not have rights against their speakers to their continued existence; indeed, the whole purpose of my proposal is to allow language policy to better reflect the interests of more of its citizens, not to disregard those interests altogether.

Will This Proposal Fragment Society into Competing Linguistic Factions, Increasing the Risk of Conflict? Where the risk of serious political conflict is high (in societies already ridden with linguistic tension, or where linguistic cleavages track other salient political conflicts), this may provide pragmatic reasons to forgo a multilingual language regime. The least cost model for language policy is not meant to be universally applicable: it will be especially inappropriate in cases where the central state is weak, judicial independence compromised, or where citizens are not committed to liberal-democratic values and to interethnic tolerance. I am therefore not advocating the application of a multilingual regime in deeply fragmented societies or societies with a fragile democratic

63. These doctrines were developed as a result of a series of school busing cases: see *Miliken v. Bradley*, 418 U.S. 717 (1974), and the discussion in Salomone, *Equal Education Under Law*, pp. 38–77.

history. Where the threat of ethnic conflict is immediate and pressing, states may have a more compelling interest in linguistic rationalization to promote social solidarity.

But in those consolidated Western democracies faced with increasing levels of cultural diversity, I argue that the least cost model is an attractive option. Barry's assimilative solution—called "Liberal Jacobinism" by one reviewer⁶⁴—finds its place in a long tradition, beginning with Rousseau, that holds that the pursuit of equality requires uniformity, and therefore the (potentially coercive) suppression of the diverse groups or "partial associations" that structure a society. The cost of eliminating all sources of faction is very high, however, and will tend to become higher the larger and more diverse political and economic units become. But there is another popular remedy to the ills of faction—one equally consistent with the value of equality—canvassed by thinkers like Madison (but also by Rousseau himself). This is the strategy of multiplying the sources of faction, association, and allegiance within a polity, and ensuring that they crosscut one another so as to prevent their attaining political power. Madison thought that a good way of doing this was simply to make political units larger and more encompassing; that would bring diversity and multiplicity of itself.

Debate between these two conceptions has structured political thought for 250 years, and so I will not resolve it here. But there is some evidence showing that selection bias, and not political reality, may explain our tendency to automatically equate ethnolinguistic diversity with an increased risk of deadly political conflict.⁶⁵ Moreover, although adopting the assimilative model may prove viable for those countries that presently enjoy a "homogeneity surplus" conferred by the coercive rationalization programs of bygone years, it forecloses the possibility that civic nationalism has anything positive to say about the prospects for democracy in diverse countries such as India, South Africa, or a one-day-reformed European Union. These polities face an unpleasant choice on a view like Barry's: either they ought to dismember themselves into uniform linguistic zones, or pay the price of enforcing uniformity.

64. Jacob Levy, "Liberal Jacobinism," *Ethics* 114 (2004): 318–36, at p. 318.

65. David Laitin and James Fearon, "Ethnicity, Insurgency, and Civil War," *American Political Science Review* 97 (2003): 75–90.

Is Multilingualism Feasible? The vision of civic nationalism I am recommending is a policy of state-promoted bi- or trilingualism. Is there reason to think this is unfeasible? Theorists from unilingual nation-states tend to assume that it is. Small countries like Iceland, Denmark, or Belgium, however, or countries of great linguistic diversity, like India, have a high degree of everyday multilingualism at levels that extend far beyond the upper-middle classes. And multilingualism was common in medieval Europe and is still widespread today in those areas that have historically experienced relatively little state rationalization, such as Africa. These examples show that multilingual repertoires are possible where countries are willing to invest the resources in cultivating them, or where social conditions make them advantageous. My view is that whether and when the benefits of multilingualism are worth the costs is not a question that can be answered a priori by the theorist. Rather, I have argued that the proper judge of these costs is the democratic voter: if a locality decides that the benefits of minority language promotion outweigh the costs, then the subunit can rightfully invest in this public good.

VIII. CONCLUSION

As the reader will have noted, my proposal shares with liberal culturalism the view that the liberal state may sometimes be required to promote minority languages. I should underscore, however, that the least cost model differs from culturalism in two key respects. First, unlike culturalism, it accepts that a civic state has important reasons to promote a common language as well, since access to such a language helps to secure rights of economic opportunity and democratic participation. A civic nation therefore does not forfeit its claim to cultural fairness simply by facilitating the acquisition of a common language, as long as it promotes this language in a narrowly tailored manner. Second, on the least cost model, the case for minority language promotion does not depend on any claim that some cultures are historically tied to the state's territory and therefore deserve special privileges. Instead, on my view, the state's policy with respect to minority languages ought to track the present preferences of its citizens. As the cultural composition of the citizenry changes, so too may the bundle of languages supported by

the state. The world we as civic nationalists should be aiming for, on this view, is one in which no language or culture is specially favored or privileged by the state.

Although there is much more to be said, I believe that the least cost model outlined above is a consistent interpretation of civic nationalist principles, and one that defeats the assimilationist charge. Allowing local languages to be chosen at the subunit level, while political and economic languages are mandated at the level of the state or regional polity, is the regime that best approximates this goal, and it is precisely what civic nationalists should embrace.