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Introduction

Language Rights and Political Theory: Context, Issues, and Approaches

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Political theory in the last decade has been awash with discussions of cultural diversity and ethnic, racial, and religious pluralism, with books exploring ‘the ethos of pluralization’, ‘strange multiplicity’, and ‘the politics of recognition’. Yet there is one form of diversity which has received relatively little attention from political theorists: linguistic diversity. To our knowledge, there has not been a single monograph or edited volume which examines the issue of language rights from the perspective of normative political theory.

This is a striking gap when compared with the many important volumes by political theorists dedicated to issues of race (Mills 1997; Cochran 1999; Gutmann and Appiah 1996), indigenous people (Iverson, Sanders, and Patton 2000; Poole and Kukathas 2000; Tully 1995), immigration (Bauböck 1995; Cole 2000; Bader 1997; Rubio-Marín 2000), nationalism (Tamir 1993; Canovan 1996; Miller 1995; 2000; Miscevic 2000; Moore 2001); and religion (Audi 2000; Rosenblum 2000; Spinner-Halev 2000). In each of these areas, there is a vibrant debate amongst political theorists about how rights claims relating to these forms of diversity connect with liberal-democratic principles of freedom, justice, and democracy. There are well-developed ‘liberal theories of immigration’ or ‘liberal theories of nationalism’, for example, as well as criticisms of such theories by communitarians, feminists, civic republicans, postmodernists, and others.¹ By contrast, one would be hard-pressed to know where to look to find an articulation of a normative theory of language rights, whether liberal, communitarian, post-colonial, or otherwise.

Fortunately, this surprising gap is now being remedied. The past few years have witnessed the publication of several articles and chapters on the implications of normative principles of freedom and equality for language policy (for example, Van Parijs 2000*a*; 2002; Carens 2000: 77–87; Bauböck 2001;

¹ See, for example, the feminist and post-colonial critiques of liberal theories of nationalism and multiculturalism in Narayan and Harding (2000), Okin (1999), Shachar (2001), Yuval-Davis and Werbner (1999), and Deveaux (2001).

Réaume 2000; May 2001: Ch. 4; Patten 2001; N. Levy 2001; Green 1987 is a valuable earlier article). At the same time, some sociolinguists and political scientists who specialize in language policy in particular countries have also started to examine the normative dimensions of their field of study, and to consider the extent to which the policies they study conform to various normative principles (for example, Branchadell 1999, Costa 2003 on Spain; Schmidt 2000, Rhee 1999 on the US; MacMillan 1998, Coulombe 2000 on Canada).

While the debate over normative theories of language rights is still quite new, we believe it is possible to identify the emerging approaches and to suggest some of the likely areas for future theoretical development. Our aim in this volume is to provide the reader with an up-to-date statement of the contending positions in the debate, and also to push the debate forward. We have brought together some of the most prominent political theorists and social scientists who work in the field, with the aim of exploring how political theorists can conceptualize issues of language rights and contribute to public debates on language policy.

In this introduction, we begin by exploring several of the factors that have fuelled the new interest in language rights (section 1). We then survey some of the issues that need to be addressed by a theory of language policy (section 2), before turning to the idea of 'language rights' and some of the key distinctions that have been proposed in theorizing such rights (section 3). The four sections that follow then consider some of the principal normative approaches that are advanced in this volume and elsewhere. We first explain why language controversies cannot be adequately resolved by recourse to ideas of 'benign neglect' and 'linguistic human rights' (section 4). We then consider two prominent normative models of language—the 'nation-building' and 'language preservation' models—and draw attention to some shortcomings of each approach (sections 5 and 6). We conclude by outlining a range of 'procedural' approaches that emerge in a number of the contributions to the volume (section 7). Although this all makes for a rather lengthy introduction, we hope that it gives the reader a sense of why language rights are important in political theory today, of what language debates are really about, and of what some of the dominant positions are in those debates. This will help situate the more detailed arguments developed in subsequent chapters.

1. The Context

Why have language rights and language policy become an issue for political theorists now? We can identify both practical and theoretical factors that have spurred reflection on language issues. At the practical level, we have seen a growing range of political conflicts and challenges throughout the world that are centred on linguistic diversity. At the theoretical level, a series of internal

developments within the field of political theory itself have converged on questions of language rights and language policy.

Let's start with some of the practical conflicts and challenges. Linguistic diversity has emerged as a major source of political controversy in several distinct political contexts, affecting the stability and sustainability of a wide range of political communities. We can distinguish at least five such contexts.

1. *Eastern Europe*. For some people in the West, reflection on the political significance of linguistic diversity was first stimulated by the experience of eastern European countries after the fall of communism in 1989. Optimistic assumptions about a rapid spread of liberal democracy to the region were quickly shattered by the outbreak of ethnic conflicts, many of them along linguistic lines. Countries that had accorded a range of minority language rights (at least on paper) under the Communist regime often shifted to a policy of official monolingualism. Indeed, laws declaring the majority language as the sole official language were often the very first laws adopted by the newly independent countries of the former Soviet Union or Yugoslavia.² Linguistic minorities understandably felt threatened by the perceived loss of status and rights implied by such laws, and responded with a range of mobilizations, from peaceful protest to violent secession.

This surge of ethnolinguistic conflict in eastern Europe was a shock to the broad public in the West, partly because it shattered hopes for a rapid transition to liberal democracy in the region, and partly because it was physically so close to the West. But the underlying lesson was already quite familiar to specialists in democratization around the world. In many countries in Asia and Africa, efforts to construct common institutions and a shared identity have been severely complicated by linguistic diversity and demands for recognition by numerous language groups (Weinstein 1990). There is an increasing consensus that language policy plays a vital role in the process of democratic transition (Grin and Daftary 2003). It has become clear, in short, that the practical challenge of promoting democratization around the world requires attending to issues of linguistic diversity.

In response to fears about the spread of ethnolinguistic conflict in eastern Europe, various Western organizations sought to develop standards for how 'good' liberal democracies resolve these issues. These include the Council of Europe's European Charter for Regional or Minority Languages (1992) and its Framework Convention for the Protection of National Minorities (1995), as

² Taras (1998: 79) discusses the 'paradox' that formerly monolingual countries in the West are moving towards greater respect for diversity, whereas formerly multilingual countries of the Soviet Union are 'pressing ahead with unilingualism'. A familiar joke in the region stated that under the Communists, you could talk in whatever language you liked so long as you praised the Communist Party; under the new regime, you can voice any political opinion you like so long as you say it in the majority language.

well as the Organization for Security and Cooperation in Europe's Oslo Recommendations on Linguistic Rights of National Minorities (1998). These declarations of minimum standards and best practices regarding linguistic diversity were intended to guide east European countries in their efforts to 'rejoin Europe', and indeed meeting these standards is a precondition for admittance to the European Union (EU) or NATO.

But this raises an obvious question: what are the 'minimum standards' and 'best practices' of Western democracies regarding linguistic diversity? The need to formulate standards as a guide for democratizing countries in eastern Europe required Western scholars and policy makers to reflect on their own historic practices and contemporary policies. And this quickly led to the realization that linguistic issues are far from being 'resolved' in the West either.

2. *Regional languages/minority nationalisms.* There are in fact several different kinds of unresolved linguistic issues in the West. Historically, the most important and bitter have been conflicts between a dominant language group and various smaller but still powerful regionally concentrated and historically rooted language groups. Examples include regional language groups in Belgium (Flanders), Spain (Catalonia and the Basque Country), Canada (Quebec and parts of several other provinces), Italy (the German-speaking South Tyrol), United States (Puerto Rico), and Switzerland (the French- and Italian-speaking cantons).

These are the closest analogues in the West to the sorts of conflicts we see in eastern Europe, which also typically involve conflicts between dominant national groups and regionally concentrated historically rooted linguistic minorities. As in eastern Europe, these conflicts in the West have been most intense when the dominant national group attempts to impose its language as the state language on all parts of the country, including those regions which the minority views as its historic homeland. Such attempts have typically generated strong resistance, from peaceful protest to secessionist movements.

The outcome of these conflicts has varied widely from country to country, although we can see a clear trend in the West towards granting increased language rights to such regional linguistic groups. Indeed, in all of the aforementioned cases, the regional language has been accorded the status of an official language, at least within the region of the country where it is concentrated. In some cases, the regional language has a co-equal status, alongside the dominant majority language; in other cases, the regional language is in fact the only official language within the region. In either case, the result has been to enable speakers of the regional language to access a wide range of public institutions—schools, courts, the media, local government—in their own tongue.

One could argue that this is now the 'norm' for how Western democracies deal with regional languages,³ and that these sorts of accommodations should

³ Amongst the Western democracies, France and Greece have strongly resisted this trend to according official status to regional languages. However, even France has now moved in that direction, particularly with respect to Corsica, leaving Greece as the main exception to the trend.

be seen as either minimum standards or best practices for dealing with regional language groups. After all, the countries that have moved in this multilingual direction are amongst the most peaceful, prosperous, free, and democratic societies around.⁴ Yet it is interesting to note that none of the recent international declarations on language rights asserts that there is a right to official language status, or even recommends such a policy. On the contrary, there has been great reluctance to view policies of official bilingualism or multilingualism as ‘rights’ rather than pragmatic accommodations.

Part of the complexity here is that debates over regional languages are never just debates over language. For regional language groups, in both the East and the West, are almost always also ‘national’ groups: that is, they see themselves not just as having a distinct language, but also as forming a distinct ‘nation’ within the larger state. They mobilize behind nationalist political parties with nationalist goals of self-government. Language rights are part of a larger programme of sub-state nationalism.

As a result, debates over the status of a regional language are also debates over nationhood. For the minority language group, recognition of its language is seen as a symbol of recognition of its nationhood. For the minority group, official *multilingualism* is desired in part because it is a symbol of, and a step towards, acceptance that it is a *multination* state, a partnership of two or more nations within a single state.

Yet this is precisely what members of the dominant group typically wish to avoid. For accepting that a regional language group is also a ‘nation’ has potentially far-reaching consequences. Assertions of nationhood typically involve not only claims to protection of a group’s language and culture, but also a claim to territory (the nation’s ‘homeland’) and a claim to self-determination over that territory, perhaps even its secession. This is one reason why most Western countries were until recently quite unwilling to accord official status to regional languages: they knew it was tantamount to, or a step towards, accepting the claim to nationhood by the regional group, and hence opening up claims to territorial self-government.⁵

The shift towards official language rights in the West, therefore, is intimately tied up with increased acceptance of the legitimacy of minority nationalism.⁶

⁴ For a more detailed defense of the ‘success’ of these examples of multilingual federations, see Kymlicka (2001a: Ch. 5).

⁵ Conversely, attempts to impose a single state language throughout the territory of the state are often attempts to impose a hegemonic national identity on all citizens, and to entrench the idea that the state is a nation-state belonging to the dominant group and embodying its right to self-determination. Majority support for official monolingualism, as much as minority demands for bilingualism, are typically manifestations of nationalist projects.

⁶ However, some advocates of official languages policies have seen these policies as part of a nation-building alternative to accepting the multination state. It is sometimes said that the ‘Trudeau vision’ of Canada involved the implementation of an official languages policy as part of an effort to forge a coast-to-coast Canadian national identity (McRoberts 1997: Ch. 4; Kymlicka 1998: 133–5).

Dominant groups in the West have learned to accept the idea that their country contains groups that see themselves as distinct and self-governing nations and that may even view themselves as having a right to secede.⁷ Yet this acceptance remains hesitant and somewhat reluctant, and there is no eagerness to enshrine it in international norms, let alone to attempt to impose it on countries in eastern Europe, where the idea of minority nationalism remains anathema. In eastern Europe, and indeed much of the world, demands for official language status for minorities are still resisted in part because the majority is unwilling to accept any language claims which could be seen as acknowledging the minority's 'nationhood', and/or as opening up the door to broader nationalist claims for territorial autonomy and secession.

In short, language conflicts are inextricably related to nationalist conflicts, and so addressing issues of linguistic diversity is central to the larger political project of 'containing nationalism' (Hechter 2000). The link between nationhood and language is complex.⁸ Having a distinct language is clearly not a necessary condition for a group to view itself as a distinct nation (for example, nationalist conflict in Northern Ireland or Serbia). And even where a regional group does ground its distinct national identity on a distinct language, it is not always clear how the two are related. National groups often demand self-government on the grounds that it is needed to protect their language and culture. Yet some commentators argue that the causal relationship goes in the other direction: that is, national minorities do not seek self-government in order to preserve their language but rather they want to preserve their distinct language as one of the conditions necessary for the successful exercise of rights to self-government (for example, Bauböck 2000: 384–6; 2001: 332–5). In either case, however, the practical challenge of defusing nationalist conflicts must grapple with the issue of linguistic diversity.

So far, we have discussed two practical challenges—assisting democratization and dealing with regional minority nationalisms—and suggested that linguistic diversity has emerged as a central issue for each. In a way, this should not be a surprise: the role of language in these issues is quite evident. The interesting question is why it has taken so long for people to recognize the centrality of language to these debates.

There are undoubtedly several factors at work here, but part of the answer may be that neither of these issues has directly affected the day-to-day lives of the four Western countries that have been most powerful and influential in

Arguably, Switzerland is a more successful example of a state that has used a form of official multilingualism to foster and reinforce a common sense of nationhood.

⁷ For a discussion of the striking level of tolerance for secessionist political mobilization in the West, and how this relates to larger patterns of acceptance for minority nationalism, see Kymlicka (2002).

⁸ For recent discussion, see Barbour and Carmichael (2000) and Taras (1998).

setting the post-war intellectual agenda: the US, UK, France, and Germany. Public institutions in all four of these countries have effectively been monolingual for a century or more, with no significant movement challenging the hegemonic position of the majority language. France and the US both contain a linguistically distinct regional nationalist movement—in Corsica and Puerto Rico, respectively—but these islands are peripheral, literally and figuratively, to the political life of the country, barely registering in the everyday political consciousness of most French or American citizens. And while the UK confronts significant cases of minority nationalism in Scotland, Wales, and Northern Ireland, these are not primarily rooted in linguistic differences.⁹ None of these countries faces the sort of linguistic/national divisions found in Canada, Spain, Switzerland, or Belgium, not to mention Russia or Yugoslavia.

As a result, scholars from these four countries have often written as if one could simply take for granted that people in a political community share a common language. They have often written as if this were the ‘normal’ or ‘natural’ condition for a ‘mature’ democratic political community. Not surprisingly, much of the initial literature on language rights emerged from countries where this assumption could not be made.

Yet even in the countries where the majority language retains a more or less undisputed hegemonic position, two recent political developments have heightened interest in linguistic diversity. The first concerns trends in immigrant integration; the second concerns attempts to build transnational institutions.

3. *Immigrant integration.* Many Western countries now contain large numbers of immigrants. This is nothing new for the traditional ‘countries of immigration’, like the US, Canada, and Australia, but is a more recent phenomenon for ‘Old World’ countries like the UK, France, or Germany. Unlike the case of regionally concentrated and historically rooted national minorities, immigrant groups are unlikely to demand either territorial self-government or official language status. It is assumed that immigrants will learn the dominant language of their new country, and indeed this is a requirement to gain citizenship in almost all Western countries. Immigrants know before they arrive that the public institutions of their new society operate in a particular language, and do not generally seek to challenge that, except in very specific contexts and often only on a transitional basis.

Since this expectation of linguistic integration has been widely shared both by native-born citizens and immigrants themselves, it has not historically been a source of major conflict. Some immigrants pass on their mother tongue to their children, and use it in their home and church, but these children rarely pass the language on to their own children, so that the ancestral language is lost by the third generation. This pattern of immigrant language shift has become so

⁹ Welsh nationalists are concerned with reviving the use of Welsh, but English remains the dominant language of interaction amongst the Welsh, as amongst the Scots and Irish republicans.

familiar and expected that, until recently, many people assumed that it was almost inevitable.

However, several recent trends in immigration are questioning this historic pattern. One of these is the rise of immigrant 'transnationalism', that is, the tendency of immigrants to maintain regular connections back to their country of origin, aided by improved transportation and communications technologies.¹⁰ Another is the rise of the ideology of 'multiculturalism', that is, the idea that immigrants should not have to abandon or hide their ethnic identity in order to integrate, as in older models of assimilation or 'Americanization', but rather should be able to visibly and proudly express their ethnic identity in public, and have public institutions accommodate this.¹¹ These two changes, combined with the sheer size of certain immigrant groups, have led some people to fear that the old patterns of language shift will no longer occur. This has led to speculation about the growth of permanent immigrant 'enclaves' or 'ghettos', where even the second and third generations of immigrant groups will live and work predominantly in their ancestral language, with only a minimal or non-existent command of the state language. The potential for such self-segregated enclaves is seen as both a problem for the immigrants themselves, whose lack of fluency in the dominant language condemns them to political marginalization and economic disadvantage, and potentially a threat to the larger society, since learning the dominant language is often seen as vital for establishing a sense of patriotism and loyalty to the larger society. If the traditional patterns of immigrant language shift break down, national unity and political stability may ultimately be threatened.¹²

Since immigrant language shift is no longer assumed to be natural or inevitable, many commentators argue that it needs to be buttressed by new state policies aimed at encouraging or compelling language shift. This is one of the impetuses behind the 'English-only' movement in the United States, which has waged a campaign to remove a number of entitlements previously enjoyed by linguistic minorities and to declare English the official language of the country (Schmidt 2000; Crawford 2001). It is also reflected in more moderate proposals to strengthen the language tests for naturalization (Pickus 1998; Piller 2001), and/or to provide greater government support for language learning (Bloemraad 2002), and/or reforms to programmes of transitional bilingual education for immigrant children. Similar proposals have surfaced in Western Europe, where difficulties in immigrant integration are often blamed on the inability or unwillingness of immigrants to learn the state language. In some

¹⁰ On immigrant transnationalism, see Ong (1999), Basch, Glick Schiller, and Szanton Blanc (1994), and Castles (2000).

¹¹ On immigrant multiculturalism in the US, see Glazer (1997); in Canada, see Kymlicka (1998).

¹² For feverish speculations along these lines, see Schlesinger (1992), Lind (1996), and Brimelow (1996).

European countries, there is even talk about legally requiring immigrants to attend language classes as a precondition for access to social benefits.

Critics argue that such policies are illiberal and a return to discredited assimilationist policies. Others argue that they are unnecessary, since the traditional intergenerational patterns of language shift remain valid (Portes and Rumbaut 2001). The very passion of the debate confirms, however, that language now occupies a central place in the larger debate on immigrant integration. It is widely accepted that any response to the practical challenge of integrating immigrants must include an explicit focus on issues of language.

4. *European union/transnational democracy.* The centrality of language has also surfaced in another important context, namely, attempts to construct transnational political communities such as the European Union. The European Union is often cited by commentators as a model for new forms of transnational democracy and post-national citizenship that will gradually replace the old Westphalian model of the nation-state. It is difficult to dispute the need for such transnational political institutions, given the number of problems that transcend national boundaries and require international coordination and regulation: for example, environmental issues; international security; refugees.¹³

Yet it has become increasingly clear that one of the most important obstacles to building a stronger sense of European citizenship is linguistic diversity. The EU has been widely criticized for its 'democratic deficit', and studies show that the general public in most European countries feel little sense of connection to the European Parliament. Attempts to encourage greater public identification with and participation in pan-European political institutions have not yet found a solution to the problem of linguistic diversity.

There are really two different problems here. One concerns the vertical linkage between individual citizens and the EU itself. It is impossible for the institutions of the EU to conduct all aspects of their business in every language spoken by EU citizens.¹⁴ It would be prohibitively expensive for the EU to provide interpretation services for every meeting amongst civil servants or for it to translate every internal memo or briefing paper into all of the languages spoken by EU citizens or even into the eleven official languages recognized by the EU. Instead, the EU has gradually come to distinguish between external and internal aspects of communication. The external dimension involves communication with ordinary citizens or amongst ministers or heads of government. In these contexts, people have a right to use any of the eleven official EU languages. In the internal workings of the Commission, however, officials work in a small number of languages—French,

¹³ For discussions of the desirability/necessity of constructing transnational forms of democracy, see Held (1995) and Young (2000: Ch. 7). For the EU as a model or harbinger of transnational democracy, and its democratic deficit, see Lehning and Weale (1997), Nentwich and Weale (1998), and Schmitter (2000).

¹⁴ For an up-to-date discussion of European language policy, see Nic Shuibhne (2002).

English, and, to a lesser extent, German—and everyone is expected to be proficient in one or several of these languages. In a few areas, such as the new European Patent Office, a smaller number of languages is designated for external communication, and in almost no area of EU activity are accommodations made for the regional and minority languages of member states.¹⁵ But not all EU citizens are fluent in one of the official or working languages, and even if they are they may prefer to identify and interact with domestic political institutions that can communicate with them in their own language.

The second problem concerns the horizontal linkage between citizens themselves. Democratizing the EU presupposes that citizens throughout Europe can form a single ‘demos’, that is, that they can deliberate and act together as a single political community, whose decisions would reflect ‘the will of the people’ or ‘popular opinion’. Yet it is very difficult to imagine how this sort of collective deliberation, agency, and will-formation can occur at a pan-European level. How can Danes and Italians come together to deliberate about the issues confronting the EU? Not only do they not share a common language, they do not read the same newspapers or watch the same TV news programmes. While there is a growing elite that can participate effectively at the pan-European level, the only forms of political participation and deliberation that are truly popular (that is, easily accessible to the mass of citizens) remain specific to each country, conducted in the national language(s). Put another way, politics seems to be most participatory and democratic when it is ‘politics in the vernacular’, conducted in the language of the people (Kymlicka 2001a). In short, any response to the practical challenge of building new forms of transnational democracy must grapple with the issue of linguistic diversity.

5. *Indigenous languages/biodiversity.* Finally, public awareness of language issues has also been heightened by recent studies predicting the rapid disappearance of most of the world’s languages—up to 90 per cent of the world’s languages are now considered ‘endangered’ (Nettle and Romaine 2000; Crystal 2000). Most of these threatened languages are indigenous languages, and concern for their disappearance is related to larger trends towards rethinking the rights and status of indigenous peoples. Such staggering rates of linguistic loss are also seen as a symbol of the more general crisis of biodiversity, since indigenous languages are seen as containing within them a wealth of ecological information that will be lost as the language is lost. Saving endangered languages is now widely seen as an important part of the larger challenge of preserving biodiversity.

Given these various practical challenges, it was perhaps inevitable that political theorists would be called upon or inspired to take up the challenge of developing a normative theory of language rights. But there are also reasons

¹⁵ The priority given to ‘state’ languages is particularly galling to Catalan speakers, who outnumber speakers of Danish and Finnish.

internal to the discipline of political theory that have spurred interest in the topic. A concern with language rights can be seen as a natural outgrowth of some of the larger debates that have preoccupied political theorists over the last two decades. We will briefly mention two such debates, relating to ideas of multicultural citizenship and deliberative democracy.

The first debate, over multicultural models of citizenship, can be seen as one of the successors to the liberal-communitarian debate that dominated the field in the 1980s. This earlier debate is too complex to summarize here, but for our purposes it can be seen as raising two sets of issues. One concerns the relationship between the individual and the community, as liberals defended the rights and freedoms of the individual against the encroachment of society, and communitarians defended the integrity and cohesiveness of society against the unrestricted choices of individuals. A second set of issues concerns the relationship between universalism and particularism, as liberals defended universal principles of freedom and equality, whereas communitarians insisted that morality was always local and tied to shared cultural meanings.

Much of the work in political theory in the last 20 years can be understood as attempting to break down these stark dichotomies between individual/community and universalism/particularism. One strategy, popular amongst both liberals and communitarians, is to argue that, even if we start with liberal assumptions about the universal value of individual freedom and democracy, these values can in fact be upheld only if they are embodied within the institutions and traditions of particular political communities, which in turn can be upheld only if citizens have a strong sense of identification with and membership in these particular communities. The health of a liberal democracy requires not only that citizens believe in certain universal values—for example, the Universal Declaration of Human Rights—but also that they feel a sense of identification with, loyalty to, and membership in a particular national political community. Citizens must feel that they belong together in a single polity, must have the desire to deliberate and act together as a self-governing community, and must be willing to accept special responsibilities for co-citizens that go beyond the responsibilities we have for all human beings around the world. In all of these ways, universal liberal values depend on particularistic feelings of political identity and community membership.

This insight has generated a vast array of new ideas in the political theory literature in the 1990s, including theories of liberal nationalism (Tamir 1993; Miller 1995; Canovan 1996), civic republicanism (Oldfield 1990; Skinner 1998), patriotism (Blattberg 2000; Viroli 1995; Habermas 1995), and civic virtue (Galston 1991; Glendon and Blenkenhorn 1995). There are significant differences amongst these various authors and schools of thought, but they share the concern that democracy presupposes certain kinds of communal identities amongst citizens. Citizenship identities are seen as a bridge between the universal values of freedom and democracy endorsed by liberals and the particularistic values of

community and culture endorsed by communitarians. And, for most writers, it is assumed that the sort of community citizens should identify with is, in the first instance, the *national* political community.¹⁶

Yet this recognition of the importance of citizenship and civic identities was complicated by the simultaneous awareness that traditional models of citizenship were hopelessly inadequate for the context of modern pluralistic societies. Traditional conceptions of citizenship, inherited from ancient Rome or Renaissance city-states, were defined to suit a narrow group of white, heterosexual, Christian, property-owning males. Critics from a range of perspectives—feminist, postmodernist, post-colonial, critical race studies, and others—have demonstrated the need to dramatically reform our idea of citizenship if it is to accommodate the identities, aspirations, and capacities of all citizens. This has spurred the ongoing quest to develop new ‘multicultural’ or ‘group-differentiated’ models of citizenship, including the ideas of ‘strange multiplicity’, ‘ethos of pluralization’, and ‘politics of recognition’ that we mentioned at the beginning of our introduction.¹⁷

This search for a model of citizenship that can build common civic identities, while simultaneously affirming cultural diversity, has been one of the central goals of political theory in the last decade. The resulting literature has worked out with considerable sophistication the connections between the underlying principles of liberal democracy and the various ways in which public institutions can respond to differences of culture and nationality.¹⁸ And yet, until very recently, the specific issue of linguistic diversity was rarely explored in depth. Some of the concepts that figure prominently in these discussions are clearly relevant to debates about language policy, and language is often referred to as an example. But there have been relatively few attempts to apply systematically the insights from these theories to specific controversies over language or to formulate the theories in ways that take into account particular facts and social theories relating to language acquisition, language use, and language shift. The existing body of normative work on citizenship and cultural diversity has not engaged extensively with country-specific studies of language policy (for example, McRae 1983; 1986; 1997; Coulombe 1995; Levine 1997; MacMillan 1998; Schmidt 2000; Grillo 1989) or with contemporary work in sociolinguistics (Fishman 1991; Edwards 1985; Phillipson 1992; Nettle and Romaine 2000; May 2001) or with comparative political science (Laponce 1984; Laitin 1992; 1998).

¹⁶ This in turn has led to growing interest amongst political theorists in the sort of citizenship education that might inculcate the desired identities (Callan 1997; Macedo 2000; Feinberg 1998; Reich 2002).

¹⁷ For ‘multicultural citizenship’ and ‘group-differentiated citizenship’, see Kymlicka (1995a) and Young (1990) respectively. For ‘strange multiplicity’, ‘ethos of pluralization’, and ‘politics of recognition’, see Tully (1995), Connolly (1995), and Taylor (1992) respectively.

¹⁸ In addition to the works cited in note 14, see also Tamir (1993), Spinner (1994), Miller (1995), Carens (2000), Barry (2001), and Kymlicka (2001a).

Yet it is increasingly clear that linguistic diversity is central to any larger theory of multicultural citizenship. Language plays a complicated role with respect to the building of civic identities. On the one hand, linguistic homogenization has been one of the central mechanisms that states have used to inculcate a common civic identity within diverse societies. Indeed, a common language can be seen as a uniquely appropriate basis for building common civic identities. In a liberal society, the state cannot ground a common civic identity in a particular religion or way of life: this would violate what Rawls calls ‘the fact of reasonable pluralism’, according to which citizens in a free society will inevitably have different and often competing conceptions of the good life. But nor can the state hope to ground a common civic identity in purely universal values of freedom or democracy, since these values do not explain why citizens should feel any particular sense of attachment to one liberal-democratic country rather than any other. Promoting a common language is sometimes seen as a way out of this conundrum: it helps to unite people into a single political community without imposing a particular conception of the good life. A common national language helps to promote a common civic identity without denying the ‘fact of reasonable pluralism’ or the liberal commitment to neutrality regarding conceptions of the good life.

On the other hand, as we discussed earlier, such attempts to impose a common state language can often generate intense resistance, particularly where they involve depriving a regionally concentrated and historically rooted language group of its traditional rights to maintain public institutions operating in their own language. In such contexts, policies of linguistic homogenization can be a recipe for nationalist conflict. Even in contexts of immigration, where there may be little explicit challenge to the principle of long-term linguistic integration, there can nonetheless be divisive debates about the relationship between language and civic identity. Excessive emphasis on language as the key to civic identity and community membership can be seen as a manifestation of nativism or as a return to old-fashioned cultural assimilation. Immigrants may fear that expectations of linguistic integration are a code for, or prelude to, expectations that they give up their cultural practices and ethnic identities more generally. Assumptions about a common language may also be insensitive to the distinctive needs of recent immigrants, for whom fluency in the state language is often a long-term goal but not yet a present reality. In all of these ways, language is a central but contested element in any theory of civic identity.

Issues of language have also arisen within political theory for another reason. There has been an important shift in contemporary democratic theory from ‘vote-centric’ to ‘talk-centric’ theories of democracy. In much of the post-war period, democracy was understood almost exclusively in terms of voting. Citizens were assumed to have a set of preferences, fixed prior to and independent of the political process, and the function of voting was simply to provide a fair decision-making procedure or aggregation mechanism for translating these

pre-existing preferences into public decisions, either about who to elect (in standard elections) or about what laws to adopt (in issue-specific referendums).

But it is increasingly accepted that this 'aggregative' or 'vote-centric' conception of democracy cannot fulfil norms of democratic legitimacy. For one thing, since preferences are assumed to be formed independently of and prior to the political process, it provides no opportunity for citizens to try to persuade others of the merits of their views or the legitimacy of their claims. Similarly, it provides no opportunity for citizens to distinguish claims based on self-interest, prejudice, ignorance, or fleeting whims from those grounded in principles of justice or fundamental needs. There is in fact no public dimension to the process at all. While citizens may need to physically leave their homes to go to the ballot box, the aggregative vote-centric model does not expect or encourage citizens to meet in public to discuss and debate their reasons for the claims they make. Indeed, with new technology, it is quite possible to have a form of aggregative democracy in which citizens never leave their home, and vote through the Internet.

As a result, the outcome of the aggregative model has only the thinnest veneer of legitimacy. It provides a mechanism for determining winners and losers, but no mechanism for developing a consensus or shaping public opinion, or even formulating an honourable compromise. Many studies have shown that citizens will accept the legitimacy of collective decisions that go against them, but only if they think their arguments and reasons have been given a fair hearing and that others have taken seriously what they have to say. But if there is no room for such a fair hearing, then people will question the legitimacy of decisions.

To overcome these shortcomings of the vote-centric approach, democratic theorists are increasingly focusing on the processes of deliberation and opinion-formation that precede voting. Theorists have shifted their attention from what goes on in the voting booth to what goes on in the public deliberations of civil society. Dryzek (2000: v) calls this the 'deliberative turn' in democratic theory, which he dates to around 1990.¹⁹ A more deliberative democracy would, it is hoped, bring several benefits. The benefits for society would include better decisions, since the decision-making process would draw forth the otherwise

¹⁹ For discussions of this shift from an 'aggregative' to a 'deliberative' conception of democracy, see Young (2000: Ch. 1), Dryzek (1990: Ch. 1), Christiano (1996: 133–50), Cohen (1997: 143–55), Miller (2000: Ch. 1), and Phillips (2000). Not everyone uses the labels of 'aggregative' and 'deliberative' democracy to describe these two models. Dryzek and Young object to the term 'deliberative' democracy, since they think it suggests an overly rationalist picture of the nature of political communication. Dryzek prefers the term 'discursive democracy', and Young prefers the term 'communicative democracy'. They are, however, equally committed to the 'talk centric' conception of democracy. The older aggregative model is also sometimes known, particularly within American political science, as the 'pluralist' model—a term which dates back to the 1950s. This is potentially misleading today, since the sort of 'pluralism' it refers to concerns organized interest groups, not the identity-groups which underlie contemporary debates about 'pluralism'. For different senses of pluralism, see Eisenberg (1995).

unarticulated knowledge and insights of citizens, and since citizens would test and discard those assumptions or beliefs which were found in public debate to be wrong or short-sighted or otherwise indefensible. It would also lead to greater unity and solidarity in society. For one thing, political decision making would be seen as more legitimate since everyone would have a fair chance to have their views heard and considered. Moreover, the very fact that people share the experience of deliberating in common provides a tangible bond that connects citizens and encourages greater mutual understanding and empathy. In a deliberative democracy, we would seek to change other people's behaviour through non-coercive discussion of their claims rather than through manipulation, indoctrination, propaganda, deception, or threats. This is a sign of mutual respect (Dryzek 2000: 2) or indeed of civic friendship (Blattberg 2000).

So 'deliberative democracy' promises benefits to the larger society. But it offers particular benefits to minority or marginalized groups. If such groups are to have any real influence in a majoritarian electoral system, and any reason to accept the legitimacy of the system, it will be through participating in the formation of public opinion rather than through winning a majority vote. As Simone Chambers (2001: 99) puts it, 'voice, rather than votes, is the vehicle of empowerment'. This seems clear from the recent advances made by groups such as gays and lesbians, the deaf, or indigenous peoples, who account for less than 5 per cent of the overall electorate. Their empowerment has largely come about through participating in a public debate that has transformed the pre-existing assumptions held by members of the larger society about what is right and fair for these groups. If democracy is to help promote justice for these groups rather than leaving them subject to the 'tyranny of the majority' (or the indifference and neglect of the majority), then democracy will have to be more deliberative. As a result, a wide range of theorists—liberals, communitarians, critical theorists, feminists, multiculturalists—have identified the need for greater deliberation as one of the key priorities for modern democracies.²⁰

Much more could be said about this new deliberative model of democracy. The key point for us, however, is that this shift to a deliberative model of democracy makes the issue of language even more central and also more contested. On the one hand, these attractive models of deliberative democracy all seem to presuppose that people share a common language. Virtually all existing models of deliberative democracy simply take for granted that everyone shares a common language. Establishing a common language of public debate, therefore, can be seen as one of the preconditions for the sort of inclusive and justice-promoting democracy we seek.

²⁰ For liberals, see Rawls (1999: 574), Dworkin (2000: 364–5), and Gutmann and Thompson (1996); for communitarians, see Sandel (1996); for critical theorists, see Habermas (1996) and Chambers (1996); for feminists, see Fraser (1992) and Phillips (1995: 145–65); for multiculturalists, see Williams (1998; 2000) and Young (2000).

On the other hand, the very process of selecting a single language can be seen as inherently exclusionary and unjust. Where political debate is conducted in the language of the majority group, linguistic minorities are at a disadvantage, and must either invest the time and effort needed to shift as best they can to the dominant language or accept political marginalization. Dominant groups often express puzzlement at the reluctance of some minorities to shift to the dominant language, but, as we noted earlier, the experience of the EU shows that dominant groups exhibit the very same reluctance. They would prefer to continue debating politics in their own national language rather than participate in a pan-European debate conducted in a foreign language. Indeed, the hope of achieving a common language seems quite utopian in such transnational contexts. The issue of whether and when language shift can legitimately be expected or required in order to promote a more deliberative democracy remains unresolved. Here again, there is growing recognition that any plausible theory of deliberative democracy has to grapple with issues of linguistic diversity.

So a confluence of theoretical developments has pointed political theorists in the direction of linguistic diversity. Political theory journals in recent years have been dominated by theories of citizenship, nationhood, multiculturalism, and deliberative democracy. As these theories have evolved, it has become increasingly clear that all of them rest on—often implicit—presuppositions about people’s language repertoires, and all have—often unstated—consequences for language policy and language rights. Further progress on these theories requires excavating these implicit presuppositions about language repertoires, and clarifying and evaluating their unstated consequences for language policies.

2. The Issues

Disputes over language policy are connected then with some of the big theoretical questions of the day and with important macro developments in politics and society. Some theorists examine language as a way of enriching our understanding of larger theories of citizenship and democracy. For others it is a way into the study of ethnonationalism, globalization, democratization, and other broad phenomena that have captured the attention of the academy and the general public.

At the same time, language policy has a very concrete dimension pertaining to day-to-day communication in a range of different areas of social life. Conflicts over language policy are concerned with the rules that public institutions adopt with respect to language use in a variety of different domains. What language or languages do public officials have a right or duty to use in speaking amongst themselves or with the publics that they serve? Should a person’s linguistic status or competences influence what other entitlements he or she can

claim? Should public institutions get involved in regulating or directing linguistic behaviour in the private realms of the market, family, and civil society?

The answers that one gives to these questions are a reflection, of course, of one's understanding of the broader issues at stake, and so we have sought to foreground these concerns and will return to them again as the chapter progresses. But it would be a mistake to consider language solely from an abstract theoretical and macro-political perspective and to ignore the fine-grained issues and distinctions that are often central to real-world language disputes. In this section and the next, we try to give a sense of some of these concrete issues and distinctions by, first, surveying a number of different domains in which language policy choices get made and, then, introducing the idea of 'language rights' and considering four key distinctions that are helpful in theorizing different possible language rights regimes.

Internal Usage

Public institutions are sites of constant communication amongst employees and officials. Managers give instructions to their subordinates. Civil servants hold meetings together, write memos to one another, and keep records. Police, fire, and ambulance officials work in teams and take orders from their superior officers. And so on. Public institutions would not be able to do the jobs we expect of them unless the employees and officials that staff them are able to communicate effectively with one another.

This need for effective internal communication raises important questions for language policy. Should public institutions adopt a policy of 'laissez-faire' concerning internal language usage—allowing different employees and officials to work out for themselves, in the particular contexts they find themselves in, the language they will use to communicate with one another? Or should such institutions adopt a more prescriptive approach—for instance, insisting through hiring and promotion criteria that employees have certain language competences, or mandating the use of particular languages in internal communications and record-keeping? Given that the government is one of the largest employers in modern societies, these decisions have a significant impact on individual employment opportunities.

It is hard to think of any state that is completely laissez-faire on these questions. Most states require, as a minimum, that their public employees and officials be competent in some state or official language, whether it be formally or informally designated as such. In the United States, for example, although there is no formally designated official language at the federal level, it is a *de facto* requirement for employment in the federal public sector that the applicant speak English. Although the European Union recognizes eleven 'official and working' languages, only three of these—French, English, and, trailing well behind, German—are *de facto* languages of internal communication within the Commission (Kraus 2000).

Some governments go even further in explicitly designating some particular language or languages for internal communications. The 1991 Law on the Languages of the Peoples of the Russian Federation (arts. 3.1 and 11.1) requires that all work by federal government bodies be carried out in Russian. Estonia's 1995 Languages Act (art. 3.1), Catalonia's Act No.1 on Language Policy of 7 January 1998 (Ch. 1, arts. 9 and 10), and the 1994 Constitution of The Federal Democratic Republic of Ethiopia (art. 5) have similar requirements with respect to Estonian, Catalan, and Amharic respectively.²¹ Canada's Official Languages Act (1969; 1988) gives employees of federal government institutions the right (subject to certain qualifications) to work in either English or French, and Belgium has similar provisions facilitating linguistic diversity within the central administration, often setting up parallel French- and Dutch-language sections of the same office (McRae 1986: 189–202).

Public Services

Public officials and employees do not communicate only amongst themselves, of course; they also deal with the public. They give advice and information; they enforce the law; they offer health care in public facilities; they conduct public meetings and hearings; and so on.

A second kind of language policy decision that must be faced, then, concerns what language or languages public institutions should operate in when they are serving the general public. These decisions can have dramatic effects on a person's access to public services and social rights. The editors of a recent volume on 'linguistic human rights' describe several situations in which public authorities refused, or were unable, to communicate with members of the general public in their own language (Skutnabb-Kangas and Phillipson 1994: 19). They recount the story of a Finnish immigrant who committed suicide in a Swedish hospital after the non-Finnish-speaking staff were unable to understand him when he sought to explain his symptoms. And they tell the story of a school class of Sámi speakers in Norway who wrote a letter in their own language to the local police requesting permission to organize a bazaar, only to have the letter returned with a note saying that it should have been written in Norwegian.

Should the public authorities have been able to deal with the public they serve in their own languages in these cases? Given the particular facts of these cases—the proximity of Finland to Sweden, the fact that 90 per cent of the population of the municipality in question were Sámi-speaking—it is tempting to say 'yes'. But how far should this obligation to accommodate linguistic diversity in the provision of public services extend? Does it extend to *any* possible language that hospital patients might speak or that members of the public might use in

²¹ The Russian, Estonian, and Ethiopian laws include provisions for the use of other languages in local or regional administration.

correspondence with the police? And does such an obligation require that the health service, or police, employ members of staff who can themselves provide the service in the minority language, or would it be enough for them to have interpreters and translators on hand who can ensure adequate communication where necessary?

Assuming that there is no obligation to provide a full set of services in *every* language that members of the public might speak, how should a public authority decide when to make services accessible to speakers of some particular language? Do the numbers count? Does it matter whether the language in question is that of an immigrant group or of an established 'national' or indigenous group? Are certain facts about the language itself ever relevant—for instance, whether it is a language of wider (international) communication, or whether it could reasonably be considered a dialect of some other language that is recognized in the provision of public services? Would Norwegian public authorities have the same obligations towards Finnish- or Sámi-speakers if those individuals could also speak Norwegian?

Not surprisingly, different countries and public authorities have approached this cluster of issues in a variety of ways. One approach, as we have already suggested in section 1, has been explicitly to designate certain 'official' languages and then to say that members of the public have a right, sometimes subject to a 'where numbers warrant' qualification, to receive public services and communications in those languages. Sometimes this right to communicate with public institutions in a particular language is enjoyed across the country (the 'personality principle') and sometimes it is restricted to specific territories of the country (the 'territoriality principle') (for more on these principles, see section 3 below).

A different approach is to designate some particular language as the normal language of public communication, but then to make specific accommodations for people who lack proficiency in that language. In the United States, for instance, English is the normal language in which federally funded public services are delivered. But an Executive Order signed by President Clinton on 11 August 2000 requires that all federally funded service providers make arrangements to provide effective service to people with limited English proficiency.²² These arrangements may involve hiring bilingual staff who can provide the service in the recipient's own language, or arranging for translation services to facilitate the delivery of the service by an English-speaker.

Courts and Legislatures

Courts and legislatures are bodies that meet in public and are subject to close public scrutiny. As with the internal deliberations of the bureaucracy, to a considerable extent the communication that takes place in these spheres is

²² The Executive Order derives its authority from a section of the 1964 Civil Rights Act that prohibits discrimination in the provision of public services on the basis of 'national origin'.

amongst elites. But these institutions also interact with ordinary citizens (for example, litigants, individuals appearing at public hearings), they issue laws and decisions to the general public, and their formal deliberations are held in public. Decisions about language use in these areas can have significant effects on the ability of people to exercise their most basic rights, including rights of democratic participation (concerning the legislature) and the protection of their fundamental civil rights (concerning the courts).

The language policy issues raised in these spheres concern the freedom to use particular languages in these public bodies, the availability of translators to facilitate the use of particular languages, and the language(s) in which official versions of laws and judicial decisions are recorded. In some countries, legislators must speak in a designated official language of the state or in a language designated for use by the legislature's customary rules of procedure. Until recently in Spain, for instance, all deliberations in the national parliament were required to be held in Spanish. Now, use of Spain's three principal regional languages—Catalan, Basque, and Galician—is permitted, but only on one special day of the year.

In the US Congress, by contrast, legislators have the liberty to speak in any particular language of their choice but cannot expect their utterances to be translated into languages understood by other legislators or the general public.²³ In other jurisdictions, however, not only can legislators speak in a variety of different languages, but interpretation services are offered to facilitate their doing so and minutes and decisions recorded in any of these languages are considered equally official. At meetings of the European Union's Council of Ministers, for instance, ministers can speak in any of the eleven state languages of EU member states, and interpreters must manage 110 different translation pairs. The rules of procedure for the European Parliament go even further, allowing for simultaneous interpretation from one of the eleven official languages into a non-official language (European Parliament 1999: Ch. XVI).

A variety of approaches is also discernible in the area of language policy in the judicial process. Most jurisdictions will provide a translator for certain persons appearing before the court—for example, defendants, witnesses—who do not speak the usual language of the court. Some jurisdictions will allow litigants appearing before the court to choose which amongst several recognized languages to use and will provide translators to facilitate general understanding. In the European Court of Justice, the language of the case can be any of the eleven official European languages (or Irish), at the discretion of the applicant, and the Court maintains a staff of interpreters to facilitate general understanding. And in some countries, for instance in Canada, an accused person who speaks a designated official language has a right, not only to understand the charges against him and the court proceedings (something that could be ensured through an

²³ Thanks to Ronald Schmidt and James Crawford for correspondence about this point.

adequate translation service), but also to a trial that is substantially *in his own language*—that is, to a trial in which the judge and jury are able to understand his language and issue instructions in this language, where court transcripts are recorded in this language, and so on (*R. v. Beaulac*;²⁴ Réaume 2000). Moreover, these rights are not regarded as conditional on the accused person being unable to understand the usual language of the court. They require the court to accommodate his preference to use his own language even where he could quite comfortably use another.

Education

Education is a particularly important area of language controversy around the world (Skutnabb-Kangas 2000; May 2001: Ch. 5; Porter 1996). Language policy choices in this area are relevant not just to the effective delivery of a public education but also to the future patterns of language use by the generations of children whose linguistic repertoires are shaped by the school system. Most of the controversies concern what the main language medium or media of public education should be, but increasingly there are also disputes about what additional languages should be taught as subjects in the public school curriculum. How these issues are resolved can profoundly shape not only the individual student's language skills but also the ability of linguistic groups to reproduce themselves over time.

Faced with a linguistically diverse student population, educational policy makers have a number of options with respect to the medium of instruction. They could, for instance, designate a single language as the main medium of public education and offer special immersion programmes for children who enter the school system with limited proficiency in this language. Alternatively, they could designate a single language of instruction but introduce a programme of transitional bilingualism for children with limited proficiency in this language. In such a programme, students take certain subjects in their home language while they are acquiring proficiency in the designated language, and then are eventually channelled into the mainstream system that operates in the designated language. Both of these approaches are quite common in the United States, although legislation and popular initiatives in some states, such as California's Proposition 227 (1998), have sought to limit the use of transitional bilingualism (Schmidt 2000; Crawford 2001).

Public education systems can go even farther than this in accommodating language diversity. A third option is what American educators call 'bilingual-bicultural maintenance' programmes (Young 1990: Ch. 6). These involve a concerted effort to use both the majority language—in the US case, English—and

²⁴ 1 S.C.R. 768.

the student's home language as a medium of instruction in different parts of the curriculum throughout the student's time in the public school system, or at least for some significant portion of it. A final option would be to establish parallel school systems for a variety of designated languages in which those languages would serve as the main medium of instruction (teaching the majority language as a second language subject for those students for whom it is not the medium of instruction).²⁵ As with other public services, any of these options could be offered on the basis of the personality principle (same options no matter where you are in the country) or the territoriality principle (the options made available depend on what region of the country you reside in).

A language policy for public education must not only decide which medium-of-instruction options to make available; it must indicate what degree of choice parents will be allowed with respect to those options. Is the normal expectation or requirement that parents send their children to the majority-language system except where limited proficiency in that language indicates that some special provision should be made? Or should parents be able to choose more liberally from amongst the various options that are offered? If parallel public education systems are set up in several designated languages, should all parents have the choice of which system to send their children to, or can access legitimately be restricted to members of the language group? For example, Quebec has established a publicly funded school system for the long-settled anglophone minority in the province, but immigrants are required to place their children in the French-language system (Levine 1990; Coulombe 1995; MacMillan 1998).

Second-language instruction has also become a major political issue in some jurisdictions, especially in multilingual countries such as Switzerland and Belgium. In the past, these countries privileged their national languages to teach as second-language subjects—that is, the Flemish in Belgium would learn French as a second language and the French would learn Dutch. Today, however, members of each language group would often prefer to learn English rather than the language of their co-citizens. As a result, Belgians now have greater access to the global economic and cultural resources made available by fluency in English, but have reduced access to the cultural and political life of their own co-citizens. A similar situation has arisen in Switzerland, where German-speakers would prefer to learn English rather than the French or Italian of their co-citizens, and vice versa. How should the goals of maximizing individual opportunity in a globalized economy be weighed against the goal of promoting mutual understanding within a particular country?

Issues can also arise about the timing of second-language teaching. In a jurisdiction such as Quebec, where French is regarded as vulnerable to pressures

²⁵ The separate-schools approach can be found, for instance, in a number of provinces in Canada and in Finland (where Swedish-speakers have access to their own schools in many areas (McRae 1997: 287)).

from English, is it legitimate to postpone the teaching of English as a second language to ensure that French is firmly established in the student's linguistic repertoire? Even in countries such as Sweden, where the majority language is relatively secure, there is a question about how much time and emphasis should be devoted to teaching in English. There is concern that Sweden's bilingual, Swedish-English school option might be hampering children—especially those with a home language other than Swedish—from fully mastering Swedish.

Private Language Usage

So far our survey of language policy issues has focused on language use by and within public institutions. We have been concerned with the different kinds of language rules that might be adopted by bureaucracies, government-funded agencies and service-providers, courts, legislatures, public schools, and so on. A further set of policy questions arises with respect to language use away from the public sector. To what extent should the state regulate, or impose restrictions on, language use in various non-public settings—such as in the home or on the street, in the associations and activities of civil society, or in the business of private firms and corporations?

Most states regulate non-public language use to some degree. For example, it is standard for states to insist that products marketed by private firms have commercial packaging, warning labels, and so on, written in certain languages—typically, the official languages of the state or, if there is no official language, the language of the majority. It would be hard to argue that these regulations pose any threat to basic individual liberties, but they are not entirely uncontroversial. In the 1970s and 1980s, it was common for English-speaking Canadians to complain about 'bilingual cereal boxes' and, more recently, the European Court of Justice has considered whether linguistic packaging requirements amount to a non-tariff barrier in violation of the European Union's commitment to the free movement of goods.²⁶

Historically, much more severe restrictions on private language use have not been uncommon. To take an extreme case, in Spain during the Inquisition, gypsies who were found guilty of speaking their own language had their tongues cut out (Laitin 1992: xi). In 1918, the state of Iowa sought to prohibit the speaking of languages other than English in public places, on the telephone, and on the railways (Kloss 1977: 52). These sorts of restrictions are now more or less unthinkable, but other significant restrictions can still be found. More recently in the United States, the 'disparate impact' provisions of the 1964 Civil Rights Act have been interpreted by the courts as limiting the right of private businesses to ban the use in the workplace of languages other than English—for

²⁶ *Hermann Josef Goerres*, Case C-385/96, Judgment of 14 July 1998; *Yannick Geffroy v. Casino France SNC*, Case C-366/98, Judgment of 12 September 2000.

example, in informal conversations amongst employees or during breaks (Schmidt 2000: 24–8). France’s law no. 94-665 (‘Loi Toubon’) of 4 August 1994 makes the use of French compulsory in a number of spheres of language use—typically, with the right to use other languages as well—including formal communications between firms and their employees, commercial advertising, public signs, and materials circulated at meetings and conferences. Another French law, no. 94-88, of 1 February 1994 mandates that 40 per cent of all songs played on FM radio in France must be in French, and the Catalan language legislation of 1998 requires similar Catalan-language content quotas. Quebec’s *Charte de la langue française* (1993 [1977], Title 1, Ch. 7, Sec. 58) not only mandates the use of French in a variety of contexts but goes one step further and restricts the presence of languages other than French on commercial signs—requiring, under the current law, that French have marked predominance in all such signs. And in certain cantons of Switzerland, the local authority prohibits the establishment of private schools in a language other than the designated language of the canton.

Immigration, Naturalization, and Enlargement

Up to this point, the discussion has focused on the rules regarding language use that are applied with respect to a given group of people—the citizens and residents of the state—on a fixed territory—the territory of that state. Decisions about language policy also arise in thinking about admitting new people to the state or to citizenship and about enlarging the state (or political community) by incorporating new territories.

Countries that accept immigrants typically have certain criteria by which they judge particular applicants, such as family reunification, professional skills, and so on. To what degree should proficiency in some particular language be one of these criteria? In Canada, for instance, applicants for immigration are selected according to a point system that awards points for a variety of qualifications, including knowledge of one of Canada’s official languages. Quebec, which operates its own immigration scheme, also has a points system, but awards more points for knowledge of French than for knowledge of English.

Once immigrants (and refugees) have taken up residence in a country, the question then arises whether they should be required to learn the majority or official language of their adopted country. Several countries, including Austria, are proposing to make attendance at language classes a legal requirement for newcomers (Fermin 2001; Bauböck 2003), and many states make language proficiency—for example, in an official language of the state, or in the majority language—a criterion, or even a necessary condition, for immigrants and refugees to be ‘naturalized’ to the status of citizen.

The incorporation of new territories into the state is less common than the admission and naturalization of immigrants but, when it is being considered, it

too gives rise to questions about language. In the United States, for instance, decisions about state borders, or about when to admit territories as states, have been explicitly made with the aim of ensuring that there would be an anglophone majority (Kymlicka 1995a). Territories in the American south-west and Hawaii were offered statehood only when non-anglophones in those areas were outnumbered by English-speaking settlers and immigrants, and Puerto Rico's 'fitness' for statehood is often questioned on the grounds that it will never have an anglophone majority (Barreto 2001). Decisions about enlarging the European Union are also sensitive to linguistic issues. With eleven state languages already officially recognized by the EU, the question arises whether it would be legitimate to ask prospective new members to waive the right to have their languages recognized as well. A different aspect of the EU accession process is the requirement imposed on new members that they extend certain language rights to their own linguistic minorities (Nic Shuibhne 2002).

Official Declarations

Official language declarations typically have both a substantive and a symbolic aspect. Substantively, they give people rights to government services in particular languages, to use certain languages in the courts, and so on. The substantive implications of such declarations can be analysed under the various headings surveyed above. But, even once all the substantive policy decisions have been settled, a residual symbolic question remains. Is it legitimate for a state or jurisdiction to make the explicit symbolic gesture of declaring some language or languages to be official? Although purely symbolic, these decisions can profoundly affect whether and how members of different groups identify with the state and/or their own linguistic group.

Some countries—for instance, the United States and Japan—have resisted the temptation of formally declaring their usual language of government business to be official. But elsewhere such declarations are relatively common. By 1999, 22 states of the United States had passed 'official English' declarations, many of which are purely symbolic in character (Schmidt 2000: 29). The EU has eleven official languages, and the South African Constitution of 1996 formally recognizes the same number. India officially recognizes Hindi and English but allows state legislatures to officially adopt other languages (so far 18 have been adopted). Switzerland has three official languages, plus a special status for a fourth; Belgium has two, plus a special status for a third; and Canada has two. A 1992 amendment to France's constitution declared French to be 'the language of the republic', and Italy is now considering a similar constitutional amendment. Spain has only one official language—Spanish (Castilian)—but allows other languages to be declared official by its autonomous communities.

3. Language Rights

In the previous section we have surveyed some of the kinds of issues that a language policy must address. As the discussion indicates, some of them can be framed as questions about ‘language rights’. The question as to whether public services should be offered in some language *X*, for instance, is often analysed as a question about whether *X*-speakers should have a legal right to receive public services in their own language.

It is worth emphasizing that these two formulations are not identical, however, and that the questions about language policy are not exhausted by those concerning language rights. It is quite possible that a government office could adopt a policy of serving people in language *X*, of hiring only employees who are competent in *X*, and so on, without it being the case that *X*-speakers could be considered to have a right to *X*-language services or could take anyone to court if services were not provided in *X*. That said, the creation of legal rights or entitlements is one of the central ways in which language policy decisions about issues such as those listed above get shaped and implemented in practice. It is an obvious way for governments committed to the recognition of language minorities to bind their own officials and agencies to comply, and to make it difficult for future governments to reverse course in the future.

In view of the different language policy issues we have been surveying, it is possible to organize the various policy / rights options according to four distinctions:

- (1) tolerance- vs promotion-oriented rights;
- (2) norm-and-accommodation vs official-languages rights regimes;
- (3) personality vs territoriality rights regimes; and
- (4) individual vs collective rights.

Let us take a closer look at each of these pairings.

Tolerance- vs Promotion-Oriented Rights

The distinction between tolerance-oriented and promotion-oriented language rights was introduced by Heinz Kloss (1971; 1977) and has become one of the most influential ways of approaching language rights in the literature. Tolerance rights are protections individuals have against government interference with their private language choices. Rights that permit individuals to speak whatever languages they like—free from government interference—in their homes, in the associations and institutions of civil society, in the workplace, and so on, are all examples of what Kloss means by tolerance rights. Promotion-oriented rights involve the use of a particular language by public institutions. They are rights that an individual might have to the public use of a particular language—in the courts, the legislature, the public school system, the delivery

of public services, and so on. Many of the rights and policy areas discussed in the previous section seem to fall into Kloss's second category, except for the rights raised in the subsection on private language usage, which involve decisions about the degree of private linguistic autonomy that individuals should enjoy.

Kloss and others have invoked this distinction mainly as a tool for differentiating the claims of different kinds of language groups from one another. Kloss distinguishes, for instance, between 'immigrant' language groups and groups that have been present within a state for at least several generations and have maintained their language (roughly, what theorists today refer to as 'national' groups) (Kloss 1971: 259–62). In Kloss's view, immigrant languages should enjoy tolerance rights but not promotion rights. The state should not prevent immigrants from using their native languages in the home, in civil society, and so on, but nor should it accord immigrants the right to the use of their languages by public institutions and authorities. By contrast, national groups should, in Kloss's view, enjoy both tolerance and promotion rights.

It is clear from the discussion earlier that alternatives to Kloss's principle of assigning rights to different groups are possible as well. One could hold, as France for instance is sometimes said to, that only the language of the national majority should enjoy promotion rights, and that all other languages should be limited to tolerance rights. Whereas Kloss's principle locates the key distinction between immigrant and national groups, this second principle would locate it between the national majority's language and all other linguistic groups. Alternatively, one could claim that all languages, be they 'immigrant' or 'national', should, in principle, be eligible for both tolerance and promotion rights. Since it would be impossible to extend the full set of promotion rights to all linguistic groups, a proponent of this approach to assigning rights might then advocate denying promotion rights to certain languages on the basis of factors other than 'national' or 'immigrant' status—such as numbers, territorial concentration, suitability as a language of international communication, and so on. And, of course, as we saw earlier, there is nothing written in stone about the idea that all groups should enjoy even a full set of toleration rights. In a number of jurisdictions around the world, at least some restrictions on toleration rights are enforced.

Norm-and-accommodation vs Official-languages Rights Regimes

As Ruth Rubio-Marín argues in her contribution to this volume, there is an important sense in which Kloss's distinction is too crude. Consider, for instance, the right of an accused person lacking proficiency in the usual language of the court to a court-appointed interpreter. This language right is clearly not a tolerance-oriented right as that term has just been defined. But nor is it clearly a promotion-oriented right either. There is no real attempt to promote the accused person's language; rather, the aim is to ensure that the accused can understand

the court proceedings. Moreover, it is unlikely that Kloss would want to reserve this sort of right to national groups and deny it altogether to immigrants.

What is needed, this suggests, is a further distinction, this time between two different sorts of non-tolerance-oriented rights, or two different ways in which the speakers of particular languages can be accommodated in public situations. Our survey of some of the main language policy issues, and the ways in which actual states have responded to those issues, indicates a distinction along these lines between two approaches.

The first, which we call the ‘norm-and-accommodation’ approach, involves the predominance of some normal language of public communication—typically, the majority language of the jurisdiction concerned. Unless some special circumstance arises, this language is used in the courts and legislatures, in the delivery of public services, as the medium of public education, and so on. Special accommodations are then made for people who lack sufficient proficiency in this normal language. These accommodations could take a variety of different forms depending on the circumstances. They might involve the provision of interpreters, the hiring of bilingual staff, and the use of transitional bilingual and/or intensive immersion educational programmes to encourage rapid and effective acquisition of the normal language of public communication. The key priority is to establish communication between the public institution and citizens or residents with limited proficiency in the usual language of public business, so that the latter can access the rights and benefits to which they are entitled.

The other approach is to designate certain selected languages as ‘official’ and then to accord a series of rights to speakers of those languages. In contrast with the norm-and-accommodation approach, this approach typically involves a degree of equality between the different languages that are selected for official status. In a situation of perfect equality, any public service that could be received in one official language could also be received in the other; any piece of public business could be transacted in any of the official languages; laws, judgments, and records are kept in all the official languages and have the same legal status; and so on. Unlike the special accommodations offered under the norm-and-accommodation approach, the enjoyment of official language rights is not contingent on a lack of proficiency in the majority or usual language of the society. A person is free to exercise her official language rights in a minority language even if she is quite fluent in the majority language. In contrast with a norm-and-accommodation rights regime, then, an official-languages rights regime is not just about facilitating communication. There is a further ‘non-instrumental’ or ‘intrinsic’ goal or value—to use terminology proposed by Rubio-Marín and Réaume respectively in their chapters in this volume—that is being defended in the establishment of such a regime. This goal, as we suggested in section 1, is, in practice, often connected with a recognition of speakers of the language as constituting a distinct nation or people.

In practice, no state extends official status to every single language spoken on its territory. This means that the official-languages approach to dealing with linguistic diversity is typically supplemented by some application of the norm-and-accommodation approach for those languages not designated as official. The key policy divide, therefore, is between those jurisdictions that rely entirely on the norm-and-accommodation approach and those that deal with linguistic diversity, at least in part, through the recognition of certain official languages.

Of course, it is quite possible that a jurisdiction could refuse *any* accommodation to speakers of certain languages. A state could simply insist that certain public communications will take place in a given language and refuse to offer any translation or transitional assistance for those who lack proficiency in this language. As we will see below, this kind of attitude towards language minorities can involve grave injustice and is a circumstance in which it is sometimes appropriate to talk of the violation of 'linguistic human rights'.

Personality vs Territoriality Rights Regimes

A third important distinction in thinking about the main language policy options is between the 'personality' and 'territoriality' principles of language rights (Royal Commission on Bilingualism and Biculturalism 1967; McRae 1975; Laponce 1984; and see the chapters by Réaume and Patten in this volume). The distinction is quite general, and there is no reason why it could not be applied to the norm-and-accommodation approach, but it is usually discussed in the context of official languages rights. The personality principle is the principle that citizens should enjoy the same set of (official) language rights no matter where they are in the country. The opposing principle, that language rights should vary from region to region according to local conditions, is generally labelled the 'territoriality principle'. On the first principle, language rights follow *persons* wherever in the state they may choose to live; on the second, they depend on what part of the *territory* of the state persons find themselves in. The territoriality principle typically (but not invariably—see the discussion of 'bilingual districts' by Patten in this volume) involves an attempt to divide a multilingual state into a series of unilingual regions, in which only the local majority language gets used in a variety of public contexts.

Canada is a good example of a country that follows—to a considerable degree—the personality principle. Federal government services are made available in either English or French anywhere in the country so long as numbers warrant, and parents have a right to send their children to public school in their own official language, again subject to the proviso that there be a minimum level of demand. Belgium and Switzerland, by contrast, are good examples of countries that follow the territoriality principle. With some exceptions and qualifications, the two main provinces of Belgium—Wallonia and Flanders—are unilingual in French and Dutch respectively, whereas the Brussels Capital

area is officially bilingual. In Switzerland, most decisions pertaining to language are made at the cantonal level, and most cantons have opted to operate unilingually in the language of their own local majority.

Individual vs Collective Rights

Further complicating any discussion of language rights are the various distinctions that get drawn between *individual* and *collective* language rights. One distinction associated with this vocabulary is between ‘universal’ and ‘group-differentiated’ rights. Universal rights are rights that everyone in the relevant jurisdiction has, irrespective of the particular language group to which they belong. Group-differentiated rights, by contrast, are rights that can be exercised only by members of designated language groups. In Quebec, for instance, the *Charte de la langue française* (Title I, Ch. 8) grants a universal right to a French-medium public education—any resident of Quebec can exercise this right—but a group-differentiated right to an English-medium public education—roughly, only children with at least one parent educated in English in Canada can exercise this right.

In other contexts, the individual/collective distinction centres on whether or not there must be some minimum demand for a service or accommodation if any particular individual is entitled to claim it as a right. According to this variant of the distinction, an individual language right is one that an individual can claim irrespective of the number of co-linguists residing in the state or jurisdiction that is relevant to the exercise of the right. A collective language right, by contrast, is one that is triggered only when some threshold level of demand for the service or accommodation is reached. In the United States, for example, the speakers of a language other than English have a right, under the Voting Rights Act, to a ballot printed in their language only if at least 10,000 voters in the same electoral district are speakers of that language (Schmidt 2000: 20–2). By contrast, a non-English-speaker has a right in court proceedings to a court-appointed translator no matter how many other speakers of his or her language live in the jurisdiction covered by the court. According to this version of the individual/collective distinction, then, the (bilingual ballot) voting right is a collective right and the (access to interpreters) judicial right an individual one.

By far the most common distinction tracked by the individual/collective vocabulary, however, focuses on who the bearer of the right is. Some rights are clearly held by individuals. It is the individual who exercises the right, and it is the individual’s interests that are protected by the right and, indeed, that are considered sufficiently important, taken in isolation, to place others under the particular duties that are correlated with the right. Other rights are more naturally assigned, not to an individual, but to some group of individuals—for example, an ethnic, national, or linguistic group—or to a corporate body—such as a trade union, church, or business. These rights can be exercised only by some body or

official acting on behalf of the group, and they protect the accumulated interests of many individual members of the group or, on some accounts, the interests of the group as such (Réaume 1994).

Collective rights in this third sense of the term typically figure in discussions of language policy when it is claimed that there is a right, enjoyed by particular language groups, to 'linguistic security' (the right to the provision of certain public arrangements that support the security and flourishing of a particular language) or to 'linguistic survival' (the right that a language community survive over time) (Green 1987; Réaume 1991; 1994). These rights, if they exist, would not be exercised by a single individual, nor would they be grounded in the urgency of protecting the interests of some particular individual taken in isolation. Rather, they would be exercised by bodies and officials acting on behalf of the group as a whole in order to protect the accumulated interests of all of the group's members and/or the interests of the group as such.

It is often suggested that there is a fundamental opposition between individual and collective rights, but this is only partly true.²⁷ Individual rights do place limits on the sorts of policies officials and public bodies can implement in order to realize the goals associated with certain possible collective rights. If individual members of some minority language group have a right to public education in their own language medium, for instance, then this would conflict with an attempt by the majority to protect a right to linguistic survival through a policy of mandatory majority-language-medium education. Some collective rights do not conflict with individual rights, however, but are instead respected *through* the recognition of certain individual rights. According to one view of the group right to linguistic security, for instance, respect for such a right is constituted by a policy that establishes certain (individual) rights for members of the group—for instance, rights to public education in the group's language medium, or rights to receive public services in the group's language, and so on.²⁸ Whether or not there is a tension between individual and collective rights depends entirely on what individual and collective rights people are said to possess.

Talk of a conflict between individual and collective rights is usually just an awkward way of raising a set of basic normative questions about language policy. How should the various policy issues that we have been discussing be addressed? Which tolerance and promotion rights should be enjoyed by which individuals, belonging to which language groups? Should a state endorse the norm-and-accommodation approach or the official-languages approach? When is a collective goal, such as group linguistic survival or security, sufficiently important to entail that certain individual rights should or should not be recognized? To address these kinds of questions, a closer look at some of the normative principles underlying decisions about language policy is needed.

²⁷ For criticism of this position, see Kymlicka (1995a: especially 45–8).

²⁸ This is one way of reading Green (1987).

4. The Need for a Normative Theory of Language Rights

The chapters in this volume offer a wide range of approaches to these normative questions. Before we examine them, however, it might be useful briefly to consider two approaches that seem superficially attractive, but that in the end are not credible options.

1. *Benign neglect*. The first of these is the idea of ‘benign neglect’.²⁹ Liberalism as a political theory is sometimes associated with ideas such as ‘minimal government’ and ‘benign neglect’. Applied to disputes about language policy, these ideas would seem to suggest that the state should refuse to do anything that would encourage or discourage particular linguistic choices by its citizens. Just as many liberals believe that disestablishment is the best response to religious conflict, the same is true, it is sometimes said, for language. For those who hold this view, the state should not recognize, endorse, or support any particular language or language group any more than it should recognize, endorse, or support a particular church or religion.

The normative issues underlying language rights start to become interesting as soon as it is realized that this superficially attractive solution is incoherent. If one thing is clear from the discussion in the two previous sections, it is that the idea of linguistic disestablishment is an illusion. Although the state can avoid regulating, or interfering with, the language choices people make away from public institutions—it can respect a set of ‘tolerance-oriented’ rights—there is no way for it to avoid taking a stand on a whole series of other language policy issues (Pool 1991a: 496; Kymlicka 1995a: 111; Carens 2000: 77–8; Patten 2001: 693). Public services have to be offered in some language(s) or other, and the same is true of public education. Because there is simply no way of disengaging from language choices in these policy contexts, it is possible to talk of a ‘fact of linguistic establishment’ (Bauböck 2001).

It might, in principle, be possible for the state to avoid general linguistic policies regarding internal language use in government offices (government employees could be left free to work it out for themselves on a case-by-case basis), or language use in courts or legislatures (everyone could speak in whatever language they wished). But, even if conceivable, these policies would hardly be desirable. It is important that government employees be able to communicate effectively with one another and that legislators and litigants be able to understand and participate in the political and legal proceedings they are involved in. Nobody would favour ‘benign neglect’ or ‘minimal government’ if it meant that air traffic controllers could not understand one another or if it meant that defendants could not understand the charges against them.

²⁹ For further discussion of this idea, see Kymlicka (1995a: 107–15).

Of course, a state can do without an ‘official languages’ policy if by this it is meant a formal declaration that a particular language or set of languages is to be regarded as official. As we mentioned earlier, there are well-known examples of countries, including the United States, that have declined to adopt such a policy. But no country, including the United States, can or should avoid having a language policy in the broader sense of taking a position on a range of the issues sketched in section 2 above. A state can also do without an ‘official languages’ policy—again the United States is an example—if this approach is understood in contrast with what we earlier called the ‘norm-and-accommodation’ approach. But the norm-and-accommodation approach—which involves establishing a usual language of public communication and then making specific transitional accommodations for those who lack proficiency in this language—comes no closer to ‘minimum government’ or ‘benign neglect’ than an official languages policy, and thus cannot be defended as more in tune with a supposed liberal commitment to these ideals. The idea of benign neglect, therefore, has a useful role to play in thinking about tolerance rights with respect to the private use of language, but cannot provide any sort of guidelines for thinking about language policy with respect to public institutions, which is the central issue confronting any normative theory of language rights.

2. *Linguistic human rights.* Once the naïve ‘benign neglect’ model is discarded, we are left with the challenge of identifying more promising normative approaches to language policy. One recently popular approach invokes the idea of ‘linguistic human rights’. Human rights represent a widely, if not universally, accepted normative standard that has the great advantage of being partially integrated into international legal practice. If a particular regime of language rights could be shown to follow from, or be in some way ‘integral’ (de Varennes 1996; 2001) to human rights, then this would offer an impressive normative and political foundation for that regime.

This is an intuitively attractive approach, in part because it offers a universal standard that applies to all individuals, wherever they are. It thereby seems to avoid the arbitrariness of singling out particular groups or languages for official language status, or collective rights, or accommodation rights on the grounds of their numbers, history, or ‘nationhood’.

One difficulty, however, is that existing human rights declarations in fact say very little about language rights.³⁰ Existing international standards set only minimal limits on domestic language policies. They primarily protect certain

³⁰ To be sure, human rights standards do place constraints on how certain language policy objectives are pursued by governments. Governments sometimes adopt as a goal the diffusion of a single language across the whole of the state (we discuss this ‘nation-building’ approach to language policy in the next section). As Weinstock and Levy mention in their contributions to this volume, historically governments have often pursued this objective with methods that clearly violate human rights standards and/or standards that would be widely considered to be part of a minimally liberal or

tolerance rights, that is, the right of members of linguistic minorities to publish their own magazines, or to establish their own private schools, or to form their own cultural organizations, and the right not to be discriminated against on the basis of one's mother-tongue. These rights can be seen as part and parcel of traditional individual rights to freedom of speech, freedom of the press, freedom of association, and non-discrimination. For example, the Universal Declaration of Human Rights (United Nations 1948) recognizes rights to freedom of expression (art. 19), to a fair trial (art. 10), and not to be 'subjected to arbitrary interference with . . . privacy, family, home or correspondence' (art. 12). These rights arguably entail language rights such as the right to publish books and newspapers in one's own language, the right to a court-appointed interpreter in certain circumstances, and the right to assign one's child a personal name associated with one's own language.

International declarations are far less clear on the extent of promotion rights: for example, the right to public funding of minority language schools or of minority language radio/TV, or the right to use one's language in dealing with public officials, or the right to have judicial proceedings in one's language or to receive government documents in one's language, or the right to official language status. Yet it is precisely these promotion rights which are at the heart of most language conflicts around the world.

As a result, existing international norms are clearly inadequate to resolve most of the disputes discussed in this volume. Some commentators have pushed to strengthen these international standards and/or to reinterpret them, so as to be more responsive to the demands of linguistic minorities. One version of this movement is the campaign for 'linguistic human rights' associated with some high-profile sociolinguists—for example, Skutnabb-Kangas and Phillipson (1994).

But it is doubtful that international law will ever be able to do more than specify the most minimal of standards. The members of various linguistic groups have quite different needs, desires, and capacities, depending on their size, territorial concentration, and historic roots. A set of guidelines that is

decent political order. Cutting out the tongues of Spanish gypsies is one clear example that we mentioned earlier. Or consider the English colonial practice of punishing children in Kenya for using a native language in the vicinity of the school: 'The culprit was given corporal punishment—three to five strokes of the cane on bare buttocks—or was made to carry a metal plate around the neck with the inscription: I AM STUPID or I AM A DONKEY' (Ngugi 1985, cited in Skutnabb-Kangas and Phillipson 1994: 19). By any reasonable standard, such a practice is humiliating, cruel, and grossly illiberal. Whatever the legitimate goals of language policy might be, they are not legitimately pursued by means of policies that violate basic rights to personal security and privacy, or that undermine the social bases of self-respect. It is not clear from the Kenyan example, however, whether a *language* right is at stake or not. Does our intuitive reaction to the example indicate that children have a right to speak their own language in the vicinity of the schoolyard (this would be a language right) or, rather, that the government should not pursue a policy of this kind through such cruel and humiliating methods (there would be an important right indicated here, but not a language right)?

satisfactory to a small, dispersed immigrant group will not satisfy a large, concentrated historic minority. The right to public funding for mother-tongue university education, for example, might be meaningless for the former, but might be seen as essential to the latter. Any attempt to define a set of rights that applies to all linguistic groups, no matter how small and dispersed, is likely to end up focusing on relatively modest claims. For example, the ‘linguistic human rights’ movement has focused primarily on securing a universal right for publicly funded mother-tongue primary education. This is hardly trivial, but it falls far short of what is at stake in most linguistic conflicts around the world, where groups are fighting over the use of languages in public administration, higher education, and public media. Both majority and minority groups want much more than is, or could reasonably be, guaranteed in international law.³¹

This problem seems unsolvable within the linguistic human rights framework. Its very attraction—namely, that its standards apply universally to all individuals regardless of history, numbers, or nationhood—is precisely its weakness. The only sorts of language rights that can be defined in this universal way are minimal rights, primarily tolerance rights plus a few very modest promotion or accommodation rights (to court interpreters, for example). Even if we agree that there are such universal linguistic human rights, they are unable to address the real policy questions that are at the heart of linguistic conflict around the world, which invariably centre around more extensive rights-claims, by both minorities and majorities, that are conditional on size, history, and national self-determination. In this way, linguistic human rights, while certainly an important part of a larger theory, are insufficient to ensure linguistic justice or to provide guidelines for resolving linguistic conflict.

The right to a court-appointed interpreter, for example, falls well short of the kinds of judicial rights that many proponents of minority language rights call for or indeed of the rights that are found in a number of countries with significant linguistic minorities (Réaume 2000). As we observed earlier, in some jurisdictions an accused person who speaks a designated language has a right not only to understand the charges against him and the court proceedings—something that could be ensured through an adequate translation service—but also to a trial that is substantially *in* his own language, where the judge’s instructions are issued in his language, where court transcripts are recorded in his language, and so on. Moreover, these rights are not regarded as conditional on the accused person being unable to understand the usual language of the court. They

³¹ The Council of Europe’s Charter for Regional and Minority Languages attempts to deal with this problem of the variable situations of minority language groups by adopting an ‘à la carte’ approach, which offers a menu of 67 measures from which a minimum of 35 must be adopted. Ideally, the measures chosen from the menu would be tailored to match the situation of different minority groups. However, nothing in the Charter requires states to adopt more robust language rights for more sizeable/concentrated groups, and many states have refused to do so.

require the court to accommodate his preference to use his own language even where he could quite comfortably use another.

This stronger set of language rights in the context of the judicial process—‘official languages’ rights rather than ‘norm-and-accommodation’ rights—does not obviously follow from, or conflict with, widely accepted understandings of human rights. We need, therefore, a more sophisticated normative account of language policy that can tell us whether such rights should be recognized and, if so, for what languages and language groups.

A similar point can be made about language rights in the context of public education. There is likely to be very widespread agreement that some methods should not be used in or around schools as a means of getting children to acquire some particular language competence. Any minimally liberal and human-rights sensitive political morality will insist that certain means—particularly those that involve violence, cruelty, and humiliation—ought never to be used in pursuit of educational ends, even where those ends are valid ones. There is much less agreement, however, on whether non-oppressive means could legitimately be used in pursuit of those same ends. Would it be legitimate for the state to require all children to attend a school in which the main medium of education is the majority language of the state, or some other language designated as official? Or, if this requirement is still considered too draconian because of its implications for the freedom of parents to choose certain private schooling options, would it at least be legitimate for the state to insist that the medium of all public schooling be the majority or official language? Alternatively, should (certain) linguistic minorities be accorded a right to public education in their own language medium?

As we mentioned, linguistic human rights activists answer these questions by positing a human right to mother-tongue-medium primary education. But this claim, however attractive it might be, seems more like the conclusion of an argument than the argument itself. If someone challenges the claim—by arguing, for instance, that all children should be educated in a common state-wide language of citizenship, or, more weakly, that all immigrant children should be educated in the predominant language of the host state or in one such language if there are several—what resources is the human-rights perspective left with to respond? Like the controversy over language rights in the judicial process, the debates about language and education cannot be settled by simply inspecting basic human rights standards.

In the end, both the ‘benign neglect’ approach and the ‘linguistic human rights’ approach suffer from the flaw of attempting to avoid the unavoidable. They both fail to confront the fact that language policies inevitably involve privileging a limited set of languages, and that the goal of a theory of linguistic rights must therefore be to provide standards for evaluating the decision about which languages to privilege in which contexts.

As we observed at the outset of this chapter, surprisingly little attention has been given by political theorists to articulating and developing a normative

account of language rights. In the absence of a well-worked-out normative theory of language policy, much of the discussion, both in academia and in public debate, has tended to operate implicitly with a simple dichotomy. On the one side, some people assume that language policy should aim to promote linguistic assimilation so as to ensure a single common language within each country. This goal of linguistic convergence, which is associated with nation-building projects of the nineteenth and twentieth centuries, is said to be necessary to achieve national unity and social cohesion, or to enable democratic deliberation, or to ensure equal opportunities. On the other side, there are commentators who assume that language policy should aim to prevent linguistic assimilation so as to maintain linguistic diversity and preserve weak languages. The preservation of linguistic diversity is said to be a public good in everyone's interest—like the preservation of ecological diversity—and/or a right of individual speakers of threatened languages.

Both of these approaches find some sympathy amongst the contributors to the present volume. Many of the contributions, however, identify a range of difficulties with these two familiar approaches, and several propose alternative ways of thinking normatively about language rights. Whereas both the nation-building and diversity-preserving approaches are outcome-oriented, these alternative proposals are more procedural in character: they focus not on the outcome in terms of people's eventual language repertoires, but rather on the appropriate conditions and procedures under which those repertoires are formed. Some of the normative standards proposed include democratic fairness (Laitin and Reich), anti-discrimination (Blake), 'minimalism', 'anti-symbolism', and 'revisability' (Weinstock), the 'counter-balancing' of unjust nation-building (Levy), facilitating 'collective choice' (Réaume), and the fairness of 'background conditions' under which speakers of different languages can further their language-related identities and ambitions (Patten).

In the next three sections we take a closer look at some of these different normative approaches to language policy. We begin by reviewing the 'nation-building' approach that sees the main goal of language policy as the promotion of state-wide linguistic convergence (section 5). We then turn to the 'diversity' or 'language maintenance' approach, which emphasizes, as ends in themselves, the goals of preserving linguistic diversity and weak or vulnerable languages (section 6). Finally, some of the new approaches that emphasize procedural standards of evaluation are briefly described (section 7).

5. Nation-Building and Language Policy

Historically, all liberal democracies have engaged in a process of nation-building. They have adopted a range of policies to promote a common language and a common sense of national identity and membership. In some situations, convergence on a common language and identity has been the intended

objective of the policies selected, as when the state insists that all public education shall be in a single language medium or when it refuses to offer public services in other languages. Elsewhere this convergence has been the unintended but foreseeable consequence of other state policies. Policies that reduce social isolation—such as the building of roads and railways—and enable nationwide communication—such as literacy campaigns or the establishment of radio and television broadcasting—tend to engender linguistic convergence, even if their primary objectives lie elsewhere. In many countries, mandatory military service has been an important promoter of linguistic uniformity.

These nation-building projects are sometimes perceived as expressing an attitude of cultural imperialism and ethnocentric prejudice. Although this attitude is certainly reflected in some of the statements of key nineteenth century proponents of nation-building—think of Mill's notorious remarks about the Basques and Bretons 'sulking on their rocks' (Mill 1991: 431)—not to mention the actual practice of nation-building—think of Franco's efforts to eradicate Spain's regional and minority languages (Conversi 1997: Chs 4–5)—it would be a mistake to simply dismiss nation-building on the grounds that it is 'insensitive to difference'.

One reason for this has just been hinted at. Sometimes language convergence is a (predictable) side-effect of policies that are themselves not difficult to justify. The building of roads and railways that link towns and regions of a country promotes economic development and expands the options and opportunities open to people who had formerly lived in relative isolation (Weber 1976: Ch. 6). But, of course, once people start to have regular contact with other parts of the country—through travel, migration, trade, and so on—their patterns of language use will inevitably change, and it is not surprising when their language repertoires begin to converge.

As Levy shows in his contribution to this volume, a similar point can be made about literacy. Even the strongest critics of nation-building presumably do not object to state-sponsored literacy campaigns. And yet these campaigns, which were often part of nineteenth and twentieth century nation-building projects, carry with them important ramifications for the language repertoires of ordinary people. In part, this is because only a subset of spoken languages have a written form or have textbooks published in them. As a practical matter, a state concerned to promote literacy is often forced to direct its energies at encouraging people to acquire some particular language—a language that is both spoken by at least some people in the state and is available in written form. Literacy also brings individuals into a kind of virtual contact, or 'imagined community', with people in other parts of the country (and world). It makes it more likely that they will read the same books and newspapers, consume the same products, learn from the same textbooks, and so on—all of which may encourage a convergence on a common, national language.

Even if we focus on deliberate attempts by nation-builders to diffuse a single common language across the state, it is clear that important goals can be

associated with such a project. For example, standardized public education in a common language has often been seen as essential if all citizens are to have an equal opportunity to work in the modern economy—and, conversely, if businesses are to have at their disposal a labour force possessing the linguistic competences necessary for flexibility, trainability, and mobility in the modern workplace (Gellner 1983). Minority-language communities can easily become ghettoized when their members are unable or unwilling to master the majority language of the state. Their economic opportunities will be limited by the work available in their own language, and they will have trouble accessing the culture of the larger society or participating meaningfully in its political life. A nation-building policy that seeks to integrate speakers of less widely spoken languages into the majority language community can enhance social mobility by offering new options and opportunities to people raised in minority language communities.

This concern for the social mobility of minority-language speakers is a theme in a number of contributions to the present volume. In his paper on Spanish-language accommodations in the United States, Thomas Pogge proposes that the ongoing controversies concerning the use of Spanish in public education should be adjudicated according to a fundamental normative principle stipulating that ‘the best education for each child is the education that is best for this child’. Taking aim at the proposition that people should have, as part of the respect owed to them as members of a cultural community, the opportunity to have a public education in their own language, Pogge argues that respecting the wish of parents to educate their children in their home language may have an adverse impact on their children. Since English is overwhelmingly the language of opportunity and mobility in the United States, the interests of children lie in achieving full competence in English. While acknowledging the complexity of the empirical questions raised by his framework of analysis, Pogge suggests that the urgency of learning English indicates a preference for ‘English first’ rather than ‘bilingual’ education policies (see also Rodriguez 1982: Ch. 1; Porter 1996; Barry 2001). The chapters by Levy, Laitin and Reich, and Patten also appeal to social mobility considerations to defend majority-language education policies in specific empirical situations.

Convergence on a common national language can also be seen as important for generating the sort of solidarity, or social cohesion, required by a democratic welfare state. It is hard to carry out a programme of social justice when the political community is fragmented into identity groups that do not share the affective bonds of common citizenship and see cooperation with one another solely as an instrument of mutual advantage. A successful nation-building project can help to ensure that language no longer serves to separate citizens into distinct and mutually antagonistic groups, but would become one of the defining bonds of a common identity.

Moreover, as we emphasized towards the end of section 1, a common language has been seen as essential to democracy. How can ‘the people’ govern

together if they cannot understand one another? Democracy involves not only a formal process of voting (a 'vote-centric' process) but an ongoing, informal activity of deliberation and discussion (a 'talk-centric' process). As Patten discusses in his contribution to the volume, linguistic diversity can be a significant barrier to the full flourishing of this deliberative dimension of democracy. If citizens cannot understand each other, or if they seek to communicate only with co-linguists, then democratic politics is likely to be compromised. A successful nation-building project that brings about a common national language of political dialogue can eliminate this obstacle to the flourishing of democracy.

Several of the contributors to the volume take issue with aspects of the nation-building model. Citing a body of research from sociolinguistics and education studies, Stephen May contests the claim that US bilingual education leaves children worse off in social mobility terms than English immersion. A number of studies suggest that bilingual education does as well as, or even outperforms, English immersion at imparting proficiency in English to students and equipping them to enter the labour force. Moreover, even where the results of bilingual education are disappointing, May suggests, it is hard to know how much of this can be traced back to language policy decisions about medium of instruction and how much it reflects discrimination encountered by Spanish-speakers in the workplace. If May's arguments are sound, then there may not be a trade-off between the nation-builder's goal of promoting linguistic convergence and support and recognition for minority languages, through the public education system for example. Minority language speakers may be able to learn the dominant language and generally equip themselves for success in the modern economy even while receiving a significant portion of their schooling in their home language (see also the discussion of social mobility by Patten in this volume).

A further limitation on the social mobility argument for nation-building is that some language minorities are sufficiently large and institutionally complete—they constitute their own 'societal cultures' (Kymlicka 1995a; 2001a)—that individual members can find a relatively full range of economic, social, and cultural options and opportunities in their own language. The clearest examples are the regionally concentrated and historically rooted 'national' groups we discussed earlier, such as the Québécois, Catalans, or Flemish. In these cases, the argument for nation-building loses its force, since minority language speakers cannot be described as 'ghettoized' if they choose to remain within their own linguistic communities (see also the discussion of the 'threshold' condition by Laitin and Reich in this volume).

In such cases, nation-building efforts to construct a common language-based national identity and political forum not only lose their justification, they are also likely to be counter-productive. They will be regarded by the national minority as an attempt by the majority to dominate the state, rather than as good-faith attempts to promote a common good. As a result, they almost invariably stimulate a defensive nationalist response from the national minority,

reinforcing their desire for greater territorial self-government or perhaps even secession.

More generally, we can say that whether nation-building is a viable strategy depends, at least in part, on whether there is a competing nationalist movement within the state. The nation-building strategy has proven quite effective in the case of immigrant groups (even large ones), but has typically been strongly resisted by groups which see themselves as forming 'nations within', with the accompanying rights of national self-government. Where states confront this sort of minority nationalism, the best way to promote a common identity and to encourage the practice of deliberative democracy may be to adopt policies that recognize and institutionalize a degree of national and linguistic difference. Indeed, one could argue that the choice between the 'norm and accommodation' approach and the 'official languages' approach is, in effect, a choice between a state that continues to think of itself as a (tolerant, diverse) nation-state and a state that accepts that it is and will remain a multination state. Here again, it is impossible to separate language policy choices from larger debates about the relationship between nations and states, and the appropriate way of managing the phenomenon of competing nationalisms within a single state.

The chapter by Van Parijs is also relevant to a consideration of the nation-building approach to language policy. Like nation-builders, Van Parijs draws attention to a good that can be achieved when people speak a common language. When two people can speak the same language, this opens up the possibility of a range of utility-enhancing communications and interactions. For communication to take place, however, it is obviously not necessary that each person learn the other's language. It is enough that everyone have some common *lingua franca* as part of their linguistic repertoire. But this means that there will be a significant asymmetry between those people who happen to speak the designated *lingua franca* as their native language and those who must learn it as a second (or third, etc.) language. The former group does not have to devote any resources or time to learning the *lingua franca* and they find themselves in the happy situation of having a great deal of important business transacted in their own language. The latter group, by contrast, must incur the costs involved in learning the *lingua franca* or find themselves excluded from significant economic, political, and social affairs.

Van Parijs's analysis draws attention, then, to a significant issue that nation-builders must address. Assuming that nation-builders are correct to emphasize the value of having a common public language for state-wide communications—and the same goes for international communications—what is the just way of distributing the language-learning costs that are entailed by the establishment of such a language? According to Van Parijs, speakers of other languages who learn the *lingua franca* are creating a public good that native speakers of the *lingua franca* willingly benefit from whenever they communicate in the *lingua franca* with those who have learned it. For native speakers of

the lingua franca to contribute nothing to the costs of producing this public good would amount to free-riding. Van Parijs argues that, as a rule of thumb, 'linguistic justice' requires that native speakers of the lingua franca pay for half the costs of learning the lingua franca faced by speakers of other languages, including both the explicit cost of language tuition and the opportunity cost of devoting time to learning the language.

6. Maintaining Languages and Language Diversity

The nation-building approach to language policy is frequently hostile towards the preservation of minority languages and the maintenance of linguistic diversity. Policies that are designed to diffuse a common language throughout the state, such as a requirement that all public education be conducted in a single state language, make it difficult for minority language communities to sustain themselves. Even where the goals of nation-builders are consistent with accommodations towards minority languages—for example, because language convergence can still be achieved when schooling is conducted in a minority-language medium—nothing in the nation-building framework indicates whether or why such accommodations might be normatively desirable.

To many people who write and think about language policy, this hostility or indifference towards minority languages is unacceptable. The world's languages, they point out, are dying. According to one recent estimate, about half of the world's languages have disappeared in the past 500 years (Nettle and Romaine 2000: 2). With many of the world's 6,000 or so languages spoken by relatively few people—including about 2,000 that are spoken by fewer than a thousand people—everything points to an acceleration of this trend (see Boran, this volume). As *The Economist* (2001) put it, 'of the world's 6,000 or 7,000 languages, a couple go out of business each week'. It is true that new languages and dialects also appear from time to time—consider the various Englishes that are now spoken around the world—but it is unlikely that these new forms of speech will be sufficient to offset the global loss of languages.

Even where entire languages are in no danger of disappearing, particular language communities often are. This tendency is sometimes referred to as 'linguistic genocide' (Skutnabb-Kangas 2000), but it does not typically involve the members of these communities literally being killed. Rather, it means that those individuals have a tendency either to adopt new habits of language use or to move to parts of the country or world where their language community is relatively secure. Social scientists have for some time now described a process of territorialization in patterns of language use (Laponce 1984: Ch. 5; Kymlicka 2001a: 212–13). Languages have a tendency to concentrate themselves into well-defined territories and to disappear from regular use outside of these places. Following Ernest Gellner (1983: 139–40), Philippe Van Parijs (2000a: 239) has

compared this tendency to a move from Kokoschka to Modigliani. Where a linguistic map of many parts of the world would once have resembled a Kokoschka portrait, with its 'riot of diverse points of colour', increasingly such a map looks like a painting by Modigliani: a patchwork of neatly separated and clearly demarcated areas of uniform colour with little shading or overlap.

A final, and in some ways more striking, aspect of language loss is the tendency for certain languages to become marginalized. Although communities of people continue to use their own languages in certain areas of life, they increasingly turn to some second language in other contexts of communication. A typical pattern, which linguists refer to as 'diglossia' (Ferguson 1959; Fishman 1972: 91–2), sees the speakers of a marginalized language using their own language in contexts of intimacy—with family, friends, and close associates—but switching to some other, higher-status language in more prestigious public domains. The most obvious sign of language marginalization is the growing use of English in certain areas of life by non-native-English-speakers. English has rapidly established itself as the international language of business, telecommunication, diplomacy, education, pop culture, science, scholarship, and travel. Since so many day-to-day activities take place in a context of global interconnectedness—from listening to the radio, to reading a college textbook, to holding a meeting in a corporate office—English impinges on the lives of people in non-English-speaking countries on a regular basis, even if a great deal of everyday life still takes place in local languages. Teaching English as a second language is now a vast global industry worth billions of dollars a year and employing tens of thousands of people (Phillipson 1992). According to *The Economist* (2001), as many as one billion people are learning English and perhaps half the world's population will have some proficiency in it by 2050.

For nation-builders, these tendencies—the wholesale disappearance of some languages, the territorial concentration of others, and the increasing marginalization of virtually every language other than English—are not necessarily to be regretted. If these tendencies imply a gradual convergence on a common lingua franca, then they should be applauded, for, as nation-builders emphasize, there are very great advantages to having a common language. To many other people, however, these tendencies represent an alarming and threatening phenomenon. The disappearance and marginalization of languages and language communities is a pernicious feature of modernity, and one that should galvanize policy makers into action.

For many who hold this view, the maintenance or preservation of minority languages is a fundamental requirement of a normative theory of language policy. The strongest conceivable version of this position makes the preservation of vulnerable languages the supreme goal of all language policy, a goal that trumps all other objectives and possible side-constraints. Moderate versions of the language-maintenance approach regard the preservation of vulnerable languages as an important goal of language policy, but one that should only be pursued

subject to respecting certain rights held by speakers both of the vulnerable languages themselves and of dominant languages. And weak versions of the position accept not only these rights-based side-constraints but also the validity of the language-convergence goals promoted by nation-builders. Weak language maintainers seek to preserve vulnerable languages as far as possible, consistent with respecting the rights of all concerned and making room for the emergence of a state-wide *lingua franca*.

Leslie Green (1987: 653) has suggested that ensuring the preservation of vulnerable languages is the 'implicit value assumption of nearly every linguistic demographer and sociolinguist' who has written on the subject of language rights. In this volume, the chapter by François Grin takes as its point of departure the premise that linguistic diversity is a good and then explores the consequences for analytic work, and policy making, of accepting this assumption. Grin acknowledges that his is a philosophically contentious value assumption but suggests that there is a degree of social consensus surrounding it. Very often others who adopt such a value assumption make little or no effort to justify it, but simply take it to be obviously true. But as we have seen in our discussion of the nation-building approach, it is not obvious to everyone. It is thus legitimate and important to ask why we should care about the preservation of vulnerable languages. Why does it matter if some languages or language communities disappear or get marginalized? Indeed, why does it matter so much that language policy makers are normatively required to take steps to counteract such a tendency?

Where political theorists and sociolinguists have addressed these questions, they have developed a variety of different kinds of answers. For instance, one approach emphasizes the value of diversity itself. Fewer languages means less global linguistic diversity, and global linguistic diversity is, according to this view, itself something that is valuable.

An argument of this kind is developed and assessed by Idil Boran in her contribution to the volume. She considers the popular argument that a decline of linguistic diversity is somehow akin to a decline in biodiversity, so that justifications of language maintenance policies can be modelled after the justifications advanced on behalf of the conservation of species (see also Nettle and Romaine 2000). According to Boran, biodiversity and linguistic diversity are of value to people in several kinds of ways. One kind of value they instantiate is broadly aesthetic in character. A world with more species and languages is more colourful, interesting, and dynamic than one with less diversity. Languages, for instance, are vehicles of cultures, and cultures create new forms of social life and 'experiments in living' that are then available for anyone to adopt (Van Parijs 2000a). Another way in which biodiversity and linguistic diversity are valuable is more narrowly scientific in character. A diverse natural world contains species that may be of great utility to progress in science and medicine. In the same way, a diverse linguistic world contains different ways of talking about the world and thus may hold clues to techniques or uses of the natural world that are unfamiliar to speakers of the world's dominant languages.

These values give us a reason to care about the preservation of global linguistic diversity. Moreover, Boran argues, linguistic diversity, like biodiversity, is a public good, one that people in general can enjoy even if they have not contributed to its production or maintenance. This means that the costs of preserving linguistic diversity should not just be left to speakers of vulnerable languages but should be shared more broadly amongst everyone in the globe who profits from the scientific (and other) innovations that diversity facilitates.

A second kind of reason for caring about the disappearance of languages points to something intrinsically valuable about particular languages (taken one by one) besides the contribution they make to global linguistic diversity. There are a variety of ways of articulating the intrinsic value of particular languages. Denise Réaume (2000) has argued that languages are valuable as collective human accomplishments and ongoing manifestations of human creativity and originality. Each language is a unique form of expression with its own distinctive way of framing and conceptualizing the world. Like a living organism, it evolves and adapts to its environment, often in strikingly imaginative ways that no individual could have predicted or directed. Réaume and others also emphasize the ways in which a language acts as a repository for a particular culture's history, traditions, arts, ideas, and so on (Crystal 2000). In the same way that an archive or museum is valuable—because of the value of what it contains and preserves—a language is valuable as well.

The intrinsic value of particular languages, understood along these lines, provides a reason why we should want to avoid the disappearance of languages. Just as we are generally disposed to respect and protect expressions and bearers of human creativity, history, and so on, the argument is that we should adopt a similar attitude towards languages.

A third argument in favour of language preservation policies is perhaps the most popular one found in the literature. It is a commonplace in the literature on language rights that language is not just a tool of communication. It is also, for some people, a central and defining feature of identity. Many people self-identify with the (local) community of speakers of their language. They are proud of their language and the cultural achievements that have been expressed through it, and they take pleasure in using the language and encountering others who are willing to use it. They hope that the language community will survive and flourish into the indefinite future. And, in some contexts, they feel respected and affirmed when others address them in their language and denigrated when others impose their own linguistic preferences.

To many theorists, these facts about the importance of language to individual identity ground an argument on behalf of language maintenance policies. The best-known formulation of this position is perhaps Charles Taylor's essay 'The Politics of Recognition' (1992). According to Taylor, public institutions must ensure that individuals enjoy adequate recognition if they are to enjoy and express their identities in a free and undistorted manner. For Taylor,

there are two main models of how this recognition might be established. The 'politics of universalism' offers recognition by extending equal rights to all citizens and otherwise adopting a 'difference-' or 'culture-blind' stance vis-à-vis the particular attitudes and commitments that citizens embrace. The 'politics of difference', by contrast, requires a respect for fundamental rights but, within the constraints set by this requirement, then calls for public institutions to actively protect vulnerable cultures in order to give those cultures the tools they need to ensure survival. Taylor's sympathies clearly lie with this second model of recognition. 'If we're concerned with identity', he argues, 'then what is more legitimate than one's aspiration that it never be lost?' (1992: 40).

In a contribution to the present volume, Stephen May endorses a version of this identity argument. Drawing on the position he develops more fully in a recent book (2001: Ch. 4), he argues that, even if language is a merely contingent factor in identity, it is nevertheless a significant and 'constitutive' one. From this premise, that 'languages . . . provide their speakers with significant individual and collective forms of linguistic identity', May argues for language protection policies. Since majority language speakers enjoy a secure language and identity as a matter of course, it would be unjust to refuse these same goods to speakers of minority languages.

A fourth and final argument worth mentioning in favour of language maintenance policies returns to some of the 'social mobility' and 'equal opportunities' considerations raised in our earlier discussion of nation-building. In that discussion, we suggested that it was important to distinguish between cases in which a linguistic minority does not have access to a fairly full range of options (a societal culture) in its own language and those cases in which it does. It is only in the former sort of case that an argument for nation-building grounded in an appeal to social mobility can get off the ground, since in the latter kind the linguistic minority already forms a 'nation within'.

In his contribution to the volume, Patten suggests that there may be an important intermediate kind of case, which he terms 'vulnerable societal cultures' (see also Patten 2001). In these cases, a linguistic minority does have access to a fairly full set of options in its own language, but it is in danger of losing this access as more and more important language domains shift to the majority or dominant language. When this happens, members of the linguistic minority who lack full fluency in the more dominant language risk being stranded. They may no longer have at their disposal the 'context of choice' they need for individual autonomy. It is conceivable that the solution to this problem could be a more aggressive nation-building policy that works to ensure that everyone is fluent in the dominant language. In many situations, however—particularly when nationalist dynamics are in play—this solution may not be realistic. A public policy of combating the marginalization of the minority language may have more chance of success than a policy of diffusing the majority language throughout the entire minority community.

A number of chapters in the volume challenge one or several of these arguments for language maintenance policies. A general theme in many of the critical responses is a concern that such policies may end up being too onerous or disadvantageous for speakers of vulnerable languages themselves. Weinstock makes this point, for instance, in the context of an assessment of the intrinsic-value defence of language protection policies. Theorists who appeal to the intrinsic value of particular languages do so with the objective of defending certain rights for speakers of those languages. Weinstock argues, however, that, if we really take seriously the ideas that languages are intrinsically valuable and that anything that is intrinsically valuable should be respected and protected, then we should acknowledge that speakers of vulnerable languages have not just rights to maintain their language but also duties to do so. They should be encouraged, and perhaps even compelled, to maintain their language, even if some of them are not interested in doing so. And this implication of the intrinsic value approach, Weinstock implies, is unacceptable. The 'latitude' or freedom that goes with having a right disappears when one is constrained by duty to exercise the right in certain ways.

The concern that language preservation policies may entail imposing serious restrictions on speakers of vulnerable languages themselves is developed further in the chapters by Levy, Boran, and Laitin and Reich. As Levy emphasizes, one reason why some language communities survive is their relative social and geographic isolation from mainstream society. All else being equal, a distinct language is more likely to survive when its speakers have a low level of literacy, when they live in geographically isolated communities, when they do not participate in the mainstream economic and social life of the state in which they live, and so on. If taking language preservation seriously means adopting policies that prevent the spread of literacy or block access to mainstream society and economy, then this seems too high a price to pay. Indeed, for many liberals there is a positive obligation to extend literacy, education, training for the modern workplace, and so on, to all citizens.

Implicit in this criticism of the language maintenance approach is the idea that linguistic survival is as much about the choices and dispositions of speakers of a language as it is about the behaviour and structures imposed by outsiders. Sometimes languages disappear or become marginalized because of oppressive actions by outside agencies—usually an imperial power or a central state firmly in the control of speakers of the dominant language. But even in the absence of oppression, there is no guarantee that a particular language will survive. The attitudes, dispositions, and preferences of speakers of the vulnerable language, and the opportunities and options available in the majority or dominant language, may mean that the prospects for the vulnerable language are bleak even if nobody is oppressively imposing the majority language (Edwards 1985; 1994). Laitin and Reich suggest that the case of Wales and the Welsh language may be a good illustration of this possibility. Many people who live in Wales, including

many who are descendants of Welsh-speakers, have no real orientation to the Welsh language. On any plausible view of what an absence of oppression would consist in, there is no reason to think that these people would generally choose to learn Welsh or to use it on a regular basis. Liberals, Laitin and Reich argue, should respect these internal group differences concerning the value and choiceworthiness of the language and should not seek to impose the attitudes and preferences of one sub-group onto everybody. The strength of the identity interest in language is variable within and between groups, and any plausible theory of language rights must respect and accommodate this variability.

Blake makes a similar point by considering a thought experiment involving two different stories about how a language might die. In the first story, members of an isolated language community change, over the course of generations, the vocabulary and syntax of their language, until there comes a point at which the original language that they spoke can be considered dead. In the second story, the members of a language community come into contact with another language and gradually adopt its patterns of speech, until, eventually, their original language is dead. Blake suggests that we have quite different intuitive reactions to these two stories, even though they are both cases of language death. The first case, Blake believes, is relatively harmless and almost nobody would favour intervening to prevent the kind of linguistic change it involves from occurring. The second case, by contrast, arouses our suspicions, because we cannot help but wonder whether the contact with the foreign language community involved some kind of relationship of discrimination or oppression.

In Blake's view, this thought experiment points to two distinct ways in which language change and language death can occur. Such outcomes can result from oppression or from what Blake terms 'the free exercise of the human imagination'. A liberal approach to language policy should concern itself with the former and not the latter kind of change. The problem, then, with many of the arguments that are made on behalf of language preservation policies is that they are too blunt. Because they make general appeals to identity, or intrinsic value, or diversity, they do not capture the normative significance of this distinction between the two kinds of cases.

7. Procedural Approaches

A striking feature of the nation-building and the language-maintenance approaches is that they each formulate the fundamental normative requirement for language policy makers in terms of the realization of a certain sort of outcome. For nation-builders, that outcome is one in which a single common language is diffused amongst all citizens of the state. For language maintainers it involves the preservation of languages that are vulnerable to disappearance or marginalization.

As we have seen, a number of objections can be raised against both of these traditional approaches. It is not clear that the arguments for nation-building completely crowd out the possibility of minority-language accommodations. Sometimes the goods emphasized by nation-builders can be realized within minority language communities and there is no great urgency to establish a state-wide language. In other situations, the achievement of a common state language is possible even when various minority language accommodations are made. And sometimes a nation-building project is likely to encounter such significant resistance that it is better, perhaps as a matter of 'second-best', to focus on developing the minority-language community instead. On the other hand, the language-maintenance approach does not seem to formulate the issues quite correctly either. Preserving vulnerable languages seems like a worthwhile cause when the speakers of those languages are facing, or have faced, various forms of oppression and injustice. It is less clear that it is a worthwhile cause when it goes against the choices and preferences of significant numbers of people in the vulnerable language community or involves imposing significant restrictions on their opportunities or mobility.

A number of the chapters in the volume seek to avoid the problems arising from the two traditional approaches by articulating a procedural, or non-outcome-based, account of basic normative principles governing language policy. On these views, we do not assess possible language policies, or language rights regimes, by asking whether certain desirable outcomes will be generated, such as convergence on a common language or the preservation of threatened languages. Rather, we ask whether certain procedural standards have been satisfied in the generation of whatever outcomes happen to come about.

Various chapters suggest different possible procedural standards. Laitin and Reich emphasize democratic legitimacy, for instance. In their view, language protection schemes should be seen as analogous to certain public goods that are provided by the state. Language security belongs in a class of goods the provision for which out of general tax revenues is neither required nor prohibited by considerations of justice. For these goods, the correct level of provision by the state is a function of what the democratic process decides. If, after due deliberation, a majority wish to devote public resources to protecting a particular language, then it is reasonable and legitimate for the state to pursue such a goal. If, on the other hand, the majority is uninterested in language preservation, then no fundamental norm is being violated if the language subsequently dies out or is marginalized. The key point is not whether a certain language outcome is generated, but whether the standards of democratic legitimacy are satisfied or not.

Weinstock also suggests a series of non-outcome-related standards by which to assess possible language rights regimes. In his view, an acceptable language policy must satisfy three separate standards. First, the state should, as far as possible, leave it up to citizens themselves to rank the various goods at play in language disputes, intervening only where it is necessary to ensure effective

communication in the public domain ('minimalism'). Second, the state should avoid attaching or suggesting—for example, through its pronouncements—any symbolic significance to the language policy decisions that it must necessarily make ('anti-symbolism'). And third, the state's language policies should always be open to revision, so that, if new patterns of language use emerge in society, the state's language choices can be adapted accordingly ('revisability').

Blake's position flows out of his critique of existing language preservation arguments. In his view, as we have seen, the key issue is not whether the language dies but whether language change, including language death, takes place in a context of oppression and injustice. His paper considers a number of different accounts of what should count as 'oppression' and 'injustice' for the purposes of a normative theory of language rights. He argues that past and present discrimination on the basis of language should count as oppressive in such a theory, but that a refusal to grant a language official language rights should not, nor should the fact that some languages carry with them more options and opportunities than others.

Levy also proposes a procedural view of language rights, one that focuses on establishing conditions that 'counterbalance' the predictable tendency of modern states to engage in unjust nationalizing projects. Like Weinstock, Levy is alert to the variety of oppressive, violent, and illiberal methods that modern states have employed to try to turn their citizens into nations sharing common languages. Levy appeals to the political theory of constitutionalism to argue that, where there is good reason to suspect that the state will engage in a particular sort of injustice, institutional safeguards and mechanisms ought to be introduced that will lean against this tendency. Language rights can act as just this sort of bulwark. They give institutional weight and power to members of linguistic minorities and thereby make it difficult for the state to run roughshod over their basic interests. For Levy, then, we assess a regime of language rights, not according to its success at diffusing a common language or at preserving vulnerable languages, but on the basis of its capacity to check and counterbalance predictable excesses of the modern state.

In her contribution to the volume, Réaume explicitly argues against 'consequentialist' theories of language rights that seek to justify such rights in terms of goals such as general communication, social cohesion, language survival, political stability, encouraging diversity, and so on. She suggests that these theories tend to see language in excessively instrumental terms and ignore the 'intrinsically valuable dimension' of language and, in particular, the value that each language community places on its own language. Instead, she argues, a normative theory of language rights ought to proceed from the value of individual participation with others in acts of creating and sustaining language communities. A language rights regime should include both negative liberties and positive accommodations that protect spaces in which these 'collective choices' can be made.

Finally, Patten suggests a procedural standard to govern the 'recognition' that is owed to language-based identities. Individuals do not have a right, he argues, that their language-related identity should succeed or flourish, since any such right might easily collide with the same right held by the speakers of a different language (on the assumption that there is a limit to the number of languages that can flourish in a given community). Nor do people have a right to the equal success of their identity, since some people adopt identities that are rather easy to realize whereas others have difficult-to-satisfy identities. What people can legitimately claim, however, is that their language-related identity be dealt with by public institutions in an even-handed way, so that everyone can strive to realize and advance his or her identity under background conditions that are fair. If certain rights and accommodations are extended to one language, then even-handedness requires that they also be extended to others. Patten suggests that this sort of argument can be marshalled in defence of minority language rights and the personality principle, so long as certain countervailing conditions are not engaged.

We hope that this introduction has given readers a sense of where the normative debate about language rights is currently at. We've tried to sketch a picture of the political and theoretical contexts in which this debate is taking place, to identify some of the concrete issues and fine-grained distinctions that much of the debate turns on, and to suggest some of the new approaches being developed. As we emphasized at the start of this chapter, the field of language rights is a relatively new one for normative political theorists, and to some extent we are still sorting out the relevant questions, let alone identifying the answers. A fully adequate theory of language rights will undoubtedly have to consider other contexts, distinctions, and approaches. We hope that this volume will provide a stimulus and a resource for further reflection on the normative issues surrounding language policy.