The linguistic territoriality principle: right violation or parity of esteem ?

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1. Introduction: Three interpretations of linguistic justice

The early years of the 21st century are witnessing an unprecedented phenomenon. In Europe, Belgium and throughout the world, competence in English is spreading at a speed never reached by any language in human history (see Appendix for some data on recent trends in the European Union and in Belgium). This ever growing and irreversible dominance of English is frequently perceived and sometimes indignantly denounced as being grossly unfair.

It definitely raises issues of 'cooperative injustice', i.e., issues that relate to the unfair division of the burden of producing the lingua franca between those who have to learn it as a foreign language and those who have it as their mother tongue. It also raises issues of 'distributive injustice', i.e., issues that relate to the inequality of opportunities deriving from unequally valuable native competences. But these issues need not worry us unduly, as the development that causes them is accompanied by a self-corrective process, or at least by an easy opportunity for sufficiently astute non-Anglophone communities to trigger such a process. For example, the free-riding of Anglophones on the language-learning of non-Anglophones – cooperative injustice – can be significantly offset by the free-riding of non-Anglophones on unprotected or poorly protectable information generated more than proportionally by Anglophones. And the language-based material and political advantage of native Anglophones – distributive injustice – will gradually be eroded and eventually reversed by the cheapening of the learning of English as a result of intelligent policies, such as an inexpensive ban on dubbing and of the very spread of the use of English in an increasing number of contexts (cf. *LJ*, chapters 2 and 3).

For many of those most incensed by the growing dominance of English, however, the measures that would effectively tackle linguistic injustice in the sense of cooperative and distributive injustice make it worse in a third and more fundamental sense, which will be the only aspect discussed here: linguistic injustice as unequal dignity. Plundering the web may provide a clever form of compensatory free-riding, and a ban on dubbing an effective way of democratising valuable language skills, but both will undeniably contribute to further accelerating the dominance of one language above all others. The primary and most fundamental injustice, it is often felt and claimed, resides precisely in what this dominance expresses: a lack of respect for the 'dominated' languages and their native speakers, the ascription of an inferior, humiliating, insulting status to the people whose identities are closely tied to them. Even if the burden of learning the lingua franca as a second language is shared fairly by the people who have the lingua franca as their mother tongue, even if second-language competence is

widely and thoroughly spread or the residual handicap adequately compensated, there remains the painful fact that the language of one subset is being given a privileged status above all others.

For the resentment thus expressed to make ethical sense, justice must not only be a matter of distribution of outcomes or of opportunities, whether material or not. It may be the case that being regarded as belonging to an inferior category, whether caste, class or ethnic group, leads to discrimination or to a lack of self-confidence that reduces one's welfare or life chances. But the idea here is that, irrespective of such effects, justice requires people to be granted equal dignity. In a situation where people's collective identities are closely linked to their native languages, there arises a major threat to the recognition of an equal status for all as soon as the native language of some is given what is, unquestionably, a superior function. In this light, linguistic injustice as unequal dignity can plausibly be claimed to constitute the most fundamental form of linguistic injustice, and may well turn out to be the hardest one to fix.

2. Demystification

If linguistic injustice as unequal dignity is to be addressed, the repeated demystification of the superiority ascribed to the dominant language is one obvious ingredient of what needs to happen, especially as the dominance of that language tends to breed arrogance amongst its native speakers. There need not be anything obnoxious or petty or insulting in taking pride in the fact that one's mother tongue has been picked as the world's lingua franca – no more, at any rate, than in taking pride in the fact that a boy from one's village has been picked as a page to the King. It may, nonetheless, be wise to reassert now and then that the choice was not based on any intrinsic quality, on anything like the superior rationality, the *génie* which Julien Benda (1933: 78, 81) was claiming for French when advocating its adoption as Europe's language. Even when comparing the languages of developed industrial societies to those of traditional agrarian societies, there is little to back the suggestion that some evolutionary process led to the survival of the (linguistically) fittest. And when applied to a set of closely related languages spoken by similarly developed societies, no such claim makes the slightest sense.

After all, English is nothing but the mishandled heir of a sort of Dutch spoken by a few hordes of Germanic Barbarians – Angles, Jutes, Saxons and Frisians – when they ventured across the Channel in the 5th century AD. It was later messily bastardised as a result of tough colonisation by Scandinavians, first directly from Denmark and Norway, next and foremost via Normandy, where they spent enough centuries to pick up the 10,000 French words they ruthlessly implanted into the little that remained of the old English language. Subsequently left to stew in what had by then become known as England, it was further enriched over the centuries from the top down by sophisticated scholars, shamelessly plundering Latin and Greek lexicons, and from the bottom up through the reluctant incorporation into grammar books and dictionaries of the unspeakable slang of defiant youth. This exceptionally hybrid nature of the English lexicon is sometimes used as a selling point (for example, among all 6,000 languages in the world today, where could Belgium have found a more miraculously balanced compromise between Dutch and French?). But this has nothing to do with intrinsic suitability, and, in any case, this contingent convenience is lost as soon as native speakers of languages that are neither Latin nor Germanic enter the picture.

Nor is it otiose to reiterate, whenever an opportunity arises, that the choice of English is not rooted either in any ethnic superiority of its native population – by now anyway a rather mixed bunch of

people that owes its large size far less to the reproductive zeal of the Angles' remote offspring than to the sequencing of the waves of migration into North America and to the efficiency of the gigantic immersion language course offered daily to millions of migrants in US schools and streets, workplaces and shopping malls. Had the Angles been too feeble to build boats strong enough to take them across the Channel, or had the Brits of the 5th century been able to resist the Germanic invaders as effectively as their 20th century successors, the linguistic landscape of the world would, no doubt, be quite different from what it has turned out to be. But to explain the recent past of language spread and to predict its future, a less dramatic but no less powerful micro-mechanism is bound to be relevant: the explosive interaction of probability-sensitive learning – the higher the probability with which one practices (and expects to practice) a language, the more quickly and thoroughly one learns it – and maximin communication – the language that systematically tends to be picked for communication in a context of linguistic diversity is the language best known by the conversation partner who knows it least well. To illustrate: if three Flemings and a Francophone are having a conversation, they are most likely to speak French because the person who knows French least well (one of the Flemings) knows it better than the person who knows Dutch least well (the Francophone) knows Dutch. But imagine a Swede joins the group, with an excellent knowledge of Swedish and English, but little knowledge of French and none of Dutch. Now communication is most likely to switch abruptly to what has become the maximin language in this new context: as even the Francophone can be expected to know English far better than the Swede knows French, it is now English that is "best known by the conversation partner who knows it least well" and will therefore be spontaneously chosen in order to minimize exclusion. (cf. *LJ* §§ 1.3 to 1.5).

3. Symbolic equality

All this may be worth rehearsing whenever arrogance surfaces, but it would be foolish to expect this to be sufficient to secure the equal dignity of all languages and their native speakers. More significant is the ritual, sometimes ceremonial, affirmation of the equality of all recognised languages. In contexts of high symbolic significance, using just one of the languages present is like hoisting just one of the national flags or shrinking the others to the size of handkerchiefs.

For example, it is no doubt a commitment to something like this equal dignity that led President Valéry Giscard d'Estaing, when solemnly opening the European Constitutional Convention in February 2002, to take the trouble to say 'Mesdames et Messieurs' in the EU's (then) eleven official languages. Far more significantly, in addition to reasons of a more pragmatic nature, symbolic considerations are also prominent in supporting the obligation to publish all EU legislation in all official languages or the right of each member of the European Parliament to express themselves in their national language.

However, as the number of recognised languages has grown from the original four of the 'European Communities' to the present twenty-three, and as competence in the lingua franca continues to spread, the equal use of all languages in all circumstances that can be regarded as symbolic becomes increasingly time-consuming, tedious, confusing and costly, and increasingly perceived as such.

Take, for example, the citizens' right to have directly applicable EU legislation available in their own language. As technical legislation becomes as easy or easier to understand by those concerned if read in English than in their native language, it will become ever more pointless to translate it at great expense of jurilinguistic expertise into twenty languages, in several of which some texts will not be read

even once. Would it be unacceptable to drop the requirement of availability in all languages? Would it clash with the requirement that all citizens should be equal before the law, and hence be reasonably expected to possess the ability to understand it? Given the spread of English amongst the younger generations, it will soon be the case that such a regime would be no worse than existing national regimes in their relationship to most immigrant linguistic communities, however large, and to several regional linguistic minorities. As competence in English spreads to the point of being known, on average, just about as well as national languages are currently by linguistic minorities, the principle of equality before the law and the presumption of knowledge of the law would hardly be at greater risk under a unilingual European regime than it currently is under many national unilingual regimes. The additional difficulty (if any) created by the use of English will be negligible compared to the difficulty inherent in the use of (sometimes needlessly intricate) legal jargon. Indeed, because of the many mistakes that unavoidably creep into translations that cannot realistically be treble-checked by experts and because, in case of ambiguity or discrepancy, courts will have to decide which version is the authorized one, equality before the law will be better served if all are expected to directly use the authoritative version

For another example, consider the right of the members of the European Parliament to express themselves in the language of the people they represent. With the growth in the number of languages, communication in the plenary sessions and committee meetings of the European Parliament is slowed down and becomes more uncertain as a result of interpretation having to use a relay language. At the same time, competence in English spreads both among potential EP candidates, their immediate addressees and among the people back home to whom accountability is due (cf. Mamadouh & Hofman 2001). Hence a growing pressure on MEPs, starting with those with less widespread native languages, to express themselves in English, even in formal, symbolically laden contexts, not only in informal ones. The recruitment pool of qualified MEPs will hardly shrink, the mutual understanding between participants will be significantly enhanced, and the degree of accountability to the electorate will hardly be reduced. Once only the symbolic value of asserting the equality of languages by using one's mother tongue is left to justify a costly and cumbersome practice, the latter will have a hard time surviving.

It does not follow that there is no long term prospect for the symbolic assertion of equal linguistic diversity. But the ambition will need to be modest indeed. In the many contexts where using all languages, for the reasons mentioned, is out of the question, one formula consists of using a subset of them as a symbolic reminder of the diversity of European languages and a public denial of Anglophone despotism. This is a delicate path to tread, as expanding the subset beyond a single language unavoidably creates the risk that those whose language is still excluded will feel further belittled. The criterion of selection must be such that it can itself claim some symbolic significance. One obvious possibility, very commonly used, is to combine the use of English with the official language of whichever country a particular communication happens to take place. But this option is not available when communication is 'deterritorialised', as is the case when it operates on the web, which is happening more and more, or indeed when it is being staged in Brussels, increasingly perceived as the capital of the Union rather than as the national capital that happens to host the bulk of its institutions.

Under such circumstances, an option sometimes adopted consists of using on the same footing the three working languages of the European Commission: English, French and German. Why French and German in addition to the lingua franca? One justification is that, while belonging each to one of

the two main language families within the EU, they are the two most widely spoken languages that have the majority of their native speakers inside the EU. Another is that the EU would never have existed had France and Germany not found the strength, under inauspicious circumstances, to make the founding move. Whenever location needs to be factored out, stopping at these three languages is, therefore, arguably less arbitrary, with regards to symbolic significance, than any other short list of languages. As the EU ages away from its founding moment and/or as the French-German partnership plays less of a driving role in its further development and/or as continued enlargement reaches far beyond the Latin and Germanic domains, the feeling of arbitrariness is bound to grow, along with impatience with giving a symbolic privilege to French and German that interferes with pragmatic considerations, typically by occupying space and, thus, shrinking the size and effectiveness of written messages or by occupying meeting time with speeches intelligible to only a minority. For analogous reasons, it seems a particularly bad idea to maintain the prevalence of French in the European Court of Justice (cf. Aziz & Van Parijs 2002). The symbolic denial of English-only by using a less widely understood language can only increase the average level of alienation.

In the long term, therefore, the symbolic assertion of the equality of languages may well amount to very little, for example the way in which the various EU institutions choose to display their names on the front of their headquarters. A quick look at the five institutions based in Brussels reveals very different choices. The European Parliament is clearly the institution that takes linguistic equality most seriously. The plaques on which it identifies itself use all 23 languages, and room has cautiously been made for a couple of vacant slots. The cost of renewing the plaque as the number of official languages expands is negligible, however, relative to the cost in terms of effective communication. Amidst the information overload that surrounds us, cluttered, mostly unintelligible messages are at a great disadvantage, even simply to convey such elementary, largely self-evident information. By contrast, the Council of Ministers took the easy route of opting for Latin: it calls itself the 'Consilium', its building is called 'Justus Lipsius' and it was inaugurated by Olivier de Charette, 'praesidens'. Present for the longest time and most massively, the European Commission is still sticking to the ever less plausible fiction that it is simply hosted in Belgium's officially bilingual capital and, therefore, consistently endeavours to conform to the local legislation by using Dutch and French to name itself and the relevant 'Direction Générale' next to the entrance of each of its buildings, as if the locals were the sole or chief addressees of these messages. Since the renovation of the Berlaymont, its central building, provided it with the possibility of posting huge slogans above the Rond-Point Schuman, the Commission gave up this fiction and opted squarely for English, occasionally adding French and Dutch in smaller print. As for the Committee of the Regions, it replaced its initial English-only name by a French-Dutch inscription, while later celebrating, in English only, the 50th anniversary of the Treaty of Rome. Finally and most anomalously, the Economic and Social Committee, which shares the same building as the Committee of the Regions, decided to name itself in English and French and has been sticking to it – so far.

What this somewhat embarrassed linguistic gymnastics shows is that, even in the case of very elementary and highly symbolic messages, there is a strong tension between the requirement of communicative efficiency and the wish to assert the equal dignity of all recognised languages. The larger the number of recognised languages, and the more widespread the asymmetric learning of just one of these languages becomes, the stronger this tension. Attempts to dodge the issue by going for the Council's nostalgic Latin option or for the Commission's fictional Dutch/French option are gradually giving way to formulas that give English a paramount role, while paying increasingly

marginal lip service to other languages. The symbolic assertion of equality, therefore, ends up hardly less promising than demystification as an effective way of pursuing linguistic justice as equal dignity.

4. Linguistic territoriality

There is, however, a third and arguably far more credible way of expressing, and thereby pursuing, the equal dignity of the various languages concerned and the associated identities. In the European case, it consists of allowing each of these languages to be 'queen' in some part, large or small, of the EU's territory, thereby granting a privilege, within the limits of that territory, to the identity associated with the language to which that territory has been ascribed. Within those limits, it is that language, and not a lingua franca, that is given the top function, and that operates as the official language of the population as a political community. This guarantees that it is not always the same people who need to do the bending down. It allows each linguistic community in turn, depending on location, to be the special one. It inhibits arrogance by blocking universal supremacy. The symmetry entailed in such a setup is the only really significant way in which linguistic justice as equal dignity can be implemented, consistently with full acceptance of the systematic asymmetric bilingualism inherent in the adoption of a lingua franca.

For this strategy to work, it must be realistic to expect those who settle in a particular territory to have the courage and the humility to learn the territory's official language, if they do not know it already. Under the present conditions of comparatively high mobility and lingua franca spread, this requires the implementation of fairly strong versions of what I shall call a 'linguistic territoriality regime', i.e., a set of legal rules that constrain the choice of the languages used for purposes of education and communication. The total absence of a linguistic territoriality regime would correspond to a regime in which the choice of language in any context is simply demand-driven: a language will be allowed for a particular purpose if a sufficient number of people want it to be used, with all linguistic aspects of social life adjusting swiftly to people's preferences under the sole constraint of threshold levels imposed by a cost-conscious use of resources. Whether a linguistic territoriality regime is in place is, therefore, a matter of degree: it is dependent on how firmly legal rules constrain this 'spontaneous' choice of language within the confines of a particular territory.

In the sense in which I shall be using the expression, therefore, a linguistic territoriality regime is not simply a language regime that is determined by the authority that rules over a particular territory. The language(s) that one is allowed to learn at public expense, to speak and write while expecting to be understood by public officials, or to use for accessing public information and services, is always specified, explicitly or not, by the legislation of the territorially circumscribed political entity in which one might wish to exercise these various rights. In this broad sense, all language regimes, like all legislation, instantiate a territoriality principle, just as they instantiate a personality principle in the general sense that the rights they create are ascribed to individual persons. As I shall use it here, the notion of a linguistic territoriality regime does not refer to how much power linguistically distinctive communities are given over linguistically relevant legislation, but to how constraining or, on the contrary, accommodating public practices are to the linguistic wishes of the people who happen to live within given borders, irrespective of whether the relevant legislative authority corresponds to those borders. The more linguistic practices are restricted for reasons that cannot be reduced to a lack of sufficient demand, the stronger the linguistic territoriality regime involved and the smaller the room left for what is sometimes called a linguistic personality principle in the specific sense of each

person being entitled to freely use his or her preferred language for communication in any context (cf. Patten 2003 and Réaume 2003).

Whether out of a concern for freedom, for privacy or for effective implementation, existing linguistic territoriality regimes tend to confine themselves to the coercive regulation of (state-organised or state-subsidised or at least state-recognised) education and to communication in public settings. The latter typically covers the internal working language of public administration and the language in which public officials communicate with the public, the language in which the courts operate and in which the public media broadcast, the language in which official information is displayed in public spaces, sometimes also the language of commercial messages in public spaces and of formal business in large private firms, and the language in which laws are published, elections organised and proceedings conducted in local, regional or national assemblies.

In all these cases, the coercive rules that define the linguistic territoriality regime interfere with the spontaneous interaction of probability-sensitive learning and maximin communication, as briefly outlined above. They typically impose public education in the local language on those who would prefer to have their children taught in another language. Or they impose administrative or judiciary procedures in the local language, even in cases where another language would better facilitate mutual understanding. As a result, more people will learn the local language, or will learn it more thoroughly, than if probability-sensitive learning had been left unconstrained, thereby increasing the frequency with which the local language will be the maximin language. At the same time, more interactions will occur in the local language than if maximin were given free rein, thereby creating both a stronger incentive and a wider opportunity to learn the local language. Consequently, the fact that the language of private communication should be immunised from the coercive grip of the linguistic territoriality regime does not mean that it is immune to its influence: the choice of the language picked as the medium of schooling and public communication can obviously be expected to have a profound impact on linguistic competence and hence on the spontaneous (maximin-guided) choice of language in totally uncoerced private communication.

In the standard case of a linguistic territoriality regime, one single language is imposed throughout the country concerned in the various contexts deemed to be in need of regulation. But in several cases, different languages are imposed in different parts of the same country. And in some cases, more than one language is imposed in a part of a country or in a whole country (think, for example, of Catalonia and Luxemburg, respectively). Often applied unwittingly by nation states, the linguistic territoriality regime becomes salient when introduced, modified or strengthened as part of the formation of a new sovereign state (from Norway to Bangla Desh, from Estonia to East Timor), but it has also been present from the start in the highly decentralised plurilingual Swiss Confederation and has been introduced, under strong pressure from the dominated linguistic communities, in a number of other plurilingual states such as Belgium in 1932 (with a number of explosive exceptions) and Canada in 1975 (with Quebec's notorious 'Law 101'). As democracy spreads or deepens throughout the world, especially in that majority of its states whose populations are more than marginally plurilingual – bearing in mind that there are over 6,000 languages, yet barely more than 200 sovereign states –, the linguistic territoriality regime will and must play an ever more important role.

If the local language is a powerful language, which most immigrants spontaneously have a strong incentive to learn, the territoriality principle will hardly be felt, as only a very light constraint may be enough for the spontaneous interaction of differential learning and maximin communication to take over and keep that language firmly in place. But when this is not the case, when the spontaneous

incentive to learn is weak, the enforcement of the territoriality principle will require perceptibly coercive measures, more or less visible, more or less effective, and more or less resented by parts of the population, non-natives and natives alike.

5. Laponce's law and the survival argument

Intelligently designed, a linguistic territoriality regime is both necessary and sufficient to keep competence in a local language sufficiently high and universal for that language to fulfil, legitimately and sustainably, the top function as the official language of the political community. And this, in turn, is necessary and, if anything, is sufficient to secure equality of dignity between those peoples whose identities are closely associated to a language. This is my central argument in favour of linguistic territoriality. I shall consider objections to it below, but want to consider first some related but distinct arguments that may further strengthen the case for linguistic territoriality under specific circumstances.

Firstly, the justice-as-equal-dignity argument for a linguistic territoriality regime gains further strength once linguistic communities understand, and believe that others understand, that in a high-mobility, high-communication context, a linguistic territoriality regime provides the only way of preventing the gradual erosion of their language without being unacceptably coercive. This does not rely on anything like a holistic right of each language to survive, or to have a fair chance of survival. Nor does it appeal to the need to preserve the societal culture associated with a particular community's inherited language as a necessary component of the resources required for leading a meaningful life. All it asserts is that the argument for a linguistic territoriality regime on grounds of equal dignity becomes stronger once it is understood to be the only effective and acceptable way of preventing the gradual extinction of the language with which a community's identity is linked. To understand this, it is important to realise that there are two fundamentally distinct mechanisms that threaten the survival of languages.

One of these mechanisms is top-down, and consists of a national political authority deliberately imposing the national language at the expense of local idioms, mainly through compulsory schooling and compulsory military service. As the trans-national migration of individuals and families has expanded, the same tool of compulsory education in the national language, routinely coupled with a stigmatisation of the immigrants' original languages, has been massively used to secure the assimilation of immigrants and their offspring. The same basic process applies in one case to the linguistic assimilation of dialect users and national minorities stuck within the borders of a state with an official language different from their mother tongues, and in the other to the assimilation of ethnic minorities stemming from immigration. In both cases, it can be aptly described, using Gellner's (1993: 139-140) telling metaphor, as a mechanism that gradually converts the linguistic map — and tirelessly re-reconverts it, as new stains appear — from a Kokoshka landscape into a Modigliani portrait, from a motley patchwork of coloured spots to a neat juxtaposition of smooth surfaces demarcated by firm lines.

However, this Gellner-type, top–down, state-driven mechanism does not constitute the only mechanism through which weaker mother tongues become displaced by stronger ones in a post–agrarian, frequent-contact, high-mobility context. There is another, bottom–up, people-driven type of mechanism, a soft brand of Modiglianisation as it were, which can be captured in what I shall call 'Laponce's law': the kinder the people, the unkinder the languages (cf. Laponce 1984, 1993, 2006).

Languages can coexist for centuries when there is little or no contact at all between the parts of the population that speak it. But as soon as people begin talking, trading, working with each other, courting each other, having children together, the weaker of the two languages will be slowly but inexorably driven out by the other, by the one which people have a stronger incentive to learn because of its being more prestigious or more widely spread. This macro-law is nothing but one macroscopic reflection of the interaction of the two micro-mechanisms referred to earlier: probability-sensitive learning and maximin language-use.

Quite often, the top-down and bottom-up mechanisms operate side by side and reinforce each other. But sometimes the Laponce-type mechanism is observable in a fairly pure form, for example in Quebec until 1975, in Flanders between 1898 and 1932, or in Brussels up to the present-day. In these areas and periods, officially-affirmed bilingualism is supposed to have switched off the Gellner–type mechanism with regard to the two recognised languages, while the dominant language (English in Canada, French in Belgium) keeps spreading at the expense of the weaker one through differential conversion rates of both natives and newcomers. It is precisely the realisation of the steady progress of English in Montreal (despite the inflow and higher birth rate of catholic francophones) and of the steady progress of French in Brussels and all major Flemish cities that gave the key impulse to the demands for a linguistic territoriality regime as a more serious way of implementing the equal dignity of the two languages than the sheer formal assertion of equality and nationwide bilingualism (cf., e.g., Levine 1990 on Montreal and Nelde & Darquennes 2001 on Brussels).

Because language is a means of communication, there is an intrinsic vulnerability of the weaker language, which does not plague in the same way other components of culture, such as religious practices or cooking habits. How quickly the stronger language will invade contexts previously occupied by the other will vary greatly as a function of factors such as the scope of immigration, the progress of urbanisation, the degree of residential and educational segregation, etc. But once the linguistic communities involved become aware that 'laissez-faire' leads to the gradual erosion of one of the languages, it is difficult for those who identify with it not to feel despised, treated unjustly, denied equal dignity, when they are not allowed to use effective means to prevent this predictable agony.

6. Language survival without territory?

According to perceptive observers of this process, such as Jean Laponce for Canada or Alexandre Papaux (1997) for Switzerland, these effective means can only be provided by a linguistic territoriality regime. But is there really no alternative? After all, if people do not want their language to die, it is simply up to them to use it. However, two features of the mechanism that leads to the erosion of a weaker language combine to prevent this voluntaristic alternative from holding much promise.

To start with, there is the standard collective action problem as it applies to the choice of language for both education and communication purposes. Consider education first. Parents may realise that if everyone sends their children to dominant language schools, their own language will gradually whither away, and they want to prevent that. But if other native parents do not opt for the dominant language school, the language will not whither away, and it is then in the interest of each family, taken separately, to send its children to such a school. If others do defect in this way, on the other hand, no particular family will make a difference and each may therefore just as well send its children to a dominant language school. With regard to communication, consider the case of shopkeepers in an

area with many customers who speak a dominant language different from the local one. Again, whether their competitors comply or not with the voluntary policy of deviation from the maximin in order to save their language, it will be in any particular shopkeeper's self-interest to try to gain or retain customers by defecting, i.e., by accepting to use the dominant language. To prevent individual rationality from defeating the attainment of an option preferred even by all members of a particular linguistic community, tireless collective mobilisation would, therefore be required. Whether in matters of education or communication, well-targeted legislation is so much less onerous than the strenuous informal monitoring and painful mutual sanctioning without which the voluntaristic strategy cannot durably succeed.

Secondly and even more crucially, one must remember that, in the terms I used to formulate Laponce's law, it is the kindness of the people that provides the stronger language with its unkind claws. Speakers of the weaker language can, in order to block the process leading to its disappearance, insist on speaking their own language and on pretending they understand nothing else in the many informal contexts in which the dominant language is the maximin language, and is, therefore, the one that makes communication most fluid and mutual understanding least problematic. Implementing the will to maintain one's language through this stubborn, exclusionary and 'unkind' insistence on using one's language unavoidably generates a permanent climate of face-to-face tension between members of the two linguistic communities. Coercively imposed rules, even imperfectly enforced, have the advantage of reducing – without suppressing – these strains: it is less 'aggressive', 'nasty', 'sectarian', 'unwelcoming', 'petty-minded' to say "Sorry, I know it is stupid, but the law does not allow us to provide schooling, information or other services in your language" than to say "Sorry, I refuse to listen or speak to you in your language, or to provide services in the language in which you would find it easiest to receive them, even though nothing but my bad will prevents me from doing so."

Once it is admitted, for these two reasons, that voluntarism does not provide a serious alternative, and hence that some set of coercive rules regulating the teaching and public use of languages is required, it still does not follow that these coercive rules should take the form of a linguistic territoriality regime. The linguistic constraint needed to protect the weaker language could, in principle, either apply to all people in a specific place – the linguistic territoriality regime – or to specific people wherever they are. The latter option could be called a linguistic personality principle, interpreted this time in a coercive sense, not in the permissive sense mentioned above (section 2): people with a specific mother tongue would be obliged to learn or use it in specified contexts, wherever they happen to be inside the area in which the legislation applies. This second option is not exactly as commonly used as the first one. The compulsory use of Hebrew, Latin or Arabic for liturgical purposes could be interpreted as approximations of it, and so can the restriction to parents who did not graduate from Quebec's English-language school system of the obligation to send one's children to a French-language school, or a rule briefly implemented in Brussels in the 1970s that forced people educated in Dutch to send their children to a Flemish school.

Which of the two formulas offers a stronger guarantee of survival to a threatened language depends on the respective probabilities of the homeland running empty on the one hand and of the race losing interest in procreation (or intermarrying heavily) on the other. The first formula, however, has several decisive advantages over the second one, which jointly account for its far broader adoption. Firstly, it is arguably less coercive: one can change one's residence, not one's native tongue. Secondly, it is far easier to implement because of the place-bound nature of many of the services concerned (educational, administrative, judiciary, etc.). The third reason is more subtle, yet ultimately the most

important. To understand it, let us remember the fundamental objective assigned here to the implementation of a linguistic regime. The aim is not, as such, to guarantee the survival of a vulnerable language, but to secure the equal dignity of the identity associated with it. And for this objective to be achieved, it is not enough that survival of the language should be secured. The latter must also be enabled to function in top position, i.e., as the public language of its native speakers' political community. At first sight, this could be achieved through a devolution of powers to non-territorial as well as territorial linguistic communities. But this is not the case, for reasons that are worth spelling out.

The non-territorial linguistic federalism thus suggested was proposed by Karl Renner (1918), the Austrian social-democratic thinker and statesman who first set out to think systematically about how democracy could function in a multilingual context. In his elaborate proposal, each of the eight "nations" comprised in the Austro-Hungarian Empire (Germans, Czechs, Poles, Hungarians, Slovenes, Slovaks, Croats, Italians) were to be given their own parliament and granted full autonomy in matters of culture, education and some aspects of social policy, with issues of joint concern settled through negotiation between the representatives of the various nations. The Austro-Hungarian Empire fell apart shortly after the book was published, and Renner's scheme was therefore never tried in the context for which it was meant. But some form of non-territorial federalism was tried elsewhere, for example in Estonia in 1925, in Cyprus in 1960 and in South Africa in 1984, yet never with great success.

This is hardly surprising, as it has two intrinsic defects, which territorial federalism avoids. One is that it is akin to racial apartheid in giving people living in the same places access to services that may be of greatly different quality, at least if the linguistic divide correlates with economic inequality, simply by virtue of a feature – one's mother tongue – which is hardly less a matter of arbitrary luck than one's race. The co-existence of unequal rights in different places does not have the same humiliating, degrading nature. The other defect derives from the irreducibly spatial nature of any coherent, comprehensive project for a political community. There is a deep structural strain inherent in any set up in which distinct political communities elaborate and discuss their own projects separately and then need to negotiate and compromise with each other on countless issues, because they happen to share the same territory. Non-territorial political communities, therefore, are not the way to go.

Consequently, if Laponce's law is to be counteracted, territorial legal constraints are to be strongly preferred to personal ones, not only because they are less coercive and more convenient to implement, but also because they are far better suited to enable each protected language to sustainably function as a political language, and hence to be granted the corresponding dignity.

7. Conclusion: the way forward

There is no point denying that the implementation of a linguistic territoriality regime generates, in some cases, a set of tricky difficulties. Which languages are going to be allowed to "grab a territory"? Where will the borders lie? What about the dignity of linguistic communities without a territory to which they can lay claim? What about the cost resulting from the adoption of a territoriality regime by a relatively small linguistic community, not only in the form of diseconomies of scale, but above all in the form of the human capital it will fail to attract (cf. Van Parijs 2000 and *LJ* chapter 5)? And what if there is a sharp disagreement, among people sharing the same territory, about whether the cost is

worth bearing? What, in particular, if collective identification with the language is, for a majority, no stronger than identification with local dialects in emerging nation states?

These various questions deserve close attention, especially as one broadens the range of languages under consideration beyond the EU's 23 official languages and as one considers multilingual contexts with national languages less firmly established than in the EU. In the present European situation, however, there is little doubt that the entrenchment of a linguistic territoriality regime for all official languages is a minimal part of what is required to achieve justice as equal dignity, over and above the symbolic assertion of equality, which is bound to keep losing significance. The case for linguistic territoriality can be further strengthened by arguing that it provides the only effective and admissible way of preventing the withering away of weaker languages and hence of preserving linguistic diversity, or by arguing that it greatly contributes to the pacification of ethnic relations (cf. the discussion of Fearon & Laitin's 'sons of the soil' argument in *LJ* chapter 5). But these additional arguments are either less robust ethically – there is nothing intrinsically good about linguistic diversity –or more contingent empirically – linguistic territoriality is not universally the surest way of securing peace.

The central argument, therefore, remains that a linguistic territoriality regime, when intelligently designed, is both necessary and sufficient to keep competence in a local language sufficiently high and universal to enable that language to fulfil, legitimately and sustainably, the top function as the official language of a political community. And this, in turn, is necessary and, if anything, is sufficient to secure equality of dignity between peoples whose identities are closely associated with a language. Of course, the territories grabbed by the various languages will be far from equal. Some will be bigger than others, prettier, richer, more glamorous, more populated. But whether lavish or modest, there will be a place for every recognised language to be on top, and for the associated identities to be correspondingly honoured.

Consequently, we need a firm assertion of the legitimacy of linguistic territoriality in today's Europe, both because linguistic justice matters for its own sake – whether interpreted as fair cooperation, as equality of opportunity or as equality of dignity – and because feeling that the key issues of linguistic justice are being seriously addressed will make us all more relaxed in converging towards universal competence in one common lingua franca. And without such convergence (as argued in *LJ* chapter 1), there is no hope that we shall ever be able to design and adopt the efficient and fair policies and institutions that Europe and the world urgently need.

References

Anderson, Benedict R.O. 1993. "Nationalism", in *The Oxford Companion to the Politics of the World* (Joel Krieger ed.), Oxford: Oxford University Press, 614-619.

Aziz, Miriam & Van Parijs, Philippe. 2002. "Language Legislation for XXIst century Europe", Université catholique de Louvain: Chaire Hoover, DOCH 87, http://www.etes.ucl.ac.be/Publications/dochs.htm.

Fearon, James D. and Laitin, David D. 2000. "Sons of the Soil, Immigrants and the State", Stanford University: Dep. of Political Science.

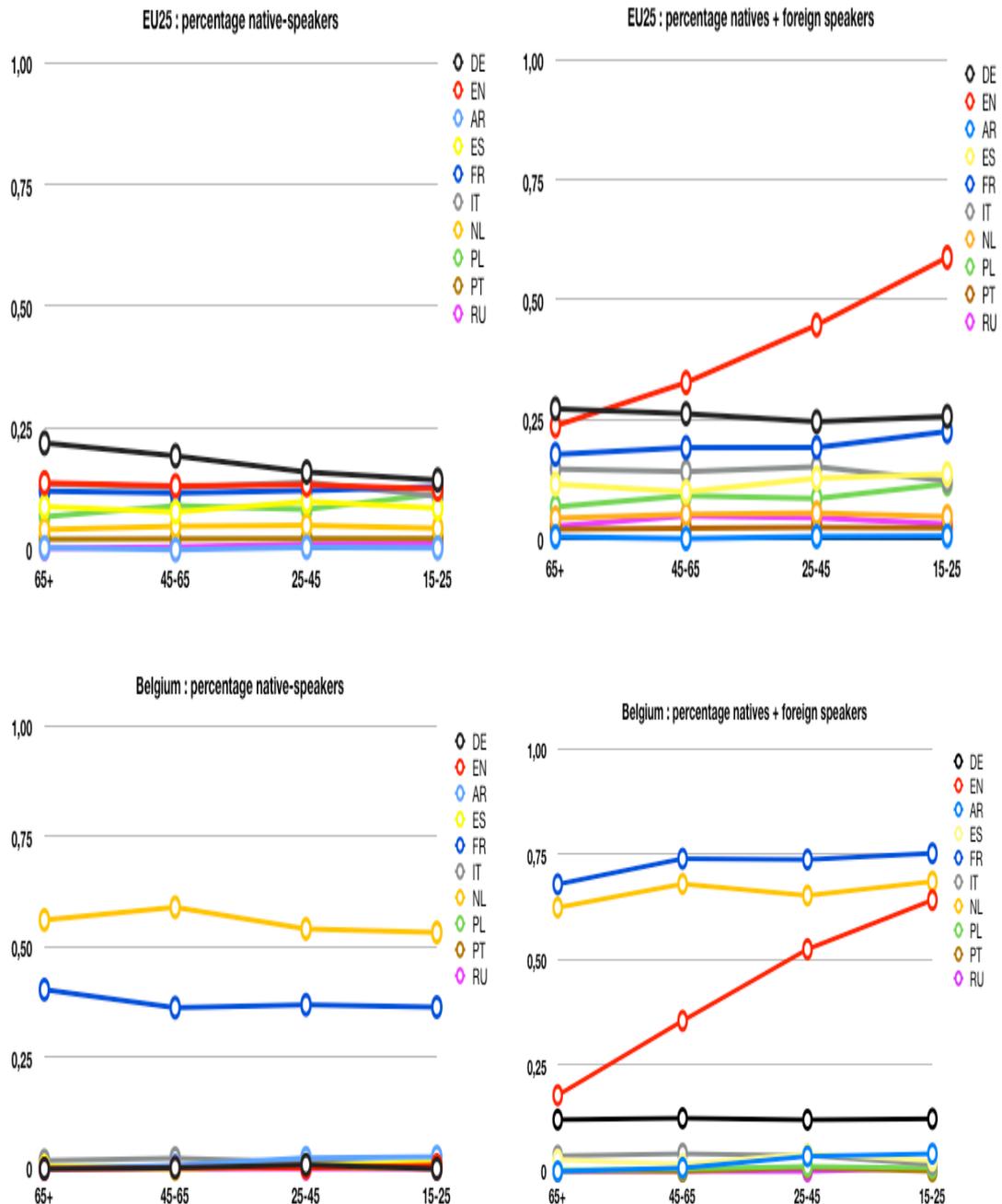Gellner, Ernest. 1983. *Nations and Nationalism*. Oxford: Blackwell.

Kodelja, Zdenko & Krivic, Matevz. "Language Rights in Education in Slovenia", in *Education, Law and Language Rights*, Antwerp: European Association for Education, Law and Policy, 2007, 1-17.

Laponce, Jean. 1984. *Langue et territoire*. Québec: Presses uniersitaires de Laval. (Translation: *Languages and their Territories*. Toronto: University of Toronto Press, 1987.)

Laponce, Jean. 1993. "The Case for Ethnic Federalism in Multilingual Societies: Canada's Regional Imperative", *Regional Politics and Policy* 1 (3), 23-43.

Laponce, Jean. 2004. « Comments on Laitin and Grin », in *Cultural Diversity versus Economic Solidarity* (P. Van Parijs ed.), Brussels: De Boeck Université, 2004, 203-10, www.etes.ucl.ac.be/Francqui/Livre/Livre.htm

Laponce, Jean. 2006. *Loi de Babel, et autres régularités des rapports entre langue et politique*, Québec: Presses de l'Université Laval.

Levine, Marc V. 1990. *The Reconquest of Montreal. Language Policy and Social Change in a Bilingual City*. Philadelphia: Temple University Press.

Mamadouh, Virginie & Hofman, Kaj. 2001. *The Language Constellation in the European Parliament, Report for the European Cultural Foundation*, Universiteit van Amsterdam, August 2001, 79p.

Nelde, Peter & Darquennes, Jeroen. 2001. "Sprachwechsel in der Großstadt – eine Brüsseler Perspektive, in *Mehrsprachigkeit in der Romania* (Joachim Born ed.), Wien: Praesens, 2001, 91-104.

Papaux, Alexandre. 1997. "Droit des langues en Suisse: Etat des lieux", *Revue suisse de science politique* 3 (2), 131-134.

Patten, Alan. 2003. « What Kind of Bilingualism ? », in *Language Rights and Political Theory* (W. Kymlicka & A. Pattern eds.), Oxford : Oxford University Press, 2003, 296-321.

Patten, Alan. 2006. "The Justification of Minority Language Rights", IPSA Conference, Fukuoka (Japan), June 2006, 37p..

Réaume, Denise G. « Beyond Personality : The territorial and personal principles of language policy reconsidered », in *Language Rights and Political Theory* (W. Kymlicka & A. Pattern eds.), Oxford : Oxford University Press, 2003, 271-95.

Renner, Karl. 1918. *Das Selbstbestimmungsrecht der Nationen, in besonderer Anwendung auf Oesterreich*. Leipzig & Wien: Franz Deuticke.

Van Parijs, Philippe. 2000. "The Ground Floor of the World. On the Socio-Economic Consequences of Linguistic Globalisation", *International Political Science Review* 21 (2), 2000, 217-33.

Van Parijs, Philippe. "Europe's Linguistic Challenge", *European Journal of Sociology* 45 (1), 2004, pp. 111-152.

Weinstock, Daniel. 2003. "The Antinomy of Language Policy", in *Language Rights and Political Theory* (W. Kymlicka & A. Patten eds.), Oxford : Oxford University Press, 2003, pp. 250-70.

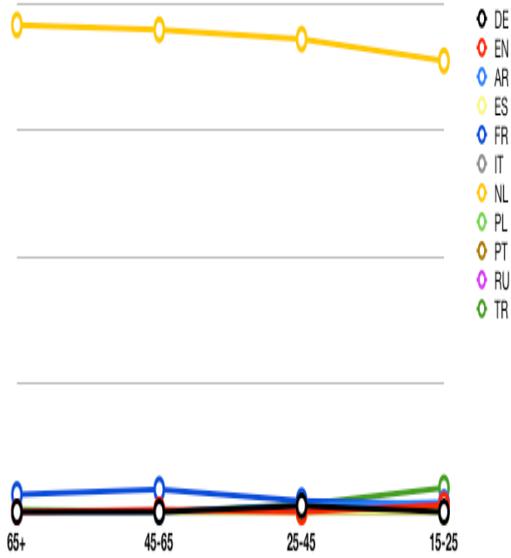# Appendix: language trends in Europe and in Belgium

Percentage of people in each age group who say that they have a particular language as a mother tongue / who say they speak that language well or very well as a foreign language.

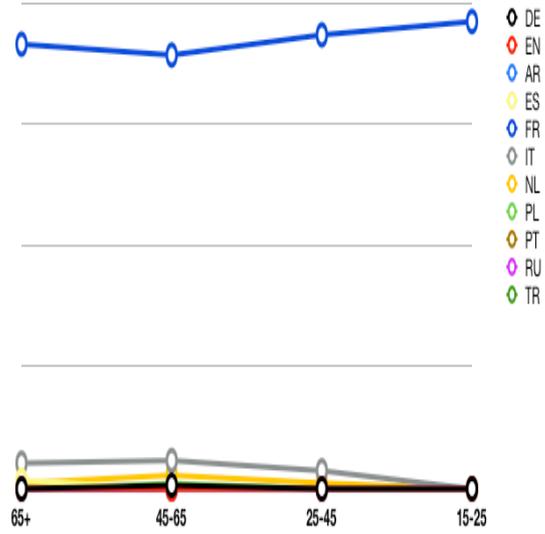Source: European Commission, Database Eurobarometer Languages 2006.

Data processing and data: Jonathan Van Parys.

EU25 : percentage native-speakers

EU25 : percentage natives + foreign speakers

Belgium : percentage native-speakers

Belgium : percentage natives + foreign speakers
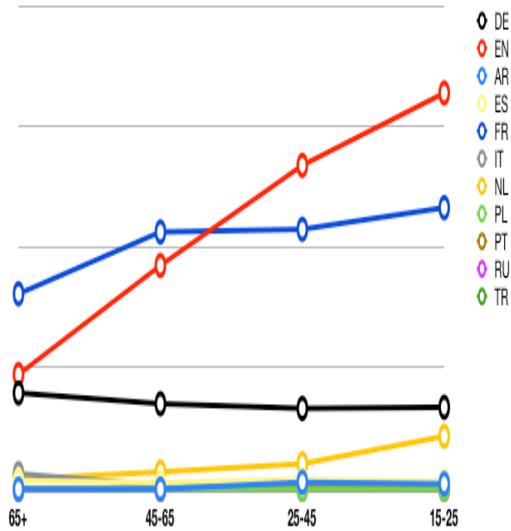
Vlaanderen : percentage natives

Wallonie : percentage natives

Vlaanderen : percentage foreign speakers

Wallonie : percentage foreign speakers

20