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# Liberalism and Language Policy in “Mere Number Cases”

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### 1. INTRODUCTION

Many languages find themselves under threat because their speakers have been subjected to injustices. Colonialism and nation-building are the two most prominent political forces that have led to considerable pressure being placed on speakers of languages deemed to be “backward” and “uncivilized” to abandon the languages of their forebears in order to take up those of their colonial or metropolitan masters.

I have argued elsewhere (Weinstock 2014) that where the loss of language is due to unjust political projects such as these, some form of redress is justified on grounds of corrective justice. Now, it does not follow from this that that redress need take the form of language reclamation. Some groups may decide that their language is simply no longer viable, and claim compensation for past and present harms in another currency. But in cases in which such groups do decide to enact what may in other contexts seem to be illiberal measures geared toward reclaiming or stabilizing a language, such measures can be justified on grounds of justice, where they might not be justified absent the context of injustice.

My argument leaves open (at least) three questions. First, there is the question of time. How long in the past must injustices be buried before they can no longer be appealed to in order to justify measures aimed at preserving a language? This is a difficult question. Injustices can continue to have causal consequences well beyond the actual occurrence of unjust political acts. For example, as we shall see in this chapter, the size of a language group

can make a difference to its being able to retain its members in the face of the attractions presented by larger, and thus more communicatively effective, languages. But the size of a language group can result from injustices that have occurred in the distant past (Waldron 1992; Perez 2012).

A second question has to do with the nature of the policies and measures that can be deemed to constitute injustices. Colonialism and the more aggressive kinds of nation-building that occurred in Europe in the nineteenth century involved forcibly removing children from their linguistic communities, prohibiting the use of local languages in education, and instilling in speakers of languages of oppressed groups a sense that their languages were somehow of lesser value than those of their masters. But what of the high levels of asymmetry in terms of power and influence that characterize the current global economic scene? For some, this asymmetry is simply a consequence of market processes that are largely beneficial to all concerned, including to those people who find themselves at the bottom of the economic hierarchy. For others, the rules and treaties that make up the contemporary financial and economic scene amount to a form of “neo-colonialism.” For the former observers of contemporary international and transnational interactions, the linguistic impact of economic activity, though arguably regrettable, does not present the kinds of injustices that might justify groups in taking measures through which they constrain the linguistic choices of their members in order to preserve a threatened language. For the latter, the pressures that are brought to bear upon economically weak language groups to adopt the languages of the economically powerful are redolent of the same species of injustice that characterized the more blatantly coercive and violent periods of European colonialism.

A third question, upon which I will be focusing in the present chapter, has to do with the question of whether, within the context of a broadly liberal-democratic ethics, justification can be given to policies which constrain the linguistic choices of members with a view to preserving a language in contexts in which none of the injustices that have been mooted thus far in this chapter obtain. Let me refer to such cases as “mere number cases.” The term is used to denote the idea that where linguistic groups of radically different sizes interact against otherwise fair background conditions, the effect of mere number may

be to incentivize the speakers of the smaller language to move to the language of the larger group. The question I will be asking myself is whether there can be a (broadly) liberal justification for the adoption of policies aimed at arresting such processes.

I will proceed as follows. A first section will be devoted to some conceptual ground-clearing. I will describe in greater detail what I mean by a “broadly” liberal political philosophy, and I will show why such a philosophy gives rise to a *prima facie* objection to policies aimed at arresting language drift in such cases through the constraining of people’s linguistic choices. I will then examine three possible justifications for such policies. A first, which might be dubbed “luck-egalitarian,” holds that the failure to correct for an unchosen and undeserved disadvantage itself constitutes injustice. A second argues that liberals can and should countenance certain moderate forms of paternalism – that is, policies that run against people’s preferences – in cases in which agents themselves can be made to recognize that their preferences do not track their good. The third argues that states appropriately act in order to get their citizens out of predictable collective action problems, and that the processes that lead speakers of a “small” language to move to “big” languages in “mere number cases” are an instance of precisely this kind of a collective action problem.

## 2. LIBERALISM AND CASES OF MERE NUMBER: THE *PRIMA FACIE* INCOMPATIBILITY

There are many ways in which to bring out the *prima facie* incompatibility between a liberal political morality on the one hand, and policies that would purport to constrain the linguistic choices of citizens in “mere number cases” on the other. A fairly plausible and intuitive route would be to note that in most of its versions, liberalism views the role of the state as being in part to protect and promote the conditions that allow its citizens to conceive of and to pursue their own conceptions of the good. Liberals are suspicious of moral and political philosophies that do not represent citizens as *agents*. They worry, for example, that utilitarians represent citizens not so much as artisans of their

own lives, but as passive receptacles of pleasant or unpleasant states. They oppose perfectionists who would substitute their own conception of the good for that which citizens define for themselves on the basis of their own reflections on the good.

Now when citizens decide to express themselves in one language rather than another, when they decide to emphasize the teaching of one language rather than another to their children, when they transact business in one language rather than another, they are through their choices making precisely the kinds of choices that liberals believe agents should be able to make without the imposition of external constraint or coercion, and, *a fortiori*, without the coercion of the state. Language is, after all, an important dimension of human existence. Policies that prevent individual agents from making linguistic decisions for themselves are therefore on this view purporting to intervene in an area of life that is central to individuals being able to live according to their conceptions of the good. Proponents of policies that would prohibit individuals from acting on some of their linguistic preferences are moreover in a very weak position to deny this, since their policy preferences are themselves premised upon the importance of language.

Thus, there is at least a *prima facie* case for liberals who view the protection of a sphere of independent choice within which individuals can act on the basis of their preferences as one of the prime responsibilities of the state to oppose policies that would prevent people from acting on these preferences.

But perhaps this opposition raises only theoretical difficulties. After all, why should we expect that there will be any kind of a tension between the linguistic priorities of the state and those of its citizens in mere number cases? Won't citizens be naturally led to want to speak the language in which the state addresses them, without any coercion being required?

The mechanisms which might lead citizens to choose to abandon their language for that of another group have been well modelled by Jean Laponce (Laponce 1984). When two linguistic groups of different sizes interact peacefully – that is, in contexts where, all things equal, members of both groups want interaction to increase rather than decrease – there is greater incentive for all involved to use the “bigger” of the two languages, in order to increase communicative potential. This means that in contexts in which members of

the two groups interact, the larger language will tend to eclipse the smaller. The latter will tend only to get used in “private” contexts, and thus to become folklorized and, over time, to disappear.

These are the kinds of mechanisms that led Philippe Van Parijs, in his seminal book on linguistic justice, to argue that language groups that might find their languages threatened in such an untrammelled context of (friendly) interaction should establish jurisdiction over a territory. Van Parijs argues that sovereignty over a territory will immunize speakers of smaller languages against the corrosive impact of friendly interaction among members of language groups of radically different sizes (Van Parijs 2011).

Two remarks seem apposite in the light of Van Parijs’s suggestion. First, it is an empirical question whether statehood will constitute a sufficient bulwark against linguistic erosion in the case of very small language groups. For example, statehood has not prevented English from being adopted by Scandinavian states as a *de facto* second language, and from achieving dominance there in certain contexts. (Doctoral dissertations are for example standardly written in English in several countries throughout Europe.) Though for the time being this has led to bilingualism rather than to the abandonment of “smaller” languages, there is no guarantee that the “asymmetrical bilingualism” which I have just described will be stable, even within the context of a fully sovereign nation-state.

Another way of putting the point is that there are two ways in which to interpret Van Parijs’s plea for language groups to “grab a territory.” According to the first, weak interpretation, the mere fact of being able to control the levers of the state will represent a sufficient counterweight to the centripetal force of the global *lingua franca* to guard against the language shift that might occur absent the protection afforded by statehood. Thus, the fact that the state addresses itself to its citizens in the local language, and the fact that it accords ‘official’ status to that language, with all of the symbolic freight that attaches to that status, will on this weak interpretation suffice to protect smaller languages from erosion.

According to a second, stronger interpretation, the reason that small language groups should “grab a territory” is precisely in order to be able to enact legislation aimed at protecting their language. Statehood would allow a small linguistic group which would by virtue of its having grabbed a territory be-

come a local linguistic majority to use its control of majoritarian institutions in order to enact coercive legislation aimed at preventing its members from using any other language in key contexts such as business, education, and law.

Liberals, as defined above, would have no problem with the first interpretation of Van Parijs’s principle. After all, it does not follow from the liberal principle that agents should be afforded latitude within which to live according to their conception of the good that they should be able to live in a social environment free of all state-generated incentives. When the state chooses to address itself through public institutions in one language rather than another, it sets up a powerful incentive for citizens to achieve proficiency in that language, and to use it in their interactions with the state. The *prima facie* tension between liberal principles and language protection in a mere number context only emerges where a language group uses its control of the levers of the state in order to *prohibit* certain language choices outright. The empirical assumptions that need to be made in order for the weaker interpretation of the “grab a territory” principle to be sufficient to protect languages are fairly optimistic. It is therefore unlikely that Van Parijs’s proposal will succeed in dissipating the tension.

A second, much briefer, remark should be made in the present context. As Van Parijs is well aware, there is not institutional space on the planet for every vulnerable language to grab a territory. The empirical feasibility of political self-determination for language groups requires, first, that we abandon the expectation that all of the roughly six thousand languages that currently exist will be able to survive, and second, that some language groups exercise self-determination not through full sovereignty, but through appropriate federal arrangements. Van Parijs’s argument therefore cannot be seen as holding that *all* languages should have a secure territorial basis. The question of how many languages should be secured from erosion remains an open one, even if we accept Van Parijs’s main claims (Ginsburgh and Weber 2011).

I prescind from commenting at any length on the first of these issues. Suffice it to say that many groups which are linguistically the most vulnerable, and would therefore presumably be sacrificed at the altar of feasibility by Van Parijs’s principle, are those that have suffered the gravest injustices – think of the First Nations in North America, whose languages are in almost all cases teetering on the verge of viability.

As many political philosophers have noted in recent years, federalism is the solution to the problem of how to make broad and meaningful self-determination compatible with feasibility constraints (Norman 2009). It must be noted, however, that federations are typically sites of linguistic contestation. With rare exceptions (the case of Belgium comes to mind), federations are made up of units of quite different sizes. What's more, in many federations, history and size often conspire to give rise to a situation in which one of the federated entities is able to behave as a "senior partner" within the federation, with all of the attendant linguistic effects that one might expect. Even in a context in which all federal actors behaved in a perfectly just manner, it is difficult to imagine English and Spanish not exercising a powerful centripetal force on all citizens in the United Kingdom, Canada, and Spain. Self-determination within a federal context will therefore afford the speakers of smaller languages less protection than full statehood. There will therefore be even more of a felt need on the part of the smaller federated linguistic group to use whatever jurisdiction they have in order to constrain the linguistic choices of their members. The tension with liberal principles that we have noted above will thus almost certainly obtain.

Liberals are largely united in the thought that individuals should be afforded latitude within which to live their lives as they see fit, and that one of the main responsibilities of the state is to protect this area of freedom. Language policies that constrain the choices of individuals are, in a context of mere numbers, problematic. This tension is moreover not likely to remain purely theoretical, since sociolinguistic dynamics will, in contexts in which linguistic groups of different sizes coexist, exercise powerful incentives for speakers of the smaller languages to achieve proficiency in and to use the larger language. A highly unstable form of asymmetrical bilingualism will result, one that may require the use of coercive legislation to address.

I have spoken thus far of a *prima facie* incompatibility. Is it possible to moderate or to dissolve it once we dig a bit deeper, beyond the conflict of principles expressed in their most abstract form? After all, liberal states do not systematically defer to the preferences of their citizens. There are many contexts in which states override such preferences. What's more, some of the justifications of infringement are ones which liberals can under some circumstances and within certain limits accept.

Thus, for example, states engage in moderate forms of paternalism when the preferences of their citizens would, if acted upon, cause them considerable harm. They require that people wear seatbelts when in cars, and helmets when on motorcycles. They subsidize the arts and tax cigarettes and alcohol. Though each of these measures can arguably be justified on non-paternalist grounds, the most plausible way in which to interpret and to justify the broad swath of measures that even quite liberal states such as the United States engage in in order to protect citizens against the impact of their own choices is to invoke a moderate paternalism.

Second, many social interactions would, if left to themselves, give rise to collective action problems. Everyone has an interest in the community they belong to achieving herd immunity against lethal diseases, but everyone prefers to be able to benefit without having to take on the moderate sacrifice of getting vaccinated. Anyone who has ever driven a car through an intersection in which the traffic light has ceased functioning knows just how collectively self-defeating human agents can be when they are left to act on their own initiative, on the basis of what they construe to be their self-interest in strategic contexts. The government appropriately steps in to solve such collective action problems. Were it not to do so, the production of "public goods," that is goods that are both non-excludable and non-rival, and to which individual agents therefore have an incentive not to contribute, would be impossible. As Hobbes correctly saw centuries ago, collective action problems require for their solutions that some coercive agent take the defection strategy off the table.

Third, states often act to offset unchosen and undeserved disadvantage, even when it does not result from the unjust actions of some third party. For some liberal theorists, the guiding intuition behind the liberal state's approach to distributive justice ought to be that, though agents should be held responsible for the consequences of their freely undertaken actions, the advantages and disadvantages that flow from brute luck should not be allowed to lie where they fall. In other words, people should be compensated when through no fault of their own they end up disadvantaged, and the state acts unjustly when it fails to so compensate them. This insight is at the core of what has come to be known as the "luck-egalitarian" position in political philosophy.



There are thus a variety of reasons for the state to get in the way of people's choices, even within the context of a broadly liberal-democratic ethics. It can engage in mild paternalism. It can (indeed, according to some, it must) solve collective action problems. And it can (and again, according to some, must) correct for the effects of brute luck. Can any of these paths be employed to justify coercive language policies in mere number cases? It is to this question that I now turn.

### 3. LUCK-EGALITARIANISM AND LINGUISTIC JUSTICE

Luck-egalitarianism is grounded ethically in what from a liberal point of view seems an unobjectionable premise. That premise is that a society justly holds people responsible for the foreseeable consequences of freely undertaken choices, but it treats the effects of "brute" luck as social, at least to a significant degree. The "socialization" of the effects of brute luck affects those at both the winning and the losing ends. Those who find themselves disadvantaged through no fault of their own ought, according to the luck-egalitarian framework, to be compensated (or at least they have a strong, *prima facie* claim to compensation). At the other end of the spectrum, those upon whom luck smiles are not entitled to the advantages that flow from their good fortune. The bads and goods that flow from the operation of luck from this point of view constitute a common pool before which all are equally situated, from an ethical point of view, regardless of where the operation of luck happens to have distributed the positive and negative elements within this pool (Cohen 1989).

An implication of luck-egalitarianism is that injustice occurs not solely when some act unjustly toward others, or when the state fails to correct the results of such unjust actions, but also when the effects of bad luck go uncompensated.

One can see quite readily why those whose intuitions lead them to believe that liberalism (as I have characterized it above) provides the wrong answer to mere number cases would be attracted by luck-egalitarianism. After all, such cases are ones in which speakers of some languages find themselves almost inexorably drawn toward speaking another language, not because they

have been victimized by colonialism or aggressive nineteenth-century-style nation-building, but rather simply because they happen to have had the linguistic misfortune of having been born into a small language group. Luck-egalitarianism provides those who think that there may be reasons of justice (as opposed to perfectionist reasons) to compensate such unlucky speakers with a plausible rationale for their intuition. On this view, linguistic injustice arises not just through the perpetration of unjust actions, but through the failure to compensate for unchosen linguistic circumstances.

Let us in what follows assume the truth of luck-egalitarianism. I want to suggest that it fails to provide the required theoretical succour to those whose intuitions incline them to want to justify laws that coercively constrain language choice in the name of language preservation, at least in mere number cases. This is so for at least two reasons. First, luck-egalitarianism, taken on its own terms, fails to provide us with what might be called a theory of priority. That is, it fails to indicate the goods with respect to which the operations of brute luck warrant correction. And second, it fails to indicate the currency in which compensation should be paid.

Let me begin with the first of these two problems. There are innumerable dimensions along which individuals are through no fault of their own differently situated. For example: some men keep luxuriant hair throughout their lives, while others (such as the present author) succumb to male-pattern baldness early in life. Some people are tall, while others are short. Some people are born in difficult climates, while others come into the world in much more clement climates.

What's more, all of the asymmetries just mentioned, though they may in and of themselves seem trivial,<sup>1</sup> have measurable impacts on people's lives. For example, studies have shown that height in men correlates positively with income.<sup>2</sup> Those who live in difficult meteorological conditions must expend considerable time, energy, and money coping with the elements in order to achieve a level of comfort that those who live in moderate conditions can achieve, as it were, for free.

Two questions arise as a result of this observation. First, is there a way of distinguishing those unchosen asymmetries that call for correction or compensation from those that do not? And second, with respect to any of these asymmetries, is compensation or correction due in virtue of intrinsic

properties of the dimensions along which people are asymmetrically situated, or because of the causal impacts of this asymmetrical distribution on the distribution of other goods?

In a recent article that carefully and insightfully attempts to outline the implications of the luck-egalitarian framework for language justice, Helder De Schutter and Lea Ypi list the plural impacts that being born into a smaller linguistic community might have. This list encompasses tangible goods such as socio-economic status (speakers of smaller languages may be at a disadvantage in finding well-paying jobs in a globalized economy in which communicative reach is an important competitive asset), and more difficult-to-quantify goods such as status and dignity (people whose native language suffers from competitive disadvantage as a result of the low number of speakers who speak it as a mother tongue may feel personally belittled by the lowly status of their language). It also includes the various political obstacles that may result from one's disadvantaged linguistic status. Thus, on their view, the problem with linguistic asymmetry is not that it places people in a disadvantaged situation on the dimension of language *per se*, but rather that it does so on the various dimensions (economics, politics, status and dignity, etc.) with which linguistic asymmetry is causally implicated. These dimensions are moreover structured around goods that are standardly considered to be central to the task of creating a just society.

In considering the kinds of corrections or compensations that are due to members of linguistic minorities, however, De Schutter and Ypi focus on fixes that are exclusively linguistic. They imagine, first, a “universal language solution,” which would put in place something like a global Esperanto, only to opt for what they refer to as “language advantages for all,” a solution to the problem of language inequality that would see such groups receive resources of various kinds, including monetary resources, with which to strengthen their markets and fund their (native language) educational systems.

But if what really matters about language asymmetry is its impact upon the distribution of goods such as socioeconomic success, political rights, security, dignity, and the like, then these goods can arguably just as easily be achieved by using the resources that are, on the luck-egalitarian account, due to the linguistically disadvantaged in order to put measures in place that would see “smaller”-language speakers achieve fluency in the “bigger” language. One

can ensure the socio-economic flourishing of one’s citizens by securing one’s markets, or by overcoming the linguistic obstacles to their full inclusion in bigger markets.

Ultimately, therefore, the argument that linguistic disadvantage requires a linguistic fix is premised upon an account that would explain the priority of being able to exercise rights, compete in the marketplace, and so on in the language in which one was raised, rather than in another language.

De Schutter and Ypi argue that while a solution of linguistic shift might address the impact that one’s status as a member of a linguistic minority might have upon more tangible goods, it may actually worsen one’s position with respect to the goods of “status” and “dignity.” Presumably, the argument would be to the effect that one is somehow made to feel inferior to others in a fairly fundamental way when circumstances are such that one can only exercise political rights effectively and take part in market activities by doing so in someone else’s language.

Arguably, however, the language/dignity nexus in the case of mere number is established not by any “natural” connection between language and identity, but rather by institutional responses to linguistic asymmetry. As De Schutter and Ypi themselves point out, what is problematic from the point of view of dignity is not linguistic asymmetry *per se*, nor is it the system of (from the point of view of smaller languages) highly centripetal incentives that numerical asymmetry puts in place. Rather it is the use of majority status to turn the “bigger” language into an “official” language, one that is compulsorily imposed upon people through the education system, the courts, and so on, and provided with the symbolic freight that accompanies status as a “state” language (De Schutter and Ypi 2012, 362).

To the extent that the use of majority status as a tool to assert political domination in this way predictably affects the status and sense of dignity of members of linguistic minorities in a deleterious manner, it arguably transforms what was at the outset a mere number case into a case of injustice. One can, however, imagine a situation in which the facts of linguistic (and more generally of cultural) asymmetry are not so treated by the majority. In such a situation, various numerical asymmetries exist and generate incentives, but these are not enshrined through official language policies and coercive legislation. In such a situation, one can well imagine members of linguistic

minorities not suffering from dignity deficits, because nothing is done by any actor that betokens their belief that the languages of minorities are not due equal respect. Where the state is not in the business of doling out the social bases of self-respect on the basis of such factors as language, then people will not be led to the belief that the numerical status of their language somehow connotes anything to do with their worth as persons.

Luck-egalitarians find themselves faced with a dilemma. They can either, implausibly, claim that *any* unchosen unequal distribution among individuals along any dimension constitutes an injustice. Or, they can recognize that injustice occurs when inequality that occurs along a more limited band of dimensions, to do with the goods that theories of distributive justice have traditionally been concerned with (socioeconomic resources, political rights, and the like), goes uncompensated. De Schutter and Ypi's argument consists in grabbing the second horn of this dilemma, but in claiming that there is a very strong contingent connection between language and one of these more traditional goods, namely the good of "status" or "dignity." My argument is that they are on firmer ground in claiming a strong connection between dignity and the symbolic and institutional entrenchment of a majority language. But then their argument is therefore not one from which those who think that injustice occurs in the case of mere number can take solace.

Let me briefly address the second of the questions I formulated in setting up this discussion of the putative luck-egalitarian argument for language justice. Even if we put aside the concerns that have just been raised and accept, *arguendo*, that cases of mere number warrant compensation or correction, and that that compensation is to be paid out in the currency of language, the question still arises as to the nature of the linguistic resources that are due a linguistic group that finds itself in a situation of numerical inferiority. It is one thing to say that linguistic disadvantage warrants "resources" that might allow a group to strengthen the context within which the language is used by members – for example subsidies for schools and cultural production, or financial supporting of local markets.

It is however quite another thing to justify coercive measures. Subsidies of the kinds just mooted simply change the space of incentives within which people make their linguistic choices. As Sunstein and Thaler have shown, however, the spaces within which people make choices about just about any-

thing are never completely free of incentives that incline the situation of choice in one direction or another (Sunstein and Thaler 2008). By “incentivizing” the use of a smaller language, political actors who purport to secure a language are not doing anything that is not already being done by other forces. In mere number cases, however, in which *ex hypothesi* no one is doing anything unjust that might be coercively prohibited, additional premises are required in order to justify the kind of measure that is being envisaged in the context of this chapter: namely, measures that coerce individuals into using a smaller language where incentives to do so are insufficient.

Such an argument might be provided by a mild form of paternalism. Briefly stated, the argument might be put forward that there are reasons for even a political authority that cleaves to a broadly liberal political philosophy not to defer to the preferences of people who choose to abandon the language of their forebears. It is to such arguments that I now turn.

#### 4. A LIBERAL PATERNALIST APPROACH TO LANGUAGE POLICY? THE CASE OF “MODERATE MORALISM”

Political paternalism is the view that the state can, or even more strongly that it ought to, enact coercive legislation forcing citizens to do what political authorities consider to be good for them, regardless of citizens’ actual preferences (Raz 1986; Conly 2012). There is a strong liberal presumption against political paternalism. As noted above, the state evinces its equal concern and respect for all citizens by prescinding from imposing a particular conception of the good life upon them, one that would lead citizens who do not share this conception to acquire the justified sense that they are not equal to others. To rehearse the (admittedly vague) slogan that John Stuart Mill made famous, states should only prohibit people from acting according to their own preferences and values where they would in so doing cause “harm to others.”

Despite their anti-paternalistic biases, no liberal state is perfectly anti-perfectionist. States are constantly meddling in people’s lives on grounds that seem best accounted for if some form of paternalism is assumed. They enact “sin taxes” to effectively price certain forms of activity deemed to be harmful to individuals out of the range of some citizens. They prohibit certain forms

of sexual activity, even among consenting adults. And perhaps most importantly, they allow us to act on preferences that are rendered ineligible from the strategic settings in which we often find ourselves with respect to our fellow citizens. These are settings in which we prefer X to Y if enough people choose X as well, but we prefer Y to X if that condition is not met. States act paternalistically, but in a way that liberals would countenance, when they (as it were) take Y off the table by prohibiting it.

Let me begin by investigating the degree to which a state or a political authority can appeal to “mild moralism” in imposing a language upon its speakers by placing serious limits on their access to the bigger languages. By mild moralism I mean to refer to justifications for paternalistic interventions which, though they override people’s preferences, do so on the basis of fairly uncontroversial judgments about the good. (For the purposes of the present argument, I do not need to be more precise than this rather vague condition.) One prominent “liberal paternalist,” Joseph Raz, has argued for example that the role of the state is not to promote a particular set of valuable goals, but rather, to rule out worthless ones. While care must be taken in interrogating the degree to which judgments of “worthlessness” do not end up masking contestable value judgments, we can probably agree that there are certain pursuits that are so thoroughly incompatible with any conception of human flourishing that they are appropriately placed out of bounds by political authorities. What’s more, inasmuch as political action along these lines does not prevent people from making choices among a plurality of eligible conceptions of the good, it does not fall afoul of liberal ethical strictures.

Whatever one might say about the decision to adopt another language, it is quite clear that it is difficult to classify as the kind of action so incompatible with basic conditions of human flourishing as to justify state action prohibiting it. After all, those who decide to use a language with a greater number of users than the language in which they were raised do so in order to increase the range of people with whom they can interact in the pursuit of worthwhile human goods. They increase the number of people with whom they can transact business, with whom they can fall in love, with whom they can communicate through poetry, novels, plays, and the like.

Is there, despite the first appearances that I have just expressed, any way in which the decision to adopt another language can be represented that

would make it seem an appropriate target of moderate paternalism? One direction that has been taken historically is to invoke notions such as authenticity. The argument would be that people’s identities are deeply constituted by the language in which they are raised, so that the decision to turn one’s back upon one’s language does violence to them. Giving up one’s language is on this view incompatible with equality in the conditions of self-esteem (Van Parijs 2011, ch. 4).

The challenge is to arrive at an account of how actions that many people seem to take in an entirely voluntary manner are, despite appearances, incompatible with the social conditions underwriting their status as equal citizens. One way in which this thought might be articulated invokes the notion of “false consciousness.” This term denotes the phenomenon of changes of preferences that allow one to adapt to unjust circumstances. Paradigmatic examples include that of the traditional (usually female) homemaker who ends up forming preferences that are functional to the maintenance of the system of patriarchal domination in which she participates, or the slave who ends up loving his chains. Deference to such preferences amounts to complicity in a system of injustice rather than respect for the autonomy of agents.

This possible justification for the overriding of people’s preferences is not available in the present context, however. Mere number cases are ones in which there is no system of domination for people to adapt to, no set of unjust background conditions against the backdrop of which false consciousness might develop.

Thus, a justification for the overriding of people’s linguistic preferences on moderately moralistic grounds in a mere number case cannot avail itself of the claim that the adoption of another language is somehow incompatible with any conception of human flourishing, nor can it rest on the view that people can legitimately be protected against themselves by political superiors when their preferences would make them complicit in the perpetuation of a system of domination that oppresses them. It is difficult to see how such a justification would not ultimately be forced to reach beyond what I have here termed “moderate moralism,” for example by invoking a notion such as “authenticity,” where authenticity refers to one’s “true” self. It lies well beyond the scope of this chapter to engage in any kind of a critique of this more thoroughgoing form of perfectionism.<sup>3</sup> My intention here is more modestly to



suggest that appeals to “true” or “authentic” selves in order to justify people’s linguistic preferences involves stepping outside the bounds of a “modest paternalism” the broad outlines of which I have very roughly sketched here, and which a broadly liberal ethics would conceivably countenance.

#### 5. A LIBERAL PATERNALIST APPROACH TO LANGUAGE POLICY? LANGUAGE AS COLLECTIVE ACTION PROBLEM

I noted above that there were two possible roads toward a justification of mild paternalism which a broadly liberal political theory could accept. The first looks at the individual in isolation, and asks whether there are options that the state can remove from his repertoire while still respecting his status as an autonomous chooser. The second places the individual in a broader social context, and recognizes that the preferences people act on are often a function of the choices made by others.<sup>4</sup>

For example, the creation of public goods – that is, of goods that are both non-rival and non-excludable, and that thus generate considerable incentive for free riding – would be difficult, if not impossible, without the intervention of the state. Indeed, were everyone, or even a significant number of citizens, to succumb to the free rider logic, then the good in question would simply not be produced. If we accept that the state has a responsibility to ensure the production of at least certain particularly important public goods, and that language is one of them, then we may have a case for state intervention aimed at protecting languages that might in the absence of such intervention succumb to the tendency that many citizens may experience to free ride.

Security, clean air, and “herd immunity” are paradigmatic cases of public goods, in that everyone would rather be able to enjoy them without paying for them rather than enjoying them while having to pay for them. They are, however, important goods with respect to which the state cannot simply stand by idly if it turns out that their provision is vulnerable to significant free riding. Is language part of this set of vulnerable yet important public goods?

On the face of it, language does not seem to fit this description, for the defectors we are imagining in the context of this chapter are not obviously free riding. That is, they are not enjoying a good without contributing to its pro-

vision. Rather, they are doing without it altogether. When, for example, Francophone Quebecers sent their children to English schools before the advent of coercive legislation preventing them from doing so, they were not obviously expressing the preference that French continue to be a common language while choosing not to contribute to it. Rather, they arguably failed to express a preference in favour of the French language.<sup>5</sup>

Another way of looking at the asymmetry between language protection on the one hand, and herd immunity or clean air on the other, is that those who choose to defect from actions that would contribute to the protection of a vulnerable language are not defecting from language altogether. They are simply defecting from *this particular* language. To the extent that the state has a responsibility to ensure that all citizens have access to *language*, it need not protect any particular language. However, arguing that the state has a responsibility to protect a particular language requires that we go beyond the analogy with such important goods as herd immunity and clean air. And that is a challenge, as opting out of a particular language, even if it is one's native language or the language of one's forebears, is not as clearly irrational and objectionable as would be, say the claim of a person who would claim to opt out of the good of security, or clean air, or immunity from infectious disease. Such a choice would be irrational because it would place an individual in a position that would make it impossible for him to flourish (such decisions are thus ones against which the state can act on the basis of the kinds of "moderately moralistic" justification adduced above). It would also be one to which others could reasonably object, since, first, their attainment of the good depends upon the putative defector doing his part to produce the good, and second, the interest that people have in the good is sufficiently weighty to justify their claim against others that they contribute to the production of the good as a matter of right.<sup>6</sup>

Much more can be said about the degree to which and the conditions under which the state can, or indeed must, contribute through its coercive authority to the production of public goods. The point I wanted to make in the present context is the limited one that the maintenance of a smaller language cannot be construed as a public good in the narrow sense that would within the context of a broadly liberal ethic justify state action that would prohibit people acting on their linguistic preferences.

But perhaps I have misrepresented the structure of the collective action problem that the problem of linguistic choice puts in place. The problem with language preservation is not that people might form the thought that they will be able to enjoy the use of a language regardless of whether they themselves act in ways conducive to its survival. Rather it is that they want to continue to enjoy the good in question, and are happy to “pay” for it (that is, to engage in whatever cooperative behaviour will reliably conduce to its creation or maintenance), but only on condition that a sufficient number of others engage in such behaviour as well.

Representing the situation of speakers of a small, vulnerable language as an assurance problem leads us to interpret defection from cooperative schemes in a different manner. The defector is not someone who at the end of the day does not care which language she communicates in as long as there is one which she can make use of. Nor is she someone who is seeking strategic advantage over her fellow citizens by making use of a good that they have produced. Rather, she is someone who simply wants to avoid being a patsy. That is, she wants to avoid engaging in cooperative behaviour only to find that too few of her fellow citizens have done so to allow the goods which she was hoping to realize through her cooperative behaviour to be realized.

It does not seem implausible to suppose that many people, perhaps most people, who have been brought up in a language would, all things equal, rather be able to live in that language than have to adopt another language. Continued use of the language allows them to remain in contact with a tradition that is in large measure linguistically inscribed. It also allows them in many cases to maintain communication with living forebears. What’s more, it cuts down on the transition costs attendant upon adopting a new language. They will thus tend to view state action that takes the non-cooperative option off the table as a kind of self-binding mechanism, one that extends their autonomous agency rather than short-circuiting it. Such self-binding mechanisms are common, and do not pose a particular problem for liberals. Indeed, liberal constitutionalism is premised upon the idea that liberal norms, such as rights, sometimes require for their maintenance the realization that people might sometimes in the heat of political conflict be tempted to abandon them, and thus that their hands must be tied lest they succumb to this temptation (Holmes 1987). A language policy aimed at binding people to their linguistic

preference for their native tongue in the face of the siren's song of the bigger language is structurally similar to such constitutional mechanisms.

The asymmetry between liberal constitutionalism and language policies aimed at preserving minority languages by constraining people's language choices is of course that the kinds of rights that liberal constitutions, and in particular their Charters or Bills of Rights, enshrine are not just preferences, they are obligations. We have an obligation to respect each other's rights, and constitutional mechanisms place such obligations beyond the reach of mere preference. Unless we invoke the kind of authenticity-based argument that we have earlier ruled out of court as being unavailable to a liberal-democratic ethics, the choice of one language rather than another cannot be seen as an obligation in anything like the same way.

Thus, when political authorities act to keep a language viable by prohibiting certain language choices, they assist people in being able to do something that they aspire to, rather than abetting them in doing something (the respect of each others' rights) that is morally required of them.

Now imagine a linguistic community made up of several different kinds of linguistic preference profiles. Some members want to preserve the viability of the language, and are willing to act in a cooperative manner to achieve that end, on condition that a number of others sufficient to achieve viability do so as well. Call them "purists." Others would rather continue using the minority language, but are disposed to free ride on the cooperative behaviour of others. Call them "free riders." The difference between "purists" and "free riders" is that coercion is not required to get the former to act cooperatively to achieve the desired good.

Others in our imagined community are indifferent as between the smaller language and the bigger one, but are responsive to the incentives that are created by numerical considerations. Their linguistic preferences will tend to vary as a function. Call them "fence-sitters." And still others positively want to adopt the bigger language so as to extend their communicative reach. Call them "defectors."

Purists can arguably coerce free riders into acting cooperatively, since the intention of free riders is to reap unjust benefit from their cooperative behaviour. Considerations of fairness between people who all share the same goal therefore militate in favour of free riders being made to do their fair share for

the attainment of the good of language maintenance. To the extent that the cooperative behaviour of the purists and the coerced compliance of free riders increases the number of people who use the threatened smaller language, this may have an impact on the number of fence-sitters who choose to use that language as well.

Is there any justification for the coercion of the defectors? Imagine two scenarios. In the first, a threshold of viability is reached through the coercion of free riders and the incentivization of fence-sitters. In this case, there seems no reason to coerce the defectors. No additional good is attained for anyone else through their compliance. One could argue that fairness considerations argue in favour of coercion. But remember that, as opposed to the kind of coercion that occurs in the pursuit of an obligatory goal such as the respect of people's rights, purists as I have defined them here are pursuing an optional goal.

In the second, the viability of the language depends upon the coerced compliance of defectors. In the latter case, there is reason for the purists to coerce the defectors, though those reasons require that they reach beyond the liberal repertoire. That is, they have a perfectionist end, one that cannot be justified on the basis of the kind of "modest moralism" described above. They are in other words coercing the defectors on the basis of an end that the defectors need not share. The question of whether, all things considered, it is preferable to pursue the perfectionist end of language preservation or to cleave to liberal democratic constraints is one that, happily, lies well beyond the bounds of this chapter. Resolving this question ultimately depends upon our responses to questions to do with the value of language preservation irreducible to the preferences and interests of individuals, and with the question of the degree and conditions under which we believe that the good of linguistic *diversity* is sufficiently great to justify mild coercion.

Thus, considering language choice within a strategic context allows us to identify at least one kind of situation in which coercive language legislation can be justified on broadly liberal democratic grounds even in mere number cases. It also allows us to identify with greater precision the moral dilemmas that attend speakers of smaller languages who find themselves in situations in which they must coerce fence-sitters and defectors in order to protect those languages.

## 6. CONCLUSION

I have argued in this chapter that in what I have referred to as the case of mere numbers, it is difficult, if not impossible, to justify measures aimed at constraining the linguistic choices of individuals so as to achieve the goal of language preservation. I have argued that there is one situation in which such constraint may be justified – that in which those who are willing to act cooperatively in order to achieve that end coerce free riders into compliance. I make no claim as to how frequent this kind of situation is in the real world.

Nor do I make any claim about the frequency of what I have throughout referred to as the case of mere number. Remember that I have bracketed the question of whether cases of mere number that are causally related to injustice lying in the distant past should in fact be considered as cases of mere number. That question, the question of just how long the present should be seen as marked by the moral stains of the past, is one of the deepest and most difficult that we have to face in post-colonial political philosophy. I hope to be able to turn my attention to it in future work.

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### NOTES

Earlier versions of this chapter were presented in the context of a conference on the topic of “language ethics” held in Montreal, at the Department of Philosophy Colloquium, McGill University, and at the Research Group on Constitutional Studies, McGill University, and at a conference in honour of José Woehrling at the Université de Montréal. I thank audiences at these venues for having provided me with much food for thought.

- 1 Lest I be accused of insouciance with respect to issues of climate justice, I hasten to specify that the remarks made above for the sake of argument assume the absence of anthropic causes to some people being in the dire

climate situations in which they find themselves. Where desertification is caused by rising temperatures resulting from greenhouse gas emissions, there most decidedly is injustice that must be compensated, even on more traditional, “action-based” conceptions of justice.

- 2 Some of this research is summarized in “Walk Tall,” in *The Economist*, 25 April 2002.
- 3 For a trenchant critique of the idea of authenticity, see Potter (2011).
- 4 Alan Patten pursues a closely related line of argument in a forthcoming paper entitled “Protecting Vulnerable Languages” (Patten, forthcoming).
- 5 I have examined the philosophical dimensions of the policy choices faced by Quebec society in Weinstock (2016).
- 6 For a very thorough examination of the “market failure” argument in favour of state intervention in the area of language, see Robichaud (2011).

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