Language rights and political theory

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Introduction

This collection of essays was developed from a workshop on language rights which was held at Queen’s University, Kingston, Ontario in 2001. Its aim is to explore “how political theorists can conceptualize issues of language rights and contribute to public debates on language policy” (2). This review will highlight main themes and provide brief chapter summaries, particularly noting topics of interest for minority language advocates and workers. An excellent summary of the book’s issues can also be found in a review by Rory O’Connel in Law and Politics Book Review, volume 14, number 8.

Major Themes

One way of viewing language rights concerns personality versus territoriality rights regimes. The latter promotes individuals’ language rights no matter where the speaker is located, whereas the former favors a regional and more homogenous policy based on “where numbers warrant.” Another pairing addresses whether language rights are individual or collective, group-based rights. Two other distinctions are tolerance (negative freedom) versus promotion-oriented rights and norm-and-accommodation rights versus official-language rights regimes, which contrasts a policy of one official language with one that equally privileges multiple languages (26–31).

Recurrent questions include how should costs for minority language development and majority language learning be shared? Should language policy for immigrants and nationals be considered differently? From the perspective of justice, does the way a language has been marginalized or lost make a difference (i.e. through suffering an injustice or as a natural trend of language assimilation). A view of democracy as a participatory activity also makes policy demands, as language skills are required not just for voting, but also for the deliberative processes of discussion and debate.
Two common approaches are considered superficial and unviable. The traditional liberal position of “benign neglect,” often linked with the negative freedom of tolerance, is not an option, as government cannot remain neutral but must require language to function. As Rubio-Marín states, “Law is a linguistic creature” (79). Another non-option is one often embraced by minority language specialists. Linguistic human rights is mostly rejected here as a one-size-fits-all universal standard which fails to address the unique needs and complexities of each situation. A view of language as a public good is also proposed in several discussions as a stronger starting point than a “rights argument.”

Of special interest to minority language workers is the negative view of multilingual education held by a number of the contributors with regards to its benefits, feasibility, and costs. Another perspective at variance with minority language advocacy is the view that a promotional approach to minority language can be illiberal by imposing the right of a language on individuals in a community who may prefer instead to “move on” to a majority language.

**Content Summary**

Patten and Kymlicka note in chapter 1 that an emphasis on linguistic diversity has come late to the widespread discussion among political theorists on diversity issues. Their lengthy introduction contains seven sections:

1. the new interest in language rights;
2. issues needing addressed by a theory of language policy;
3. key distinctions in theorizing such rights;
4. the inadequacy of “benign neglect” and “linguistic human rights”;
5. shortcomings of the two normative models of “nation building” and “language preservation”; and
6. *(sections 5 and 6 are combined)*
7. procedural approaches (2).

The editors favor political processes for resolving issues, stating that various approaches and ideologies are insufficient for addressing policy concerns.

In chapter 2, “Language Rights: Exploring the Competing Rationales,” Ruth Rubio-Marín notes that while language rights has received little theoretical reflection, the traditional liberal position of tolerance as non-intervention does not work. The law and socio-economic well-being require communication. Thus the central tension: political legitimacy demands a common language, and this demand privileges a language.

In place of the classification of tolerance versus promotion-oriented rights, Rubio-Marín favors the concept of instrumental versus non-instrumental rights. This approach values language enjoyment and survival while including as instrumental the right/duty to learn a dominant language in order to fulfill needs for communication, participation, and opportunity. Non-instrumental rights in particular are “always group rights” (57).
In chapter 3, “A Liberal Democratic Approach to Language Justice,” David Laitin and Rob Reich favor a resolution of policy issues by the give-and-take negotiations of democratic processes. While the liberal tradition has neglected language justice, the presence of linguistic diversity in most states requires a language policy. Liberalism also needs to offer those who prefer assimilation the freedom to choose the majority language. Laitin and Reich’s position on multilingual education is evident as they ask why parents would “expend resources” to “lower the communicative range of their children.” In their view, the promotion of mother tongue at the children’s expense exacerbates injustice (84).

Using the example of the 35 million U.S. citizens who have Spanish as their mother tongue, Thomas Pogge (chapter 4: “Accommodation Rights for Hispanics in the U.S.”) states that the best interests of children trump language protection or promotion issues, and that an English First policy (though not English Only), best serves their interests. He allows for various types of transition programs, but is concerned about the moral costs of accommodation rights, which can favor one language unfairly at the expense of other languages.

Well-known minority language advocate Stephen May plunges into sharp debate with Pogge and others in chapter 5, “Misconceiving Minority Language Rights — Implications for Liberal Political Theory.” He briskly confronts his opponents’ “misconceptions,” “misrepresentations,” and “nonsense,” refuting as “flawed” research which denies bilingual education’s benefits. While strongly defending minority language education as a public good, he acknowledges that an “appropriate and reasonable” policy is one “where numbers warrant” (148).

Philippe Van Parijs (chapter 6, “Linguistic Justice,”) addresses the practical issue of cost sharing. The viability of a language policy is determined through calculating the net benefit via the equation gross benefit – gross cost. The question then follows of how to distribute the costs and benefits. In an attempt to reconcile linguistic justice and efficiency, he notes that a fair solution can be inefficient, while an efficient solution can be unfair. Some resolution is possible by selecting the most widespread language and organizing transfer with cost sharing or learning.

François Grin (chapter 7, “Diversity as Paradigm, Analytical Device, and Policy Goal”) states that while diversity cannot be considered a right, it is a good which merits an appropriate policy goal, one which balances costs and benefits. Grin’s “Diversity Clover” (175) illustrates how various disciplines use different terminology, leading to fragmentation of dialogue and reinventing the wheel. For example, in North and South America, Africa, and Australasia, disciplines such as anthropology and ethnology use the term “indigenous peoples.” In Central and Eastern Europe and the Balkans, various political science fields speak of “national minorities and minority rights.” Grin calls for disciplines concerned with diversity to integrate and bring unity to a discussion which has been fragmented and insular.

Boran’s article in chapter 8, “Global Linguistic Diversity, Public Goods, and the Principle of Fairness,” states that language meets the criteria of a public good, in which the value is great enough to justify obligations. He states that Levy (chapter 10) erroneously equates value with usefulness, thereby ignoring the aesthetic, non-instrumental value of language. Boran appeals to the liberal value of choice while noting that fairness in cost sharing needs consideration. The
tools of environmental ethics and social justice are useful, and a final point is that language preservation should not be imposed on people so that they are marginalized against their will.

Michael Blake, in “Language Death and Liberal Politics” (chapter 9), is concerned with the how and why of language death. Language loss is not always evil, but becomes a concern for liberal justice when change occurs due to domination and discrimination. Blake is restrictive as to when a government is obliged to act in a protective or promotional way. If no injustice exists, then an appropriate approach to policy formulation is one of language as a good to be pursued through the processes of democratic deliberation.

In chapter 10, “Language Rights, Literacy, and the Modern State,” Jacob Levy argues against languages as an assumed good. In contrast, he believes that language preservation policies can be coercive and not in the best interests of a community and its children. A startling point for minority language workers is his view that literacy can lead to language death, since it raises the cost of learning a language. For Levy, mother-tongue literacy appears to be a lost battle. By the time a language has been developed through the production of a dictionary, some stories, and a few translated outside texts, “a generation of children may have grown up reading another language” (237). A government, however, may rightly accommodate those who may not be expected to learn the majority language, and Levy acknowledges the need for fairness as opposed to unjust “nationalizing projects” (244).

David Weinstock states in chapter 11, “The Antinomy of Language Policy,” that non-instrumental intrinsic values should not trump instrumental concerns. Like Levy, he believes that language preservation policies can be coercive and paternalistic, with cultures and languages claiming rights that may trump their individual members’ choice.

A just language policy neither utilizes benign neglect nor language preservation but espouses no more government interference than is necessary to ensure communication, while seeking a balance between costs and benefits. Weinstock sees communication needs as more important than non-instrumental claims and believes that majority languages may be legitimately favored for practical reasons. However, he concedes that there are “good reasons for some minority language rights” (249).

Chapter 12, “Beyond Personality: The Territorial and Personal Principles of Language Policy Reconsidered,” by Denise Réaume, notes that language use determined by territory favors unilingualism, while the personality principle favors bilingualism and language protection. Réaume proposes an alternative in which language rights is linked to the existence of viable language communities, rather than individuals. This allows for elements of both principles, as a community focus gives some weight to the territorial argument, and provides space for instrumental and non-instrumental values.

In Chapter 13, “What Kind of Bilingualism?,” Alan Patten, like Réaume, shifts the argument from the personality versus territoriality principle to another option. He discusses the conditions under which each may be preferred. When asking a minority group to adjust to majority language usage, key factors include the need for a just policy and reasonableness. Choice is also
informed by important interests such as “public access,” “social mobility,” “democratic participation,” and “identity” (299).

**Evaluation and implications**

A review of this length cannot fully capture the book’s scope and complexity, nor adequately portray its lively cross-current of discussion and debate. The language of political and legal theory can make a challenging read for those schooled in other disciplines, but the wide range of thoughtful presentations makes it worth the effort. Since the book was published in 2003, an Internet search using terms such as “language policy,” “multilingualism,” “multilingual and bilingual education,” and “language rights” will reveal scholarship, policy formation, and discussion which has continued to develop since that time.

Those concerned with minority language development could be discouraged and even threatened by this volume. They shouldn’t be. Promoting healthy debate, avoiding a one-size-fits-all rhetorical stance, and acknowledging the need for practical solutions provide a refreshing perspective. The process of public policy making is messy, but human affairs aren’t readily coaxed into neat boxes. Couching the debate in terms of benefits and justice make sense. For those who disagree with the low value placed on minority languages and multilingual education, this is a call to contribute credible debate and data to the ongoing discourse.

**References**