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BREXIT, LANGUAGE POLICY AND LINGUISTIC DIVERSITY

Diarmait Mac Giolla Chríost and Matteo Bonotti

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Diarmait Mac Giolla Chríost
Matteo Bonotti

Brexit, Language Policy and Linguistic Diversity

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Diarmait Mac Giolla Chríost
School of Welsh
Cardiff University
Cardiff, UK

Matteo Bonotti
School of Social Sciences
Monash University
Clayton, VIC, Australia

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Preface

Following the United Kingdom (UK) European Union (EU) membership referendum (also known as Brexit referendum) on 23 June 2016, and apart from few exceptions (Modiano 2017; Kelly 2018), there has been little academic debate regarding the potential implications of Brexit for the language policy of the UK and the EU. This is surprising, given that both the UK and the EU, albeit in different ways, are multilingual polities which have often had to deal with the difficult task of balancing unity (in the form of communication across linguistic boundaries) and diversity (in the form of protection of their diverse linguistic communities). Since the UK and the EU, over the past 40 years, have become increasingly entangled in a myriad of policy areas which have direct or indirect implications for language policy, it is to be expected that Brexit will have a destabilizing effect on the various languages of the UK and on the English language in the EU.

This book aims to tackle this important issue. Its basic premise is that Brexit promises to wholly re-shape the legal framework along with the public policy norms in relation to linguistic diversity that have come to dominate public life in the UK and the EU since the Treaty on European Union came into force in 1993. Since that event, a series of related processes have been in train that have served to realize two quite contrasting outcomes, namely, (1) the erosion of the status of English as the de facto and exclusive official language of the UK, and (2) the elevation of English as the most commonly used language in the institutions of the EU.

The first argument made in the book, defended in Chap. 2, arises from the insight that Brexit de-anchors the linguistic actors engaged with

sub-state nationalisms in the UK (in Northern Ireland, Wales, and Scotland) from other similar actors in the various linguistically diverse regions of Europe. The effect of this, we argue, is twofold. First of all, this de-anchoring strengthens the case for the de jure recognition of English as the official language of the UK. Secondly, given the UK's withdrawal from the jurisdiction of the European Court of Justice and, potentially, of the European Court of Human Rights, the case for embedding autochthonous minority language rights and freedoms in a transformed UK Constitution becomes convincing.

The second argument presented in the book, defended in Chap. 3, is that Brexit strengthens the normative case for English as the lingua franca of the EU. It has been argued that the rise of English as the EU and global lingua franca is accompanied by various injustices that affect non-native English speakers. These speakers have to bear most of the costs associated with learning English and enjoy fewer opportunities than native English speakers due to their lower level of English proficiency. Moreover, their self-respect risks being undermined by the fact that their native language(s) is(are) considered less important and prestigious than English (Van Parijs 2011). Brexit will reduce all three injustices, thus enhancing the moral justification for adopting English as the sole or main lingua franca of the EU.

Cardiff, UK — Diarmait Mac Giolla Chríost
Clayton, VIC, Australia — Matteo Bonotti

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Contents

CHAPTER 1

An Empirical Overview of the Constitutional, Legal, and Public Policy Status of the Languages of the UK and the EU

Abstract This chapter provides an overview of the UK's and the EU's language policy. The purpose of this overview is to provide an empirical background for the arguments advanced in Chaps. 2 and 3. With regard to the UK, the chapter especially focuses on the legal status of English and of the other autochthonous languages of the UK, also highlighting the distinctiveness of Northern Ireland. The chapter also briefly examines the status of allochthonous languages in the UK. With regard to the EU, the chapter illustrates the origins and evolution of the EU's official multilingualism, also highlighting the growing distinction between official and working languages within EU institutions as well as the tension between the promotion of communication and that of linguistic diversity within the EU. The chapter finally examines the current place of English in the EU, and how this may be affected by Brexit.

Keywords United Kingdom; European Union; language policy; English language; minority languages

Introduction

The first part of this chapter provides an empirical overview of the position of the various languages of the UK, autochthonous and allochthonous, in public life. In order to properly understand the issues at hand here one must note that while the UK is a unitary state within which devolved administrations exist for Northern Ireland, Scotland, and Wales, it is

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comprised of three distinct legal jurisdictions, namely, (1) England and Wales, (2) Scotland, and (3) Northern Ireland. Historically, Ireland constituted a separate legal jurisdiction within the UK, up until the secession of the Irish Free State (subsequently the Republic of Ireland) from the UK in 1920. Northern Ireland was born of this act of secession and remained a part of the UK while, at the same time, forming a new legal jurisdiction. One ought also to note in addition that a body of legislation understood to be 'Welsh law' is said to exist since devolution in 1997 (as per the website of the National Archives & UK Legislation—http://www.legislation.gov.uk/browse/wales).

The second part of the chapter offers an overview of the EU's language policy. More specifically, it provides a brief historical overview of the way in which the EU has dealt with its linguistic diversity, both within its institutions and in its relationship with its citizens and member states. It also highlights potential sources of tension between the promotion of the free movement of people and goods, on the one hand, and the recognition and protection of linguistic diversity, on the other hand. Finally, it illustrates some of the measures that the EU has implemented in order to promote language learning and the protection of regional and minority languages.

Language Policy in the UK

The English Language

It is a widely held view that the English language is simply the de facto official language of public life in the UK and that this fact of practice is not recognized in law. However, the English language is granted de jure recognition in several pieces of legislation, and there is considerable historical evidence that confirms this. English was first granted official status in the form of the Pleading in English Act 1362 (36 Edw. III c. 15) [Repealed by Statute Law Revision Act 1863 & Statute Law (Ireland) Revision Act 1872]. The effect of the Act was to allow for court cases in England, and subsequently Wales, to be debated in English while requiring the written record to be maintained in Latin. The Court of the Exchequer was exempted from this law. The Act was aimed at resolving the problem posed by the use of Law French in the courts, which meant that the 'people' were unable to understand any aspects of the proceedings as, by that stage, Norman French was largely unknown as an ordinarily spoken language. The Act required therefore that

> all Pleas which shall be pleaded in [any] Courts whatsoever, before any of his Justices whatsoever, or in his other Places, or before any of His other

> Ministers whatsoever, or in the Courts and Places of any other Lords whatsoever within the Realm, shall be pleaded, shewed, defended, answered, debated, and judged in the English Tongue, and that they be entered and inrolled in Latin. (Pleading in English Act 1362)

One of the effects of the Act was to bring to an end the use of Law French and to normalize the use of English as the language of law. This in turn led to the development of a recognizable style of English particular to the legal system by the reign of Henry V (1413-22), described as Chancery Standard, or Chancery English (e.g. see Fisher 2009; McArthur 1998; Richardson 1980). A related development is that of Chancery Hand, a particular form of handwriting.

The official status of English was next recognized in the Laws in Wales Act 1535. In this case, the Act was intended to resolve the problem posed by the 'people' of Wales commonly using 'a speche nothing like […] the naturall mother tonge used within this Realme' ('a speech [i.e. the Welsh language] nothing like […] the natural Mother Tongue [i.e. English] used within this Realm'). This was considered a cause of division, and it was asserted that English should be the sole language of the law courts as follows:

> Also be it enacted by the Authority aforesaid, That all Justices, Commissioners, Sheriffs, Coroners, Escheators, Stewards, and their Lieutenants, and all other Officers and Ministers of the Law, shall proclaim and keep the Sessions Courts Hundreds Leets Sheriffs Courts, and all other Courts in the *English* Tongue; and all Oaths of Officers, Juries and Inquests, and all other Affidavits, Verdicts and Wager of Law, to be given and done in the *English* Tongue. (Laws in Wales Act 1535, Section XX)

In addition, the Act asserts that those who would use Welsh are not to be appointed to public office in Wales, as follows:

> and also that from henceforth no Person or Persons that use the Welch Speech or Language, shall have or enjoy any manner Office or Fees within this Realm of England, Wales, or other the King's Dominion, upon Pain of forfeiting the same Offices or Fees, unless he or they use and exercise the English Speech or Language. (Laws in Wales Act 1535, Section XX)

It is understood, in Wales in particular, that the parts of the Act relating to language were definitively repealed only in 1993, by the Welsh Language Act 1993; of which there is more below. However, annotations on the

Statute Law Database indicate that sections 18–21 of the Act were repealed by the Statute Law Revision Act 1887 (Laws in Wales Act 1535, Sections XVIII–XXI, Annotations).

The status of English as the official language of public life was then further reinforced by law in the seventeenth century, under a piece of legislation described as An Act for Turning the Books of Law, and all Process and Proceedings in Courts of Justice, into the English Tongue 1650 (4 Geo II. c. 26). This Act was passed by the so-called Rump Parliament on 22 November 1650, during the Commonwealth of England (1649–1660). This Act requires that all legal documentation be in English, as follows:

> The Parliament have thought fit to Declare and Enact, and be it Declared and Enacted by this present Parliament, and by the Authority of the same, That all the Report-Books of the Resolutions of Judges, and other Books of the Law of England, shall be Translated into the English Tongue: And that from and after the First day of January, 1650, all Report-Books of the Resolutions of Judges, and all other Books of the Law of England, which shall be Printed, shall be in the English Tongue onely. (An Act for Turning the Books of Law, and all Process and Proceedings in Courts of Justice, into the English Tongue 1650, pp. 455–456)

In addition, the Act asserts that all writs, pleadings, and similar such are to be in English only, as follows:

> And be it further Enacted by the Authority aforesaid, That from and after the first Return of Easter Term, which shall be in the year One thousand six hundred fifty and one, all Writs, Proces and Returns thereof, and all Pleadings, Rules, Orders, Indictments, Inquisitions, Certificates; and all Patents, Commissions, Records, Judgements, Statutes, Recognizances, Rolls, Entries, and Proceedings of Courts Leet, Courts Baron, and Customary Courts, and all Proceedings whatsoever in any Courts of Justice within this Commonwealth, and which concerns the Law, and Administration of Justice, shall be in the English Tongue onely, and not in Latine or French, or any other Language then English, Any Law, Custom or Usage heretofore to the contrary notwithstanding. And that the same, and every of them, shall be written in an ordinary, usual and legible Hand and Character, and not in any Hand commonly called Court-hand. (An Act for Turning the Books of Law, and all Process and Proceedings in Courts of Justice, into the English Tongue 1650, pp. 455–456)

Persons found to be in breach of the Act would be subject to a fine of 20 pounds, a very substantial sum of money at that time.

The status of English as the exclusive official language of the courts of England and Wales was underscored again in the Proceedings in Courts of Justice Act 1730 (1731. 4 George II. c. 26. 16 S. L. 248—for Wales, 1733) [repealed by the Civil Procedure Acts Repeal Act 1879]. The Act makes the use of English, rather than Law French or Latin, obligatory in the courts of England and Wales, including the Court of the Exchequer, and also in the case of the Court of the Exchequer in Scotland. An effect of the Act was to specifically disallow the use of other languages. The aim of the Act was to prevent the 'many and great mischiefs' that result from 'the proceedings in courts of justice being in an unknown language', by requiring that all court proceedings in England and Wales, and in the Court of the Exchequer in Scotland 'be in the English tongue and language only, and not in Latin or French, or any other tongue or language whatsoever (Proceedings in Courts of Justice Act 1730–1731. 4 George II. c. 26. 16 S. L. 248—for Wales, 1733)', and that any person found in breach would be subject to a fine of 50 pounds, a very substantial sum of money at that time. In the case of courts in Ireland, the Administration of Justice (Language) Act (Ireland) 1737 had a similar effect. In this case, the Act remains in force in Northern Ireland and, as primary legislation, it is mandatory, and courts are required to comply with it. The Act proscribes the use of any language other than English in court proceedings, as it is made crystal clear in the explanatory foreword to the Act, which reads as follows: 'An Act that all Proceedings in Courts of Justice within this Kingdom shall be in the English Language.' The text of the Act itself differs little from that pertaining to England and Wales, although it is interesting to note in passing that in England and Wales, persons found in breach would be subject to a smaller fine, in this case 20 pounds.

Since then, it would appear that the position of the English language in public life was considered to be sufficiently secure as to merit no further attention until very recently. Thus, the Immigration Act 2016 places specific English language requirements upon public sector workers, as follows: 'A public authority must ensure that each person who works for the public authority in a customer-facing role speaks fluent English' (Immigration Act 2016, Part 7). Importantly for the Welsh language, as regards application to Wales, 'references to English [i.e. the English language] are to be read as references to English or Welsh [i.e. the Welsh language]', as is also made clear in the statutory guidance and code of practice on the implementation of the Act (Cabinet Office 2016; HM Government 2016). At around the same time, some other pieces of legislation, with very different aims, that have an indirect impact on the official

status of the English language have been passed. The most significant of these, perhaps, is the National Assembly for Wales (Official Languages) Act 2012. The stated purpose of this Act is 'to make provision about the use of the English and Welsh languages in proceedings of the National Assembly for Wales and in the discharge of the functions of the Assembly Commission' (National Assembly for Wales (Official Languages) Act 2012). In this Act, it is declared that the Government of Wales Act 2006, a piece of legislation of constitutional significance in the UK, be amended in relation to the equality of treatment accorded to the English and Welsh languages such that it is declared that 'The official languages of the Assembly are English and Welsh', and that 'The official languages must, in the conduct of Assembly proceedings, be treated on a basis of equality' (National Assembly for Wales (Official Languages) Act 2012). In addition, legislation has been passed in Scotland that touches the place of the English language in public life there, namely, the Gaelic Language (Scotland) Act 2005. While the Act is concerned with Scottish Gaelic, it asserts that the purpose of the Act is to secure the status of that language as an 'official language' in Scotland, 'commanding equal respect to the English language' (Gaelic Language (Scotland) Act 2005). Thus, in both Scotland and Wales, the English language is understood to be equal, in some sense, to certain other languages that have now official status of some sort.

The Other Autochthonous Languages of the UK

There is considerable variety as regards the position in public life of the other autochthonous languages of the UK. The largest of these, in demographic terms, is the Welsh language in Wales. According to the results of the Census 2011 (StatsWales n.d.), there are around 562,000 Welsh speakers in Wales. The status of the language is enshrined in several pieces of legislation. The most substantive of those in terms of its impact upon public services is the Welsh Language (Wales) Measure 2011, which largely replaces the Welsh Language Act 1993. Under this legislation, the Welsh language is recognized as having official status in Wales and, accordingly, a duty is placed upon organizations that provide public services in Wales to provide those services, to some extent, in the Welsh language. Also, the Welsh Courts Act 1942, along with the Welsh Language Act 1967, allow for Welsh speakers to use the Welsh language in courts of justice in Wales. The most important piece of legislation regarding the constitutional status of the Welsh language is the National Assembly for

Wales (Official Languages) Act 2012, which declares the Welsh language to be an official language in the Assembly, along with the English language. In addition, the UK Government ratified the European Charter for Regional or Minority Languages 1992 in respect of the Welsh language in 2001 (Council of Europe 1992).

The largest autochthonous language in Scotland is Scots, with a population of around 1,542,000 speakers according to the Census 2011 (Scotland's Census 2018). Despite this, the Scots language is not provided with any statutory recognition in domestic legislation. It is, however, classed as a language under the European Charter for Regional or Minority Languages, the UK Government having declared as much in 2001 (Council of Europe 2018). This does not have any practical statutory implications. In contrast, while the population of speakers of Scottish Gaelic in Scotland is smaller than that of Scots, at around 57,000 speakers according to the Census 2011 (Scotland's Census 2018), Scottish Gaelic does enjoy statutory recognition in domestic law in the form of the Gaelic Language (Scotland) Act 2005. This Act implies that Scottish Gaelic is an official language in Scotland, and it places a duty upon some organizations that provide public services in Scotland to do so, to a limited degree, in Scottish Gaelic. As with the Welsh language in Wales, the UK Government ratified the European Charter for Regional or Minority Languages 1992 in respect of Scottish Gaelic in 2001 (Council of Europe 1992).

Scotland is the only jurisdiction in the UK in which a sign language has been provided with statutory recognition in domestic law. British Sign Language is recognized under the British Sign Language (Scotland) Act 2015, and its users are provided with a range of protections under this Act. None of the other sign languages of the UK, namely British Sign Language, Irish Sign Language, and Northern Ireland Sign Language, are provided with any such statutory recognition.[1] That said, the duties upon organizations providing services to the public arising from the Disability Discrimination Act 1995 may be said to provide some protections to users of sign languages. Under this Act, providers of goods, services, and facilities are expected to make 'reasonable adjustments' in providing assistance or making changes to the manner in which they provide their services, including the provision of a sign language interpreter, if required. This duty was strengthened under the Equality Act 2010, although this Act

[1] See Hull et al. (2014) for an overview, but since overtaken by the Scottish legislation, and also the British Deaf Association (n.d.) for activism in this area.

does not apply to Northern Ireland. In addition, the UK Government has recognized in terms of public policy, but not as a matter of domestic law, British Sign Language in 2003 (Stiles 2013). It has also signed the United Nations' Convention on the Rights of Persons with Disabilities 2006, as a result of which sign language is declared to be on a par with spoken languages.

The most politically sensitive autochthonous languages of Northern Ireland, namely, the Irish language and Ulster Scots, are given statutory recognition under the Good Friday Agreement 1998, also known as the Belfast Agreement. This recognition has some practical implications for the Irish language in particular, due to the commitments made by the UK Government, in 2001, in relation to Irish in Northern Ireland, under the European Charter for Regional or Minority Languages 1992 (Council of Europe 2018). According to the Census 2011, around 104,000 individuals in Northern Ireland are said to be able to speak Irish to some degree (NISRA 2012; CSO 2014). Similarly, around 140,000 individuals are said to have some ability to speak Ulster Scots according to the results of the Census 2011 (NISRA 2012). While Ulster Scots is recognized as a language under the Charter, the precise manner of this recognition does not have practical implications, in that no particular requirements are placed on government to deliver public services in the language, for example (Council of Europe 1992).

Of the other autochthonous languages of the UK, the Cornish language, spoken by several hundred individuals (Cornwall Council 2017) in Cornwall in England, has been recognized under the European Charter for Regional or Minority Languages 1992 (Council of Europe 1992). The UK Government ratified the Charter in respect of Cornish in 2002, and while this generated some excited attention in the media (BBC 2002), the commitment has few practical implications. Similar excitement accompanied the UK Government's decision to ratify the European Framework Convention for the Protection of National Minorities in respect of Cornish in 2014 (Ministry of Housing, Communities & Local Government 2014). This too, it has to be said, has very limited practical implications for the Cornish language in public life, if indeed any. Finally, while Shelta, a language associated with Irish Travellers in all parts of the UK (Kirk and Ó Baoill 2002), is not provided with statutory recognition, nor are its speakers provided with any protections as speakers of Shelta, it is nonetheless the case that Irish Travellers are identified by law, since 2000, as an ethnic minority group and protected as such in accordance with the Race

Relations Act 1976 and the Race Relations (Amendment) Act 2000, the Equality Act 2010, and the Human Rights Act 1998.[2] It is not known how many speakers of Shelta live in the UK.

The Allochthonous Languages of the UK

The various allochthonous languages of the UK (and according to the Census 2011, there are several hundred such languages) are not provided with any statutory recognition, nor are the speakers of these languages provided with any legal privileges or protections as speakers of such languages. That said, equality, human rights, and race relations legislation together provide for indirect support to the allochthonous languages of the UK. Broadly speaking, one of the primary aims of the Race Relations Act 1976 and the Race Relations (Amendment) Act 2000, the Human Rights Act 1998, and the Equality Act 2010, along with the European Convention on Human Rights 1950 [effective 1953], is to prevent discrimination and to promote equality and good relations between different racial groups. Therefore, speakers of allochthonous languages in the UK may not be prevented from using those languages in their private lives, including in their place of employment, and there have been a number of cases concerning this matter in the UK (e.g. see Choudry 2016; Deans 2016). Also, organizations that provide public services are under a duty to ensure that those services are accessible to members of the public, including immigrants, and this often means providing for translation and interpretation in allochthonous languages as some immigrants lack the requisite skills in English. This is especially the case in the justice system, whereby the right to a fair trial is understood to mean that an individual must be able to understand the charges brought against them and the court proceedings as they occur. This often requires translation and [or] the provision of an interpreter.

It ought to be noted that Northern Ireland is exceptional compared to the rest of the UK in some ways. Firstly, under the Good Friday Agreement 1998, the signatories agree to 'recognise the importance of respect, understanding and tolerance in relation to linguistic diversity, including in Northern Ireland […] the languages of the various ethnic communities' (see the Section entitled 'Rights, Safeguards and Equality of Opportunity'). Northern Ireland is also a place apart on the matter of accommodating

[2] See also the Equality and Human Rights Commission (2017) on this.

allochthonous linguistic diversity, in that while the Race Relations Act 1976 does not apply there, the Race Relations Order (N.I.) Order 1997 (as amended by the Race Relations Order (Amendment) Regulations (N.I.) of 2003) has provisions that are broadly similar, in effect. In addition, section 75 of the Northern Ireland Act 1998 makes similar provisions regarding equality of opportunity and interpretation services as the Race Relations Act 1976.

Language Policy in the EU

A Brief Historical Overview

The second part of this chapter aims to provide a brief overview of the EU's language policy.[3] Compared to the UK, the EU has a relatively short history, and so does its language policy. However, since the creation of the European Coal and Steel Community (ECSC) and, subsequently, of the European Economic Community (EEC), a number of measures have gradually provided a clear and defined legal and policy framework for many of the languages spoken within EU member states.

The ECSC was created in 1951 in the aftermath of WWII. It is interesting to note that the equal recognition of the national languages of EU member states, that would have subsequently become one of the key tenets of EU language policy, was in fact not a central aspect of the Treaty of Paris, which established the ECSC in 1951. On the contrary, Article 100 of the Treaty implicitly assigned priority to French, stating the following:

> Le présent Traité, rédigé en un seul exemplaire, sera déposé dans les archives du Gouvernement de la République Française, qui en remettra une copie certifiée conforme à chacun des gouvernements des autres Etats signataires. (Traité instituant la Communauté Européenne du Charbon et de l'Acier 1951, Article 100)

The Treaty was only subsequently translated into the official languages of the other signatory states (Germany, Italy, Belgium, the Netherlands, and Luxemburg).[4]

[3] For more comprehensive accounts, see Gazzola (2006) and van der Jeught (2015).

[4] It should be noted that Luxembourg has three official languages: French, German, and Luxembourgish. The latter is, together with Turkish in Cyprus, the only national official language that does not have official status in the EU.

However, given the cultural sensitivity of the language issue, an Interim Committee of Lawyers was established. After a series of meetings, the Committee concluded that all four languages of the signatory states (French, German, Italian, and Dutch) should be granted equal official recognition within the ECSC (Protocole sur le régime linguistique de la Communauté européenne du charbon et de l'acier 1952). Even though French remained the de facto dominant language in the ECSC (Monnet 1976, p. 452), the equal recognition of all four languages became a central feature of the European integration project, which would have subsequently strongly affected the approach to linguistic diversity adopted by the EEC and by the EU.

The establishment of the EEC and of the European Atomic Energy Community (Euratom) in 1957 involved a twofold approach to language policy. First, Article 217 of the EEC Treaty established a procedural approach to language policy:

> Le régime linguistique des institutions de la Communauté est fixé, sans préjudice des dispositions prévues dans le règlement de la Cour de Justice, par le Conseil statuant à l'unanimité. (Traité instituant la Communauté Économique Européenne et documents annexes 1957, Article 217)

Second, Article 248 of the EEC Treaty (unlike the ECSC Treaty) recognized the equal official status of the four languages of the signatory states:

> Le présent Traité rédigé en un exemplaire unique, en langue allemande, en langue française, en langue italienne et en langue néerlandaise, les quatre textes faisant également foi, sera déposé dans les archives du Gouvernement de la République Italienne, qui remettra une copie certifiée conforme à chacun des gouvernements des autres États signataires. (Traité instituant la Communauté Économique Européenne et documents annexes 1957, Article 248)

On the basis of Article 217 of the EEC Treaty, on 15 April 1958, the EEC Council issued Regulation No 1, which reinforced the principle of equal recognition of all four languages (e.g. with regard to communications between the EU and its member states/citizens, and to the publication of official documents and legislation), already established in the ECSC Protocol, while also introducing the following important principle in Article 6: 'Les institutions peuvent déterminer les modalités d'application

de ce régime linguistique dans leurs règlements intérieurs' (Council of the European Economic Community 1958, Article 6). With regard to the Court of Justice, Article 7 established that '[l]e régime linguistique de la procédure de la Cour de Justice est déterminé dans le règlement de procédure de celle-ci' (Council of the European Economic Community 1958, Article 7).

The 1973 enlargement, which saw the UK, Ireland, and Denmark joining the EEC, entailed an expansion of the official language regime of the EEC, with English, Irish, and Danish added to the existing official languages. The same process followed the subsequent enlargements in 1995, 2004, 2007, and 2013. As a result of the various enlargements, the EU now has 24 official languages. Another change that accompanied the various enlargements, however, was also the growing importance of English as the de facto main working language within EU institutions (van der Jeught 2015, p. 63).

The Treaty on European Union (1992) expanded the scope of language policy in the EU by stating that 'Community Union action shall be aimed at developing the European dimension in education, particularly through the teaching and dissemination of the languages of the Member States' (Treaty on European Union 1992, Article 126(2)). Subsequently, the Treaty of Amsterdam reaffirmed and enhanced the principle that EU citizens could write to (and receive a response from) EU institutions in a language of their choice, as stated in Article 2(11):

> Every citizen of the Union may write to any of the institutions or bodies referred to in this Article or in Article 4 in one of the languages mentioned in Article 248 and have an answer in the same language. (Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts 1997, Article 2(11))

One key trend can be found throughout the historical development of the EU's language policy. On the one hand, as we have seen, the equal recognition of all national languages has been a key feature of the EU's approach to linguistic diversity since the establishment of the ECSC. On the other hand, the 1958 Regulation 1 de facto provided the legal rationale for prioritizing certain languages over others within EU institutions, thus creating and reinforcing a gap between official and working languages that became increasingly evident following the various EU enlargements, and

which led to the de facto dominance of English as the main working language of EU institutions (except for the Court of Justice of the European Union (CJEU)) (van der Jeught 2015, p. 67).

Alongside the tension between de jure equality and de facto inequality between languages within the EU, another tension that has often emerged in the EU, sometimes with legal implications, is the one between unity and diversity or, more precisely, between the economic (and, to some extent, political) unity pursued by the EU and the obstacles posed to it by the EU's increasing linguistic diversity, which may hinder the free movement of people and goods. Two influential legal cases illustrate this problem.

The first is the *Groener* case. In this case, Anita Groener, a Dutch artist, was refused a job as a full-time art teacher at a Dublin college because she had failed to meet the Irish language requirements for the post. Groener claimed that this decision infringed her freedom of movement as an EU citizen. However, the CJEU ruled against her, stating that the language requirement imposed by Ireland was acceptable since the Irish language was the 'national' and 'first official' language of the Irish State under its Constitution (CJEU 1989).

As De Varennes (1996) highlights, in the *Groener* case 'the court's approach held a great deal of deference to the emotional and symbolic ties between the Irish language and much of Irish society' (De Varennes 1996, p. 73). Even though the job itself did not require the use of Irish, the role of the teacher, both inside and outside the classroom, was seen by the Irish state and by the CJEU as having an important function in the consolidation of the Irish language and culture.

In the more recent case of *Anton Las v PSA Antwerp NV*, the CJEU held that, even though 'parties to a cross-border employment contract [who] do not necessarily have knowledge of the official language of the Member State … [should] … be able to draft their contract in a language other than the official language of that Member State' (CJEU 2013), proportionate and non-discriminatory measures aimed at protecting a member state's national language are permissible and consistent with the freedom of movement.

Another important area in which the tension between unity and diversity may arise concerns the free movement of goods, which also involves issues concerning consumer protection. The 1979 Foodstuff Directive, for example, established that 'the member states shall … ensure that the sale of foodstuffs within their own territories is prohibited if the particulars

provided in article 3 and article 4 (2) do not appear in a language easily understood by purchasers, unless other measures have been taken to ensure that the purchaser is informed. This provision shall not prevent such particulars from being indicated in various languages' (Council of the European Communities 1979).

The notion of 'language easily understood' is quite vague and has therefore resulted in a number of legal cases in which the CJEU reached different and conflicting conclusions. In the *Piageme* cases (CJEU 1991, 1995), for example, the CJEU ruled that the requirement to provide information in a 'language easily understood' did not justify imposing the use of a specific language (in these cases, Dutch) on sellers and distributors of goods. In the *Goerres* (CJEU 1998) case, instead, the CJEU held that a member state could impose the use of a specific language on foodstuff labels while also allowing the use of other languages. The slight tension between the two rulings signals the difficulty in balancing the free movement of goods with respect for national cultures and languages, both of which are key tenets of European integration.

Language in EU Institutions

We have already seen that, based on Regulation 1/1958, individual EU institutions can adopt a restricted language regime for internal purposes.

The European Parliament (EP) is the only fully multilingual institution within the EU. According to Rule 158 of the Rules of Procedure of the European Parliament (European Parliament 2017),

1. All Members shall have the right to speak in Parliament in the official language of their choice. Speeches delivered in one of the official languages shall be simultaneously interpreted into the other official languages and into any other language that the Bureau may consider to be necessary.
2. Interpretation shall be provided in committee and delegation meetings from and into the official languages that are used and requested by the members and substitutes of that committee or delegation.

Sometimes, interpretation is provided through relay languages, that is, more well-known languages that are used to translate texts or speeches from/into less known languages. The fully multilingual regime of the EP

is aimed at guaranteeing, among other things, democratic legitimacy (van der Jeught 2015, p. 133).

The Council of the European Union (2009) and the European Council (2009) only adopt full multilingualism in their formal meetings, whereas during informal meetings and meetings of the Committee of Permanent Representatives (Coreper), there is a tendency to use a restricted number of languages, mainly English, French, and German, with English having an increasingly dominant role (van der Jeught 2015, p. 135).

The European Commission (EC)'s Rules of Procedure (European Commission 2000) are rather vague with regard to its language regime, although English, French, and German are normally the working languages most used (van der Jeught 2015, p. 136). Once decisions and regulations are issued, however, these need to be drafted in all the EU's official languages.

Finally, the Rules of Procedure of the CJEU establish that a case can be brought in any of the EU's official languages and that, apart from a few exceptions, '[i]n direct actions, the language of a case shall be chosen by the applicant' (CJEU 2012). One of the most distinctive features of the Court's internal language regime is that French is the main language of internal deliberation and also the language used to draft judgements. The rationale for the choice of French can be traced back to the first Rules of Procedure of the Court (1953), which granted the Court the power to choose its working language. French was, at that point, for historical reasons, the most obvious candidate, even though no official document provides a de jure recognition of the de facto dominance of French within the Court (van der Jeught 2015, p. 188).

Language Learning and the Protection of Linguistic Minorities

The EU's language policy, we have seen, has constantly had to balance unity and diversity. The restricted internal language regime of the main EU institutions (with the exception of the EP), which we have just illustrated, aims to promote unity and to foster economic, political, and legal interaction across linguistic boundaries. Yet, the EU has also played an active role in fostering its internal linguistic diversity, especially through education and through the recognition and protection of minority languages.

With regard to education, the EU has for a long time endorsed the 'mother tongue plus 2' formula, that is, the view that each EU citizen

should learn at least two foreign languages in addition to their mother tongue (European Council 2002), where these foreign languages could be either other EU official or non-official languages or non-EU languages. One of the main goals of the 'mother tongue plus 2' formula has been to reduce the dominance of English (van der Jeught 2015, p. 188), which, however, continues to acquire a growing importance within the EU and beyond (Van Parijs 2011). The EU's commitment to language education has manifested itself through the establishment of EU-funded programmes such as Lingua (European Union n.d.-a), Erasmus (European Union n.d.-b), and Comenius (European Union n.d.-c), all part of the umbrella programme Socrates.

Alongside multilingual education, the EU has also promoted its linguistic diversity through the recognition and promotion of its minority languages. The European Parliament can be considered the key player in this area. In various Resolutions during the 1980s (European Parliament 1981, 1983, 1987, cited in Nic Shuibne 2001, p. 67), the European Parliament attempted to enhance the protection of minority languages by invoking tighter cooperation between the EU and its member states. One of the main outcomes of these measures was the establishment of the European Bureau for Lesser Used Languages (EBLUL) in 1981, and the report of the *Istituto della Enciclopedia Italiana* on linguistic minorities in the EC (Istituto della Enciclopedia Italiana/CEC 1986, cited in Nic Shuibhne 2001, p. 67). The EBLUL was established, above all, to implement the provisions of the 1981 *Arfé' Resolution* (European Parliament 1981, cited in Ó Riagáin 2001, p. 36), whose main objective was 'to enact a number of measures to support and promote regional and minority languages particularly in the domains of education, mass communication, public life and social affairs' (Ó Riagáin 2001, p. 36). The EBLUL, which was closed in 2010, used to receive substantial financial support from the EU.

Another key initiative for the protection of regional and minority languages in the EU is the Mercator Network, mostly funded by the European Commission, which 'aims to contribute to improving language vitality by analysing language visibility as well as cultural, economic and social opportunities for language use' (Mercator Network n.d.).

Another fundamental document is the *European Charter for Regional or Minority Languages* (Council of Europe 1992), an international treaty supported by the Council of Europe (a non-EU organization) and adopted by many EU member states. Furthermore, the *Culture 2000* programme,

operative between 2000 and 2006, included initiatives aimed at promoting lesser used languages across the EU (European Commission n.d.). Minority languages were also the focus of many of the initiatives held as part of the European Year of Languages in 2001 (European Parliament and Council of the European Union 2000).

The document *Promoting Language Learning and Linguistic Diversity: an Action Plan 2004–2006* highlighted how 'the Socrates and Leonardo da Vinci programmes, and their successors, can play a greater part in promoting linguistic diversity by funding projects to raise awareness about and encourage the learning of the so-called "regional", "minority" and migrant languages' (Commission of the European Communities 2003, p. 12). The document emphasized how the EU's intervention should complement, but not replace, the activity of member states and regional bodies in this area. Even though none of the minority languages of the EU member states have been recognized yet as official EU languages,[5] a commitment to their preservation is important for maintaining and improving cultural and linguistic diversity within the EU. For this reason, the EU's intervention has been welcomed by linguistic minorities across the EU.

The English Language

What is, then, the specific status of English in the EU, in view of the analysis conducted in the previous sections?

First, there is a clear distinction between the de jure status of English as one of the 24 official EU languages, with no special privileges, and its de facto status as the dominant working language within the EU institutions. This status, we have seen, is the result both of the 1958 Regulation 1, which de facto provided the legal rationale for prioritizing certain languages over others within EU institutions, and of the various EU enlargements which, from the 1970s onwards, helped English to replace French as the most commonly spoken language among citizens of EU member states.

[5] Perhaps one could argue that this is not the case for the Irish language in the Republic of Ireland. However, the Irish language is not recognized as a minority language by the Irish State but rather as its national and first official language. It is for this reason that the Irish State has declined to sign up to the European Charter for Regional or Minority Languages.

The rise of English in the EU has also been, of course, the result of the broader process of globalization within which EU integration has evolved (Modiano 2017, p. 319). English has become by far the most spoken second language among EU citizens, being spoken by 38% of them (Eurobarometer 2012, p. 19), and the most widely taught language at primary, secondary, and tertiary education levels (Euractiv 2013; Modiano 2017, pp. 320–321).

It is interesting to note that the rise of English in the EU (except for Ireland and Malta) has not been the result of British colonialism (Modiano 2017, p. 325), as in the case, for example, of many Asian and African countries. Certainly, the British Empire (and, subsequently, the influence of the United States of America (USA) at the global level) contributed to this dominance. However, the choice made more recently by many EU citizens to learn and speak English can be better explained by appealing to what Philippe Van Parijs (2011, pp. 20–21) calls 'probability-driven learning and maxi-min use'. The former refers to people's tendency to learn a language that they have a higher probability to use when communicating with others (e.g. because it is already popular). The latter refers to the tendency of speakers of different languages to converge on the language known best by the speaker who knows it least. These dynamics have contributed to reinforcing the rise of English not only within EU institutions, but also among EU citizens in general.

In view of these dynamics, it is plausible to argue that the UK's withdrawal from the EU will not change the status of English as the de facto lingua franca of the EU, both within EU institutions and among EU citizens. Things might be different, however, when we consider the de jure status of English in the EU after Brexit. Indeed, since the Brexit referendum in June 2016, a number of public figures have stated that English should lose its official and/or working status once the UK has left the EU (Robinson 2016; Boyle 2016). Moreover, in October 2016, Michael Barnier, the EU's lead Brexit negotiator, suggested that the Brexit negotiations between the UK and the EU should be conducted in French, his native language (Guarascio 2016). More recently, European Commission President Jean-Claude Juncker chose to deliver a speech in French, stating that 'English is losing importance' in Europe (Heath 2017).

Barnier's proposal was met with mixed reactions. Some endorsed it and reinstated the view that English should no longer be one of the EU's official languages in a post-Brexit EU (Boyle 2016). Others, instead, rejected this proposal. UK Prime Minister Theresa May, for example, argued that

the negotiations between the EU and the UK should be conducted 'in the way that is going to make sure we get the right deal for the United Kingdom' (Rankin 2016), implying that this would involve the use of English. Furthermore, the German commissioner Günther Oettinger stated that '[w]e have a series of member states that speak English, and English is the world language which we all accept' (Moore 2016). More recently, former Italian Prime Minister Mario Monti stated that after Brexit the EU 'should take the decision of upgrading the use of the English language in European Union affairs' (quoted in Dallison 2017).

The argument that English should lose its official status in the EU after Brexit is based on the assumption that each EU member state can only choose one official EU language, and since Ireland chose Irish[6] and Malta chose Maltese, there would not be any country choosing to maintain English as an official EU language after Brexit (Modiano 2017, p. 315). However, it is unclear from 1958 Regulation 1 whether a member state can choose more than one official EU language or not (Goulard 2016).

The view that English might lose de jure importance in a post-Brexit EU, or that it might even lose its official and/or working status, is implausible. From a practical point of view, Ireland and Malta (and especially the former) could simply not function in an EU without English as an official language. Indeed, shortly after the Brexit referendum, the European Commission published the following 'Statement on behalf of the European Commission Representation in Ireland' on its website:

> We note the media reports stating that in the event of a UK withdrawal from the EU, English would cease to be an official language of the EU. This is incorrect. The Council of Ministers, acting unanimously, decide on the rules governing the use of languages by the European institutions. In other words, any change to the EU Institutions' language regime is subject to a unanimous vote of the Council, including Ireland. (European Commission 2016)

Furthermore, English is de facto the most widely spoken language in the EU, and it would be politically unviable to remove it from the list of

[6] To be more precise, Irish was not made an official language of the EC/EU on Ireland's accession in 1973. Instead, it was recognized as a 'treaty language' only. It was only agreed in 2005 that it would become an 'official' language, a commitment put into effect in 2007 but derogated. Irish will only become wholly operative as an 'official' language of the EU in 2022 (European Union n.d.-d).

EU official languages (Modiano 2017, p. 317). Statements such as those provided by Barnier and Juncker should therefore not be considered realistic proposals but rather rhetorical devices and instances of the political symbolism that is becoming increasingly central to the Brexit debate. This symbolic aspect, however, is not insignificant. As we will see in Chap. 3, it plays an important role in the analysis of the normative issues surrounding the place of English in a post-Brexit EU.

Conclusion

This chapter has provided an overview of the UK's and the EU's language policy. The purpose of this overview was to provide an empirical background for the arguments advanced in Chaps. 2 and 3. With regard to the UK, the chapter has especially focused on the legal status of English and of the other autochthonous languages of the UK, also highlighting the distinctiveness of Northern Ireland. The chapter has also briefly examined the status of allochthonous languages in the UK. With regard to the EU, the chapter has illustrated the origins of the EU's official multilingualism, also highlighting the growing distinction between official and working languages within EU institutions as well as the tension between the promotion of communication and that of linguistic diversity within the EU. The chapter has finally examined the current place of English in the EU, and how this may be affected by Brexit.

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CHAPTER 2

Brexit and the Autochthonous Languages of the UK

Abstract This chapter argues that Brexit de-anchors the linguistic actors engaged with sub-state nationalisms in the UK (in Northern Ireland, Wales, and Scotland) from other similar actors in the various linguistically diverse regions of Europe. The effect of this, it is argued, is twofold. First of all, this de-anchoring strengthens the case for the de jure recognition of English as the official language of the UK. Secondly, given the UK's withdrawal from the jurisdiction of the European Court of Justice and, potentially, of the European Court of Human Rights, the case for embedding autochthonous minority language rights and freedoms in a transformed UK Constitution becomes convincing.

Keywords United Kingdom; English language; official languages; minority languages; UK Constitution

Introduction

One of the basic premises of this book is that Brexit promises to wholly re-shape the legal framework along with the public policy norms in relation to linguistic diversity that have come to dominate public life in the UK since the incorporation of the EU in 1993. From 1993 onwards, a series of events and related processes have occurred that have served to erode the status of English as the de facto and exclusive official language of the UK. In this chapter, the first substantive argument made by the authors is presented. Here, it is contended that Brexit impacts upon the

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status of the various autochthonous languages of the UK in a number of ways. Regarding the English language, Brexit strengthens the case for the statutory recognition of English as the official language of the UK. As regards the other autochthonous languages of the UK, it is contended that Brexit de-anchors the linguistic actors engaged with sub-State nationalisms in the UK in Northern Ireland, Wales, and Scotland from their European peers. The effect of this is to detach these groups from a European 'social imaginary'[1] that is defined by ethno-linguistic diversity. This is likely to drive them to consider alternative social imaginaries. In addition, given the necessary process of converting retained EU law into domestic UK law and the implications of this for the continued protection of a range of human rights in the UK (Amos 2017), and in taking seriously the ambition of some UK Government actors to withdraw the UK from not only the Court of Justice of the European Union but also the European Court of Human Rights, the authors put forward the thesis that such a scenario makes ever more convincing the case for more deeply embedding autochthonous minority language rights and freedoms in a transformed UK Constitution and in domestic law.

The English Language

The precise form that Brexit in the end will take will have significant implications for the English language, but Brexit has already had an impact upon matters to do with its status in the UK. In the first place, one of the most immediate effects of the idea of Brexit has been to raise fundamental questions about the nature and form of the Constitution of the UK, along with myriad other legal issues (See the UK Constitutional Law website, for example—https://ukconstitutionallaw.org/tag/brexit/). For some, Brexit is the herald of nothing less than a constitutional crisis (Paun and Miller 2016) and, as the process of Brexit unfolds, the complexities will only increase as events work towards the finality of departure. For example, the Judgement arrived at by the Supreme Court in January 2017 on the initial, principal constitutional concerns subsequent to the referendum provided legal clarity on a very narrow range of issues, but did not resolve the political uncertainty (R v Secretary of State for Exiting the European

[1] By 'social imaginary' we mean, following John B. Thompson, 'the creative and symbolic dimension of the social world, the dimension through which human beings create their ways of living together and their ways of representing their collective life' (Thompson 1984, p. 6).

Union 2017). Thus, Michael Keating, writing very shortly after this on 17 March 2017, declared that the post referendum stand-off between the UK Government and the Scottish Government still has the potential to 'undermine trust in the State and its capacity to accommodate the diverse communities within it' (Keating 2017). In addition, the actions taken by the UK Government since the General Election of 8 June 2017 in bringing forward proposals for a Great Repeal Bill, as per the Queen's Speech of 21 June 2017—now the European Union (Withdrawal) Bill, appear to have only reinforced that sense of impending crisis.

Setting the detail of these very grave concerns to one side, the ongoing discussions on the constitutional implications of Brexit even in their most general terms serve as a forcible reminder that the Constitution of the UK is uncodified and that this too has certain important implications in itself, including for the status of the English language. Writing prior to Brexit, scholars based at the Constitution Unit, University College London (UCL) pointed out that the recognition of English as the official language of the UK State is one matter, amongst a number of others, that is missing from the UK's Constitution (Melton et al. 2015, pp. 29–30). At the same time, in March 2015, the Political and Constitutional Reform Committee in Parliament published their conclusion to a far-reaching parliamentary review of the matter, arguing that the codification of the UK's Constitution, or at least the production of an accessible 'constitutional text', was desirable (House of Commons Select Committee on Political and Constitutional Reform 2015). In this sense, therefore, the case for the de jure recognition of English as the official language of the UK already exists; Brexit reinforces it.

While the UCL text usefully draws attention to the fact that the English language is 'missing', the piece is problematic in its description of the constitutional and legal status of certain languages used for official purposes in the UK. The relevant section is as follows:

> There are also some symbolic features missing from the UK's constitution. For instance, 76% of constitutions provide for an official language. English is the de facto official language of the UK, but this is not specified by statute. The only references to language in the UK constitution are in the devolution Acts. The Government of Wales Act (2006) seeks to put Welsh on the same terms as English in the principality. The Northern Ireland Act (1998) briefly mentions the need for a policy on Irish and Ulster Scots, but it does not make either an official language. The Scotland Act (1998) does not mention Scots or Scottish Gaelic at all. (Melton et al. 2015, p. 29)

Very simply, the authors fail to recognize that both the Welsh language and Scottish Gaelic have, in fact, de jure status as official languages in Wales and in Scotland respectively.

The legal status of Scottish Gaelic is set out in the Gaelic Language (Scotland) Act 2005. There, it is declared in the long title of the Act that its purpose is 'to establish a body having functions exercisable with a view to securing the status of the Gaelic language as an official language of Scotland commanding equal respect to the English language'. This aim is reiterated in subsection 3 of part 1 of the Act. One can infer from this that Scottish Gaelic is an official language in Scotland, but that its status in that regard is insecure and ought to be made more secure. The Act also asserts that this task be undertaken by a statutory body named Bòrd na Gàidhlig (for further information, see the website—http://www.gaidhlig.scot/bord/), on the basis that Scottish Gaelic ought to command respect equal to that commanded by the English language. While the term 'respect' is of legal ambiguity, the Act nonetheless provides for the recognition of Scottish Gaelic as an official language for the purposes of public administration in Scotland, to some degree.

More significant for the place of the English language in public life, perhaps, is the current constitutional and legal status of the Welsh language. As regards Welsh, there are two most pertinent statutes. Under part 1 subsection 1 of the Welsh Language (Wales) Measure 2011, a piece of legislation designed to supersede the Welsh Language Act 1993, it is declared that 'the Welsh language has official status in Wales'. In subsection 4 of the same part, it is asserted that 'this Measure does not affect the status of the English language in Wales'. Also, in subsection 3 of part 1 of the Measure, it is stated that the purpose of the legislation, in part, is to enable enactments that 'create standards of conduct that relate to the use of the Welsh language, or the treatment of the Welsh language no less favourably than the English language'. The second piece of relevant legislation is the National Assembly for Wales (Official Languages) Act 2012. This Act causes the Government of Wales Act 2006 to be amended so as to declare that 'the official languages of the Assembly are English and Welsh' and that 'the official languages must, in the conduct of Assembly proceedings, be treated on a basis of equality'. A single right pertains to this in that 'all persons have the right to use either official language when participating in Assembly proceedings' (Subsection 35 1B). The fact of the amendment to the Government of Wales Act 2006 means that the Welsh language is of constitutional significance.

Moreover, the significance of the amendment for the status of the English language is that this is the only place in statute in which it is declared that the English language is an official language in any context in the UK. In this case, the English language is declared to be an official language, co-equal with Welsh, in the operation of the National Assembly for Wales. This may be contrasted to the other extant statutory provisions made for the English language, namely, under the following pieces of statute law: the Proceedings in Courts of Justice Act 1730; An Act for Turning the Books of Law, and all Process and Proceedings in Courts of Justice, into the English Tongue 1650; the Laws in Wales Act 1535; the Pleading in English Act 1362; and, the Immigration Act 2016. The effect of this varied provision is that the status of the English language and the protections, rights, and freedoms enjoyed by English speakers arise in an incoherent fashion from UK law. Indeed, it may be significant that, in contrast to the Welsh language, the Measure does not have regard to a principle that the English language should be treated no less favourably than the Welsh language. This seems to allow for English speakers being treated less favourably than Welsh speakers, under certain circumstances. This matter remains untested, in the legal sense. A recommendation by a working group of the Welsh Government that 'Welsh language skills should be essential for all new posts in every Local Authority in Wales' (Working Group on the Welsh Language and Local Government 2016, pp. 15, 36) suggests that some, at least, think that this is already the case in practice. To apply such a policy throughout Wales seems disproportionate, given the very low numbers of Welsh speakers in many parts of Wales. According to the results of the 2011 UK Census, in only two local authority areas, the Isle of Anglesey and Gwynedd, do Welsh speakers comprise a majority of the population (StatsWales n.d.). The principle of territoriality (McRae 1975) ought to apply at this local level in the case of Wales whereby it is reasonable to apply Welsh language requirements as put forward by the working group in areas in which the Welsh language is more dominant than English.

Evidence[2] from the Welsh Government's policy development process on this topic shows that the wording adopted under the Measure was

[2] This evidence is in the form of a series of governmental policy papers, described in this text as 'Welsh Policy Papers', obtained under a Freedom of Information application made by Mac Giolla Chríost in his role as? on the ESRC-sponsored research project on 'The office of language commissioner in Wales, Ireland and Canada' ES/J003093/1.

actually intended to allow for the Welsh language to be treated more favourably than English. For example, in one policy paper it is stated that, 'The policy intention was not to leave open the possibility that English speakers in predominantly Welsh speaking areas could attempt to use the Measure to call for equal treatment of the English language with Welsh', but rather, to ensure that the effect of the legislation is to ensure that the focus is 'on measures aimed at working towards parity of treatment for the Welsh language with the English language and not vice versa' (Welsh Policy Paper 19 2010, p. 1). This could be interpreted as allowing for the more favourable treatment of Welsh so as to rectify apparent inequalities. In fact, it is instructive to note that the text of the Measure as introduced in the Assembly asserts the principle of 'promoting equality between the Welsh and English languages' in the Measure as introduced—a wording that echoes the principle of equality as understood by the Welsh Language Act 1993 to the wording in the Measure as passed, which is, with regard to intended application, more assertive (Welsh Policy Paper 6 2008, p. 5). Conceiving of equality in terms protecting a minority group or individuals with some special vulnerability against being subjected to treatment 'no less favourable' is at the core of the Disability Discrimination Act 1995. Mac Giolla Chríost (2016, p. 193) suggests that both the general concept and the particular language of 'no less favourable' were borrowed from this field and, indeed, that the precise wording of this Act directly informed the terminology used in the Measure. Of course, Barry (2001) argues that cultural affiliations or attributes, such as religion and language, are of a significantly different quality from a moral point of view than the attributes of physical disability, though they may have similar effects.

More interestingly again, the term is used in the Irish context in relation to interpreting the relative constitutional and legal status of the two official languages of the State, namely, Irish and English. There, the meaning of the term was a key part of a number of Supreme Court determinations on some of the practical implications held to arise from the constitutional and legal status of the Irish language, namely, Ó Beoláin v. Fahy 2001 IESC 26, 4 April 2001; Ó Murchú v. Registrar of Companies & the Minister for Industry & Commerce [1988] IRSR 42; and, Ó Murchú v. The Taoiseach et al SC No. 91 of 2005, 6 May 2010. As a piece, the various Judgements arising from these cases confirm, given the superior constitutional status of the Irish language as the national and first official language, that Irish cannot be 'treated less favourably' nor be dealt with 'on terms […] less favourable' than English, which is the second

official language, to the extent that the law applies to the specific matter in hand. In one of these Judgements, it is asserted that the term is, in fact, borrowed from Canadian case law in relation to the relative constitutional and legal status of the official languages there (French and English). See, for example, the Judgement of the Irish Supreme Court in the case of Ó Murchú v An Taoiseach (2010). This turn of phrase also features in the Irish Government's Irish Language Scheme Guidelines (Department of Community, Rural and Gaeltacht Affairs 2004, p. 3), namely, the statutory instruments by which public bodies set out how they will implement their legal duty to provide certain services in Irish. The point to be made here is that the use of the term 'no less favourably' as applied to languages with differing constitutional and official status in Ireland in particular is understood to allow, in certain circumstances, for the superior treatment of one language in relation to another. After all, the Irish language enjoys a superior constitutional status to that of the English language: Irish is the national and first official language (Article 8.1); English is merely the second official language (Article 8.2). Thus, it is certainly reasonable to infer that the application of the principle that the Welsh language be treated no less favourably than English allows for the superior treatment of the Welsh language and Welsh speakers in Wales: certainly, it is not specifically precluded. It would appear to be reasonable to infer also that the effect of this upon the English language is not incidental. But, of course, it was the National Assembly for Wales (Official Languages) Act 2012 that the UK Government was minded to challenge in the Supreme Court and not the Measure.

The idea of equality between the languages of Welsh and English in public life in Wales was a feature of the deliberations of the so-called Silk Commission, (For further information on this, see the web archive at the National Archives (http://www.legislation.gov.uk/browse/wales). This body, properly called the Commission on Devolution in Wales, conducted a review of the financial and constitutional arrangements in Wales between 2011 and 2014. One of the matters to which the Silk Commission gave consideration was the place of the Welsh language in UK law (Commission on Devolution in Wales 2014, pp. 133–134). One of the recommendations made by the Silk Commission was that the UK Government ought to review and amend the law so as 'to give equal status to the Welsh language' (Commission on Devolution in Wales 2014, p. 134). This recommendation was made in the light of evidence given by the Welsh Language Commissioner requesting that the Silk Commission review UK legislation 'which currently treats the Welsh

language less favourably than the English language' (Commission on Devolution in Wales 2014, p. 133).

This point was subsequently taken up by the Wales Office on behalf of the UK Government. In the Wales Office's 'Command Paper' of 2015 (HM Government 2015), it was stated that there was a consensus that this particular recommendation of the Silk Commission be accepted. This was put in the following terms: 'The UK Government and Welsh Government should systematically assess and keep under review the way in which the Welsh language is used across government, in particular with a view to amending any United Kingdom legislation that does not give equal status to the Welsh language in Wales' (HM Government 2015, p. 41, paragraph 2.10.1). In addition, the authors of the Command Paper assert that '[t]he UK Government further accepts the principle that legislation which does not give equal status to the Welsh language in Wales should be amended' (HM Government 2015, p. 41, paragraph 2.10.7).

A close reading of the notion of equality as applied to the English and Welsh languages in Wales, as framed by the Command Paper on the one hand and the Measure on the other, draws one to conclude that the respective approaches adopted have very different starting points and rather contrasting implications. The authors of the Command Paper take the 1993 Act as the substantive point of reference, in particular, the principle laid out in that Act that, 'the Welsh and English languages should be treated on the basis of equality' (HM Government 2015, p. 41, paragraph 2.10.3). As regards the Measure, the notion of equality is noticeably absent, and this is quite deliberate. One must conclude, therefore, that the effect of the language laws passed in Wales is to place the UK Government and the Welsh Government on quite different directions of travel as regards the constitutional and legal status of the English language.

Concern at protecting the status of English in public life was raised by members of the UK Parliament as they deliberated upon the conferring of power to the National Assembly for Wales over the subject of the Welsh language, under the National Assembly for Wales (Legislative Competence) (Welsh Language) Order 2009. The matter was dealt with by the Select Committee for Welsh Affairs, the House of Commons, the UK Parliament—for which Mac Giolla Chríost was expert advisor (Select Committee for Welsh Affairs 2009). The perspective of the National Assembly for Wales on the matter was, as one might have expected perhaps, different (National Assembly for Wales 2009). It is significant that the National Assembly for Wales (Official Languages) Act 2012 was,

initially, subject to challenge by the UK Government; specifically, the Wales Office. On the face of it, the action taken by the Assembly was ultra vires for the reason that the English language is not amongst the subjects for which the UK Parliament delegated power to the Assembly. In other words, the English language is not a subject for which it has legislative competence. The Wales Office determined to bring the issue before the Supreme Court, and after passing through the Assembly in the form of the National Assembly for Wales (Official Languages) Bill, the proposed Act underwent a period of intimation, that is, the process whereby the Attorney General for England and Wales, or for that matter the Counsel General for Wales, may refer a Bill to the Supreme Court of the UK. The specific purpose of this is to allow the Court to determine whether a Bill is in fact beyond the legislative competency of the Assembly.

The contrasting positions on the case taken by the UK Government and the Assembly are explained by one academic commentator as follows:

> The Wales Office's referral was made on the premise that the Bill amends the Government of Wales Act 2006 to make Welsh and English the official languages of the Assembly. The Assembly has legislative competence to legislate in relation to the Welsh language, but not, according to the Wales Office, in relation to the English language. In this case, the position of the Assembly Commission is similar to that of the Counsel General in the Byelaws Case, that the reference to the English language is "incidental" to the provision on the Welsh language. (George 2012)

Ultimately, on 1 November 2012, the Attorney General for England and Wales decided against taking the matter before the Supreme Court, having just lost the case on the matter of the Local Government (Byelaws) (Wales) Bill 2012 (Dixon 2013). It would appear that the UK Government, facing the prospect of a possible second embarrassing defeat in the Supreme Court and given that the declarations of the status of English and Welsh as official languages made under the Act only applied to the operations of the Assembly itself and nowhere else nor anything else, decided that a legal battle on this particular issue was not worth the trouble.

The position we are in now, therefore, is that there is increasing ambiguity regarding the relative constitutional and legal status of the English language relative to the Welsh language in Wales and Scottish Gaelic in Scotland. The concern here is not with the matter of maintaining the

dominant position of the English language *per se*. After all, the greater accommodation of the other autochthonous languages of the UK is in many ways a desirable goal, and the maintenance of linguistic diversity is regarded by many as a public good. Rather, the concern is with precisely how that accommodation is to be accomplished and its impact upon individual speakers of English. Brexit has the potential to play a role in helping to resolve this ambiguity to the extent that the fundamental constitutional issues raised by it serve to heavily underscore the need for a definitive, authoritative constitutional text, or even the codification of the UK's Constitution. The de jure recognition of the English language as the official language of the UK would address not merely that symbolic missing piece, as the UCL team put it, but it would also provide for the means of laying out the legal and practical implications of that status. The utility of this would be in providing greater clarity in the following regards: (1) upon the scope of the powers of the UK Parliament; (2) upon the powers of the devolved legislatures—the Scottish Parliament, the Welsh Assembly, and the Northern Ireland Assembly—to legislate in relation to the English language independently of the UK Parliament; (3) upon the constitutional and legal status of the English language in the different jurisdictions of the UK and in particular in relation to the extant de jure official languages in Wales and Scotland; and (4) upon the rights of English speakers under the law. After all, it is clear that one simply cannot assume that the historic freedoms enjoyed by English speakers will remain as they always have been.

Other Autochthonous Languages

For the other autochthonous languages of the UK, the implications of Brexit have two distinctive dimensions: the first pertains to ideology; the second relates to statute. At present, the social imaginary of actors engaged with the promotion of the autochthonous languages of the UK is deeply informed by a certain approach to the idea of Europe as a multilingual polity. For example, the two principal peer-networks for special interest groups, activists, and NGOs, and for State and sub-State actors, namely, the European Language Equality Network (ELEN—https://elen.ngo/#) and the Network to Promote Linguistic Diversity (NPLD—http://www.npld.eu), respectively, are avowedly European in their attitudes and practices.

ELEN describes itself as a 'dynamic, grass roots, Europe-wide, civil society […] non-governmental organization' (ELEN n.d.). It was created in 2011 following the closure of the European Bureau for Lesser-Used Languages' (EBLUL), due to the loss of EU funding. According to the organization itself, it was formed because 'many NGOs' were of the view that the loss of EBLUL meant that 'there would be no civil society representation' for the 'fifty million' speakers of regional, minority, and lesser-used languages in Europe at the European level. Its advocacy work thereby has the EU and the Council of Europe as its focal points, and to a lesser extent the UN. The goal of the organization is to promote the various 'European lesser-used (i.e. regional, minority, endangered, indigenous, co-official and smaller national) languages' and 'to work towards linguistic equality for these languages, and multilingualism, under the broader framework of human rights' (ELEN n.d.). While the founder members of the organization were the former member State committees of EBLUL in Estonia, France, Spain, and the UK, ELEN's membership has expanded to include a range of organizations from eastern and central Europe. Its UK-based members include the following special interest groups: Scottish Gaelic—Commun na Gàidhlig [Eng.—Scottish Gaelic Language Society], Comann nam Pàrant [Eng.—The Parent's Society]; Welsh—Cymdeithas yr Iaith Gymraeg [Eng.—The Welsh Language Society], Mudiad Dathlu'r Gymraeg [Eng.—The Celebrate Welsh Movement], Rhieni dros Addysg Gymraeg [Eng.—Parents for Welsh Medium Education]; Cornish—Kowethas an Yeth Kernewek [Eng.—The Cornish Language Society].

Similarly, the Network to Promote Linguistic Diversity (NPLD) describes itself as 'a European wide network working in the field of language policy & planning for constitutional, regional and small-State languages across Europe' (NPLD n.d.). NPLD currently claims as full members the following governmental institutions: the State government of the Republic of Ireland, along with the government-sponsored body Foras na Gaeilge [Eng.—The Irish Language Foundation]; the sub-State government of Wales; the sub-State governments of the Basque Autonomous Community, Catalonia, Navarre, Valencia, and Galica; the local governments of the Province of Friesland, the Province of Bizkaia (Spain); the Territorial Collectivity of Corsica and the Public Office for the Breton Language (France); the Province of Trento and the Regional Agency for the Friulian Language (Italy); and the public body of Folktinget (Finland). The organization also comprises a number of associate members,

many of which are universities. The NPLD explain the composition of their membership in the following terms:

> Over the past 25 years the face of language planning in Europe has changed considerably. Many national and regional governments have established language boards or departments to promote their language, both at home and at a European level. As a result a new breed of language planning professional has developed bringing new expertise to the field (NPLD n.d.).

It is the case, in actual fact, that the NPLD was originally formed, in 2007, largely at the behest of several language quangos and governmental departments from several of the smaller European States and sub-States, including the Basque Autonomous Community, Catalonia, the Republic of Ireland, and Wales. Thus, the NPLD has as its principal aim the task of raising awareness regarding the 'vital importance of linguistic diversity […] at a European level' and it seeks to accomplish this through enabling the exchange of best practices 'among governments, policy makers, practitioners, researchers and experts from all over Europe' (NPLD n.d.). For the NPLD, as indeed with ELEN, this European level means, specifically, working 'closely' with the institutions of the European Union as well as the Council of Europe.

The fact that both the ELEN and the NPLD are so focused upon the institutions of the EU, along with their associated language laws, policies, and programmes, means that Brexit will render large parts of the core missions of both of these organizations irrelevant to their UK-based members. In addition, should Brexit also mean departure from the Council of Europe, the European Court of Human Rights, and the European Convention on Human Rights, then the core missions of the ELEN and the NPLD would become even less relevant to the UK-based members. Setting to one side the implications of either of these scenarios for the statutory rights of the speakers of autochthonous languages of the UK, there are some consequences of an ideological nature here for these speakers and, in particular, for those groups that claim to represent the language interests of the speakers of these languages.

Brexit tears down the social imaginary that has its origins in the period beginning with the accelerated disengagement of the UK from Empire during the 1960s. The post-colonial movements that emerged from the post-war 'wreckage' of the British Empire, and indeed the other European empires that were similarly in conditions of imminent collapse, have in

common the adoption of the idea of self-determination and the concept of civil rights, and then of human rights (Moyn 2010). In this period, minority language activism in the UK was dominated by certain post-colonial exemplars of minority protest movements, on the one hand, and certain models of the accommodation of linguistic minorities by the State, on the other. The case of Canada was especially attractive to many. The work of Williams, and in particular his book from 1994 entitled *Called Unto Liberty* (Williams 1994), combining an academic style with activist sympathy, effectively illustrates this stance in relation to the Welsh language movement in Wales. The black American civil rights movement proved to be especially beguiling for activists in Ireland, both north and south. In the case of Northern Ireland, it was an inspiration for the movement aimed at gaining civil rights for Catholics, of which the Northern Ireland Civil Rights Association was, perhaps, the most substantive organization (e.g. see Purdie 1990). In the case of the Republic of Ireland, it was the inspiration for the Irish language activist group Gluaiseacht Cearta Sibhialta na Gaeltachta (Ó Tuathail 1969) [Eng.—the Gaeltacht Civil Rights Movement]. The idea of language rights as linguistic human rights reached its high tide mark in 1996 with the Universal Declaration of Linguistic Rights. Thus, it was in this particular context that the vocabularies of self-determination and civil rights, and then of language rights as human rights, were taken up by the minority language activists in the UK.

This imaginary definition was further convoked, as Steger and James (2013) would put it, by the incorporation of the EU in the early 1990s, and in particular by the agenda of deepening institutional integration initiated by the Maastricht Treaty (the Treaty on European Union 1992). The effect of this transformed European linguistic patrimony was to at least encourage, if not directly cause, the sub-State nationalisms of the UK to find ideological fellow travellers in the context of the so-called Europe of the regions, a political project aimed at realizing greater European cohesion. There is an enormous literature on this, but see, for example, Loughlin (1996), Magone (2003), and more recently again, Ballas et al. (2014a, b). This was certainly so in the case of Wales, as Chen adroitly points out (2009, p. 149), where she notes that Plaid Cymru, the Welsh nationalist party, having 'embraced the concept of "Europe of the Regions" […] as with several other regionalist parties in Europe (e.g. the Scottish Nationalist Party)', together with Cymdeithas yr Iaith Gymraeg 'have drawn upon the experiences of further regions or language minority communities (e.g. the

Basque-speaking community) in their discourse, to see if these examples could be adapted for the Welsh cause' (Chen 2009, p. 149).

In this context, the political parties, social movements, and language activists engaged with this agenda retained the vocabulary of rights but also addressed themselves to the apparent linguistic injustices of the official and working languages of the EU institutions, as well as the notion of EU citizenship more broadly, being defined by the dominant languages of the EU institutions, namely, English, French, and German.

Their activities have been met with varying degrees of success. For example, Members of the European Parliament aligned with the European Free Alliance welcomed certain 'administrative arrangements' set in place at the behest of the Spanish State that would allow for some use of certain non-official languages by EU institutions, namely, the Basque, Catalan, and Galician languages. Representatives of the main nationalist parties in Scotland and Wales asserted that this departure ought to set a precedent that would also apply to the Scottish Gaelic and Welsh languages (European Free Alliance 2005). For Catalan actors, however, the failure to fully realize official and working status for the Catalan language, despite various efforts (Mahony 2004), and despite the fact that there are millions of speakers of the language, has remained a source of ongoing discontent (Plataforma per la llengua 2017). In the case of the Irish language, a campaign styled Stádas [Eng.—Status] aimed at securing status for the Irish language as an official language of the EU was begun in 2004, as reported by the Irish Times (2004). By 2007, the campaign had realized its aim (McKittrick 2007), albeit subject to derogation, as was widely reported in the Irish media at the time and also subsequently on a regular basis (e.g. Gaelport 2013). In 2016, the Irish Government confirmed that the derogation would be brought to an end by 2022, thereby giving full effect to Irish as an official and working language of the EU (European Commission 2016). It is no coincidence that a similar such campaign was launched in relation to the Welsh language also in 2004, as reported at the time by BBC News (2004). That campaign has not been met with the same success as the Irish campaign, and while the Welsh language has since been used in official contexts in the EU (BBC News 2008), some Welsh MEPs have also spoken out against giving Welsh recognition as an official and working language (Shipton 2013).

Brexit detaches sub-State linguistic actors in the UK from this European social imaginary. For them, Brexit means the loss of the European

linguistic patrimony, as defined by the notion of the EU institutions, taken together, as the host of linguistically diverse regions along with the relatively benign accommodation of sub-State nationalisms within that. Several UK-based organizations affiliated to ELEN, associated with the Cornish, Irish, Scottish Gaelic, and Welsh languages in particular, published an open letter on 20 June 2016, prior to the Brexit vote, drawing attention to what they claimed would be the 'potentially disastrous' (ELEN 2016) impact that leaving the EU would have upon the autochthonous minority languages of the UK, in that they would be left 'at the mercy of the UK Government' (Flint 2016)—a concern since echoed by Thomas (2017), a prominent advocate of the Welsh language in particular and of European minority languages in general. If one takes this as a sincere assertion of the views and values of these organizations, then Brexit would appear to dramatically herald, of necessity, an alternative ethnolinguistic imaginary: it opens up a radical space for unavoidable reorientation. It is merely a question, therefore, of how that space will eventually be occupied.

Setting aside matters regarding the potential transformation of the political landscape for language activists, Brexit has constitutional, statutory, and socio-legal implications for the autochthonous minority languages of the UK (Charter of Fundamental Rights of the European Union 2000). The precise nature of these implications depends upon the particular form Brexit takes. For example, some versions of Brexit (see Boyle and Cochrane 2016) envisage the UK withdrawing from the Court of Justice of the European Union (CJEU), often referred to in the popular press as the European Court of Justice. The CJEU, based in Luxembourg, is comprised of two courts: the Court of Justice and the General Court. It is charged with 'ensuring EU law is interpreted and applied the same way in every EU country' and with 'ensuring countries […] abide by EU law' (European Union 2018). The Charter of Fundamental Rights of the European Union, which came into force under the Treaty of Lisbon in 2009, falls within the jurisdiction of the CJEU. This Charter is of significance to linguistic minorities in relation to Article 22, where it is asserted that the EU 'shall respect […] linguistic diversity'. It is significant that cases regarding language rights, including those of minority languages, strongly feature in CJEU case law (Research Division European Court of Human Rights 2011). In some cases, such as in the Judgement arrived at in the case of Rüffer (CJEU 2014), some expert commentators argue that the impacts of the determinations of the CJEU are more far-reaching than

those of other international courts (Peers 2014). Thus, were the UK to withdraw from the CJEU, this court would be lost as a potential avenue for asserting language rights, protections, and freedoms, and laying claim to judicial remedy to breaches to them. Were one minded to address this loss, then this would mean revising the constitutional and statutory architecture in relation to the rights, protections, and freedoms afforded to the speakers of the minority autochthonous languages of the UK. In general terms, one of the few ways in which this could be reasonably accomplished is by recognizing such rights, protections, and freedoms not merely in the statue law that is the responsibility of the devolved administrations in Northern Ireland, Scotland, and Wales, but also in UK statute, which is the responsibility of Westminster. Such rights, protections, and freedoms could be made more robust again by their being embedded in a transformed, perhaps even codified, UK Constitution. In this way, the loss of the CJEU would be compensated for in relation to the speakers of the minority autochthonous languages of the UK.

Other versions of Brexit (Boyle and Cochrane 2016) envisage the UK exiting not only from the jurisdiction of the CJEU, but also from that of the European Court of Human Rights (ECtHR). The ECtHR is based in Strasbourg and is an instrument of the Council of Europe (CoE) in that its first members were elected by the Consultative Assembly of that body in 1959 and that the ECtHR is designed to rule on applications regarding the European Convention on Human Rights (ECHR). The ECHR is an international treaty drawn up by the CoE in 1950. The UK was one of the original signatories of the ECHR. The CoE is also the architect of the European Charter for Minority or Regional Languages (ECMRL). Both the ECHR and the ECMRL are significant sources for the protection of certain language rights, according to Schilling (2008), and also for the imposition of language duties on a range of bodies, particularly in the public sector. The ECtHR is a substantive site for seeking judicial remedy and for the development of pertinent case law on such rights. It is very likely to continue to play a substantive role in the further development of such rights. In addition, the CoE is the architect of the Framework Convention for the Protection of National Minorities. Were the UK to withdraw from the jurisdiction of the ECtHR, then the speakers of the minority autochthonous languages of the UK would again be denied the means of asserting certain rights, protections, and freedoms. Also, while the ECHR is given effect in UK domestic law by the Human Rights Act 1998, the ECRML has no such effective instrument in domestic law. This is especially important as regards Cornish, Irish, Manx Gaelic, Scots, and

Ulster Scots for which there is no protection in domestic law. Once more, in this context, in order to prevent such a scenario, these rights, protections, and freedoms ought to be enshrined in UK law and also embedded in the UK Constitution, whether codified or uncodified.

Brexit has very particular, and especially problematic, consequences for Northern Ireland (NI), including the Irish language there. This is because the Irish language in NI is provided for under treaties, laws, and statutory agreements made between the UK and the Republic of Ireland, and the local political actors in NI itself are a party to such treaties, laws, and agreements. In addition to this, part of the political tension that pertains to the situation of the Irish language in NI is that, for some political actors (Mac Póilin 2010), the status of Irish as an authentic autochthonous language in NI is undermined by the historical fact of its terminal decline and disappearance as a living language in NI sometime during the 1960s and 1970s. Such actors argue that a wholly revived language is somehow an artificial contrivance. In addition, such actors have for many years argued that the Irish language is a political device aimed at undermining the British-ness of NI (Mac Giolla Chríost 2001). They point to the deep-rooted historical relationship between the language and nationalist separatism in Ireland and also to the more recent association between the language and Irish republicanism, including in its violent manifestations. Such actors seek to characterize the Irish language as being somehow allochthonous to NI.

The impact of Brexit upon the situation of the Irish language in NI in constitutional, statutory, and socio-legal terms is manifold. In the first place, the principal legal instrument providing recognition for the language and support to its speakers is the ECRML. Some versions of Brexit entail the withdrawal of the UK from the ECtHR, the impact of which would be to erode the statutory and policy effects of the ECRML. Secondly, the main organization charged with the implementation of public policy in relation to the promotion of the Irish language in NI, namely, Foras na Gaeilge (for further information see—http://www.forasnagaeilge.ie), was established with the express purpose of undertaking this work on a cross-border basis. Thus, as regards the promotion of the Irish language as a matter of public policy the border between Northern Ireland and the Republic of Ireland does not exist. Brexit, on the other hand, is, at least in its broadest and most straightforward terms, about the re-assertion of the borders of the UK. In the context of Brexit, therefore, some sort of legislation in relation to the Irish language in NI is an imperative, whether in the

form of a stand-alone Irish Language Act or as part of a piece of legislation with broader scope. It is not wholly anomalous in the context of the UK that the Irish language is recognized via an international instrument, the ECRML, and that Irish speakers enjoy no significant protection under domestic law. After all, speakers of the Cornish language, Manx Gaelic, Scots, and Ulster Scots also fall into a similar category. However, it is problematic that this is the situation of the Irish language. The possibility of the loss of the ECRML in this sense creates, at least, very considerable uncertainty.

In addition, and leaving to one side for the moment the matter of the ECtHR, CJEU case law suggests that the withdrawal of the UK from the jurisdiction of the CJEU would have implications for Irish speakers in NI that happen to be non-UK citizens and also equivalent and equal implications for Irish speakers in the Republic of Ireland that happen to be non-EU citizens, whether they are long-term residents or are visitors. Those implications arise from the determinations arrived at by the CJEU in relation to two particular cases, namely, those of *Bickel and Franz* (CJEU 1998) and *Ministère Public v Mutsch* (CJEU 1985), both of which are related to the entitlement to have criminal proceedings conducted in a language other than the principal language of the State.

As is pointed out by Cloots (2015, pp. 304–307), the implication of the latter case, from 1985, regarding the right of Mr Mutsch, a German-speaker, to have criminal proceedings against him take place in German in the Tribunal Correctionnel in Veriers, an official German-speaking municipality in Belgium, is that in the interest of the principle of freedom of movement EU citizens from one Member State of the EU that are long-term residents in another Member State of the EU can avail themselves of the language rights ordinarily enjoyed by the citizens of that other Member State of the EU, despite the fact that they are not themselves citizens of that other Member State. For example, in the Judgement on *Ministère Public v Mutsch*, translated from the original French text, it says that

> The principle of the free movement of workers […] requires that a worker who is a national of one Member State and habitually resides in another Member State be entitled to require that criminal proceedings against him take place in a language other than the language normally used in proceedings before the court which tries him, if the workers who are nationals of the host Member State have that right in the same circumstances. (CJEU 1985: ECLI:EU:C:1985:335: 2697)

Also, in the Opinion issued on *Ministère Public v Mutsch*, translated from the original German text, Advocate General Lenz says that, 'a German-speaking worker who is a national of another Member State and lives in a German-speaking municipality in Belgium is entitled, to the same extent as a Belgian national in a comparable situation, to require that criminal proceedings against him take place in German' (CJEU 1985: ECLI:EU:C:1985:156: 2690).

The implication of the case *Bickel and Franz* is broader, as Cloots notes (2015, pp. 304–307), in that its meaning is that EU citizens from one Member State of the EU who have reason to avail themselves of the services of another Member State of the EU are entitled, even though they are not long-term residents in that other Member State of the EU, to avail themselves of those services in accordance with the language rights ordinarily enjoyed by the citizens of that other Member State of the EU, and to do so despite the fact that they are not themselves citizens of that other Member State. In the Judgement on *Bickel and Franz*, translated from the original Italian text, it says that

> The right conferred by national rules to have criminal proceedings conducted in a language other than the principal language of the State concerned falls within the scope of the EC Treaty [and that] Article 6 of the Treaty precludes national rules which, in respect of a particular language other than the principal language of the Member State concerned, confer on citizens whose language is that particular language and who are resident in a defined area the right to require criminal proceedings be conducted in that language, without conferring the same right on nationals of other Member States travelling or staying in that area, whose language is the same. (CJEU 1998: ECLI:EU:C:1998:563: 7660)

Also, in the Opinion issued on *Bickel and Franz*, given here in English, the original language of the text, Advocate General Jacobs says that '[w]here a Member State grants residents in part of its territory the right to use a language other than its official language in criminal proceedings against them', then it follows, he states, that 'Article 6 of the EC Treaty must be interpreted as requiring it to afford the same right to nationals of other Member States visiting that territory if those nationals have that other language as their mother tongue' (CJEU 1998: ECLI:EU:C:1998:115: 7649).

This case law would appear to apply to the situation of Irish speakers in NI (UK) and the Republic of Ireland, whereby Irish speakers who are UK

citizens ought to be able to avail themselves of services through the Irish language, in the Republic of Ireland, to the extent that Irish speakers who are citizens of the Republic of Ireland have the same right. The reverse also applies in that Irish speakers who are citizens of the Republic of Ireland ought to be able to avail themselves of services through the Irish language in the UK (NI) to the extent that Irish speakers there have the same right. It is relevant also to note that both *Bickel and Franz* and *Ministère Public v Mutsch* predate the CFREU, for which the UK Government obtained a protocol so as to ensure that the CFREU does not create justiciable rights other than those that are already provided for by law. The rights implied by CJEU case law are not derived from the CFREU; rather, they are already provided for. Therefore, so as not to lessen the language rights of Irish speakers as they currently exist, the process of converting EU law into domestic law in the UK ought to take account of the implications of *Bickel and Franz* and *Ministère Public v Mutsch*. That the matter of legislating for the Irish language in NI has been under various types of consideration for some time is of relevance here. Specifically, were either the UK Government or the Executive of the Northern Ireland Assembly minded to bring forward such legislation, in the form of an Irish Language Act, for example, then that would provide an appropriate vehicle for protecting the rights of Irish speakers in this particular regard. In the same manner, the Irish Government is currently committed to revising the Official Language Act 2003, in which the rights of Irish speakers are laid out; this too would be an appropriate vehicle for such protection to be confirmed.

Conclusion

The impact of Brexit upon the various autochthonous languages of the UK is one of the many unintended consequences of the UK's EU membership referendum of 23 June 2016. It will re-shape the legal framework, the public policy norms, and the ideational and ideological stances taken in relation to linguistic diversity in the UK. It strengthens the case for the statutory recognition of English as the official language of the UK; it disconnects the linguistic actors engaged with sub-State nationalisms in the UK in Northern Ireland, Wales, and Scotland from their European peers; and it reinforces the case for more securely underpinning, in constitutional and statutory terms, the rights and freedoms of the speakers of the autochthonous minority languages of the UK.

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CHAPTER 3

Brexit and English as a Lingua Franca in the European Union

Abstract This chapter argues that Brexit strengthens the normative case for English as the lingua franca of the EU. As observed by Philippe Van Parijs (*Linguistic justice for Europe and for the world*, Oxford University Press, 2011), the rise of English as the EU's and global lingua franca is accompanied by various injustices that affect non-native English speakers. These speakers have to bear most of the costs associated with learning English and enjoy fewer opportunities than native English speakers due to their lower level of English proficiency. Moreover, their self-respect risks being undermined by the fact that their native language(s) is(are) considered less important and prestigious than English. This chapter examines these injustices in turn and argues that Brexit will reduce all of them, thus enhancing the moral justification for adopting English as the sole or main lingua franca of the EU.

Keywords Brexit • English • lingua franca • linguistic justice • Philippe Van Parijs

Introduction

In Chap. 1, it was shown that, since the Brexit referendum, a number of prominent public figures have been advancing the view that the role and importance of English in a post-Brexit EU should be significantly reduced, for example, by depriving it of its official and working status. It was argued

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there that this change is unlikely to happen. It was also shown that others, notably former Italian Prime Minister Mario Monti, have instead claimed that English should be given a more prominent role in the EU after Brexit. The present chapter intends to assess this claim from a normative (rather than empirical) perspective. More specifically, the chapter asks whether it would be morally more problematic than it is now for English to be the sole or main lingua franca of a post-Brexit EU after the departure of the largest English-speaking member state.[1]

In response to this question, it will be argued that should the UK eventually leave the EU, it would be legitimate for English to remain one of the EU's official languages, and that in fact there would be even stronger (rather than weaker) moral arguments than there are now for assigning to it the role of EU's sole or main lingua franca, and therefore for recognizing it and promoting it as such across the EU. This might involve, for example, enhancing its role as the main working language within EU institutions and establishing (or expanding existing) EU-funded programmes dedicated to the teaching and learning of English across the EU.

In order to defend this argument, the chapter engages with the contemporary literature on linguistic justice in normative political philosophy (Kymlicka and Patten 2003; Patten 2014; Van Parijs 2011) and, more specifically, with Philippe Van Parijs's (2011) influential normative defence of English as a European and global lingua franca. According to Van Parijs, promoting English as a lingua franca can contribute to the formation of a global demos and of a global justificatory community, and therefore to tackling problems of international justice. However, Van Parijs recognizes that the adoption of English as a lingua franca can have unjust consequences. The first concerns the unfair distribution of costs and benefits between native and non-native speakers that characterizes the production and sustaining of English as a lingua franca; the second relates to the inequality of opportunity resulting from different levels of proficiency in English that characterize native and non-native speakers; and, finally, the third involves the greater esteem that native speakers of English enjoy compared to speakers of other languages, thanks to the higher status that English increasingly enjoys at the global level (Van Parijs 2011).

[1] Apart from Lacey (2017, pp. 250–251), who very briefly touches upon this issue, and Modiano (2017), who has recently examined the place of English in a post-Brexit EU from a sociolinguistics perspective, no substantial academic analysis has been dedicated to this problem, and especially to its normative dimensions.

The chapter initially tackles the first and third problems, as they both concern issues of inter-linguistic justice, and then moves on to consider the issues of intra-linguistic justice posed by the second problem. The chapter argues that in a post-Brexit EU, all the three instances of linguistic injustice highlighted by Van Parijs would be significantly reduced and that therefore the lingua franca status of English would become less morally problematic. In a post-Brexit EU, English would become a more morally neutral language than it currently is, and this would provide those who, like Van Parijs, defend the promotion of English as a lingua franca, with stronger arguments in support of their position. Before proceeding, some clarifications are required.

First, the chapter does not defend English as a lingua franca per se. A number of authors in recent years have offered a defence of *lingue franche* in general, for example, by claiming that linguistic barriers in multilingual polities can be an obstacle to economic efficiency (e.g. Barro 1996; Grin 2006), democracy (Weinstock 2003), or equality of opportunity (Pogge 2003), and that therefore it is important for people in these societies to share and be able to communicate in a common language. Some authors, like Van Parijs (2011) himself, have endorsed the more specific view that English should be the lingua franca through which individuals should communicate both within and beyond their state, and within supranational bodies such as the EU. The chapter does not assess the merits of this position per se. Instead, it defends an 'if,… then' line of argument. *If* one embraces the Van Parijsian idea that English should be the EU's (as well as the global) lingua franca, *then* the injustices resulting from this within the EU would be much less significant after Brexit than they are now. As a consequence, the moral case for English as a lingua franca in the EU would be significantly strengthened.

Second, there are different levels at which language plays an important role within the EU, as it was already illustrated in Chap. 1. The first concerns the internal working of the EU's institutions; the second concerns the communication between the EU and its citizens; and, finally, the third more informal level concerns the public sphere of the EU, where citizens have the chance to exchange ideas through various forums such as newspapers, TV, radio, and the Internet, and to enjoy opportunities for work and study in each of the EU member states. Discussions of English as a lingua franca are relevant to all three levels.

Third, some authors have argued that under present conditions, the EU's move from the current regime of official multilingualism to an

oligarchic or even monolingual official language regime, where only a few languages or only one language, for example, would be employed by the EU in communications with its citizens, would both be ineffective and disenfranchise the vast majority of EU citizens (especially among lower social strata), preventing them from being able to access key information about EU legislation (e.g. Gazzola 2014, 2016). This is especially the case in view of increasing population mobility and of the emergence of new linguistic minorities across the EU (Gazzola 2016, pp. 9–10; see also Gazzola 2014, pp. 239–240), minorities whose members may not have any knowledge of the language(s) to which an oligarchic or monolingual EU language regime would grant official recognition. However, this empirical literature per se does not and cannot provide any arguments for or against the promotion of English as a lingua franca in the EU. All it can show is that, *as things currently stand*, knowledge of English among EU citizens is not as widespread and as good as Van Parijs and others suggest or assume. This implies that if someone is normatively committed to official multilingualism, they will welcome the fact that only an official multilingualism regime can minimize and almost eliminate linguistic disenfranchisement. If, however, one is normatively committed to promoting English as a lingua franca in the EU, because of the aforementioned advantages that, according to some authors, having a lingua franca brings, one should demand that both the EU and its member states actively promote the learning of English among their citizens, thus also reducing the level of linguistic disenfranchisement that can currently be witnessed. In other words, understanding things as they are cannot tell us how things ought to be.

English as a Lingua Franca: Costs and Benefits After Brexit

According to Van Parijs (2011), learners of English have to invest considerable amounts of time and financial resources in their endeavour. However, the collective good (English as a lingua franca) that they thus contribute to producing also—and especially—benefits native English speakers, without the latter having to pay any significant costs for it. This, according to Van Parijs, is essentially unfair and unjust, and therefore demands some form of compensation on the part of native English speakers who are 'free riding' (Van Parijs 2011, p. 51) on the production of

English as a lingua franca. Given the implausibility of imposing a language tax on native English speakers, Van Parijs claims, non-native English speakers should 'poach the web' (Van Parijs 2011, pp. 78–82), that is, steal anything they want from the vast amount of information written in English available on the Internet, without paying for it. Regardless of the effectiveness or appropriateness of Van Parijs's proposal, it must be asked whether the normative rationale that underlies it, that is, the unfairness of the way in which the costs and benefits associated with the production of English as a lingua franca are currently distributed between native and non-native English speakers, would still be present after Brexit and, if so, to what extent.

A first response to this question could be the following. Since, after Brexit, there would only be a very small number of native English speakers in the EU, the unfairness and injustice highlighted by Van Parijs would be almost insignificant. After all, the Irish and the Maltese combined, together with any other native English speakers living in other EU member states, would only amount to around 2% of the total EU population. The fact that such a small amount of EU citizens would continue to free ride on the creation and preservation of English as a lingua franca, one could argue, is something that does not raise any significant moral issues, and which non-native English speakers could probably live with. Therefore, the compensatory measure (i.e. poaching the web) proposed by Van Parijs, or any other similar measures, would no longer be required, or would only be required to a limited extent, because there would no longer be any significant injustice to be remedied.

However, this seems to be an implausible conclusion, since the wrongness of a person's free riding on collectively produced benefits (such as a lingua franca) does not depend on the influence that that person has on the collective enterprise or its success (Dagger 1997, p. 71). Qua native English speakers, the Irish and the Maltese (or, at least, those among them who are native English speakers), as well as any other native English speakers still living across the EU (there are currently around 1.2 million UK citizens living in other EU countries, who might be able to preserve their rights after Brexit), would continue to be free riders even after Brexit, and the fact that there would only be a small number of them would not reduce the injustice of this situation.

There is, however, a second and more plausible argument in support of the view that after Brexit native English speakers' free riding in the EU would not be as morally problematic as it is now. In order to understand

what this argument involves, it is important to consider the importance of the power dynamics that underlie the way in which languages develop and spread. Van Parijs acknowledges, but does not sufficiently problematize, this aspect.[2] If we pay attention to these power dynamics, we can realize that the rise of English as a lingua franca should be considered neither a fully haphazardous nor a fully inevitable phenomenon but rather the result, to a great extent, of the political, economic, and cultural power of the British Empire and, subsequently, of the USA on the global stage (e.g. Réaume 2015). These power dynamics affect the way in which the duties and obligations of native English speakers should be assessed both now and in a post-Brexit EU.

First, it is not implausible to argue that people can be held morally responsible for the wrongdoings of their ancestors when they benefit from them (e.g. May and Strikwerda 1994; Radzik 2001), and that the dominance of English as a lingua franca, both in Europe and globally, is a clear example of an unjustly produced benefit. This implies that, while the UK remains a member of the EU, taking into account the historical power dynamics that underlie the rise of English as a lingua franca contributes to reinforcing the Van Parijsian argument that native English speakers ought to compensate non-native speakers for the costs the latter have to incur in order to learn English.

However, even if we accept, for the sake of argument, the view that English as a lingua franca is an unjustly produced benefit, this conclusion would only apply to *British* native English speakers. This is because British native English speakers are not simply free riders who benefit from a collective effort mainly sustained by non-native speakers. They are also free riders within a scheme of cooperation (i.e. English as a lingua franca) that only or mainly exists because of the wrongdoings of their ancestors. In other words, native English speakers (both in a post-Brexit EU and in general) should not all be indiscriminately included in the same category. This is because while the Irish, the Maltese, and many other groups of native English speakers *do* benefit (like the British) from their English language native proficiency, this benefit was not produced by *their* ancestors. It was not their ancestors, that is, who contributed to creating the conditions for the present success of English as a lingua franca, by forcefully

[2] Van Parijs especially highlights how English has become the dominant global language mainly 'because of a haphazard sequence of events that could easily have led elsewhere' (Van Parijs 2011, p. 22), including battles, wars, and various migratory movements.

imposing English upon many non-Anglophone peoples.[3] Therefore, the Irish and the Maltese cannot be held responsible for the unjust rise of English as a lingua franca.

However, this does not change the fact that *all* native English speakers are free riders, that is, the fact that they (i.e. all of them, including the British, the Irish, and the Maltese) benefit from a collective effort mainly sustained by non-native speakers. While benefitting from one's ancestors' wrongdoings might indeed render someone morally responsible for such wrongdoings, this is not necessary for considering someone morally accountable for one's presently enjoyed unfair benefits, however the latter might have been originally produced. In other words, the Irish and the Maltese in a post-Brexit EU would still be morally accountable for their linguistic free riding, even if they could not be held morally responsible for the original causes of the unjust dominance of English. Furthermore, one might also claim that while that might not be the case for Malta, Ireland at least has also played a significant role in the process of colonization led by the British Empire (e.g. Howe 2002) and, therefore, that it has also contributed to the (unjust) rise of English as a global lingua franca. Therefore, one might argue, today's Irish are in fact also morally responsible, at least in part, for that injustice (alongside the British).

Furthermore, one might also question why non-native English speakers in the EU should pay for the Irish and the Maltese's free riding, given that such free riding is the result of Britain's colonial legacy rather than the result of linguistic domination by any EU countries. This, however, is not a strong objection. After all, throughout its history, the EU has had to deal with difficult legacies, such as those left by Nazi Germany, by other forms of nationalism after WWII (which contributed to the very creation of the EU, then the EEC), and by the Soviet Union after the end of the Cold War (which eventually led to the 2004 EU enlargement). With regard to the latter, the political, economic, and cultural legacy left by the Soviet Union across Eastern Europe after its demise is something the EU has directly or indirectly had to pay for. The EU, as far as we are aware, has not asked Russia to pay for those costs. Instead, the EU member states' decision to welcome the Eastern European countries formerly in the Soviet bloc into the EU implicitly involved acceptance of the political,

[3] We set aside, here, a discussion of the role of the USA in the promotion of English as a lingua franca.

economic, and cultural burdens that those countries would carry with them due to that legacy.

Similarly, the EU decided to allow Ireland and Malta to join it, despite being aware of their colonial legacy (and of its linguistic implications), and without specifying which costs it would be prepared and not prepared to cover. After all, throughout its history, the EU has actively supported disadvantaged areas (and languages), for example, through its European Social Fund (ESF) and European Regional Development Fund (ERDF) (and through the various measures in protection of minority languages illustrated in Chap. 1), without asking those responsible for those disadvantages and inequalities to pay the bill. While the EU's approach in these areas is certainly not disinterested, and is probably partly driven by a desire for expansion, greater status, and power in the global arena, it is also an expression of the commitment to solidarity and distributive justice that is central to the EU's mission (European Commission n.d.-a). Therefore, the EU's support for the Irish and the Maltese's free riding could be seen as part of that mission, and as something to which all EU member states (and their citizens) have expressly or tacitly subscribed by joining the EU.

There is, however, a better response to the point that the Irish and the Maltese would continue to unjustly free ride on the creation of English as an EU lingua franca after Brexit. Even if we grant that the British might not have been the only Anglophones to have contributed to the unjust rise of English as a global lingua franca, the British have certainly not been among the main *victims* of that process, whereas the Irish and the Maltese (alongside other nations) have. This has had an important consequence. While the process of linguistic assimilation carried out by the British Empire has helped the majority of the Irish and the Maltese to become native English speakers, therefore allowing them to fully benefit from the rise of English as a lingua franca, it has also contributed to undermining the languages that used to be dominant within these linguistic communities, that is, Irish and Maltese, either by producing a complete language shift (Ireland), or by weakening the national language (Malta).

Therefore, while both the Irish and the Maltese undoubtedly enjoy many benefits due to the fact that the majority of them are native English speakers, these benefits are offset by the fact that their national languages have been weakened by the historical process (for which the British Empire was especially responsible) through which English has been unjustly imposed upon them. This is especially the case for the Irish, who have had to invest significant resources in reviving and sustaining their national

language against the background of a powerful Anglophone neighbour. The Maltese too may soon have to step up their efforts in order to preserve their national language. The kind of burden carried by the Irish and, to a lesser extent, by the Maltese, cannot be found, however, in other EU countries, where people have normally not had to invest time and financial resources in order to keep their national (or regional) language alive under the Anglophone pressure of the British Empire.

There is, however, a further complication. Even talking about *British* native English speakers is overly simplistic. This is because this category also includes the Welsh, the Scots, the Irish (i.e. those living in the UK), and other linguistic groups whose members could plausibly argue that they (or at least, their ancestors), like the Irish and the Maltese, have been forced (and continue to be compelled [e.g. through education, school curricula, etc.]) to learn English. What is the status of these speakers within the Van Parijsian normative analysis of the costs and benefits associated with the production of English as a lingua franca? It seems that the answer to this question should follow the same line of argument adopted with regard to the Irish and the Maltese. In other words, while the Welsh, the Scots, and the (UK) Irish undoubtedly enjoy many benefits due to the fact that the vast majority of them are native English speakers, these benefits are offset by the fact that their national languages have been weakened by the historical process (for which the British Empire was especially responsible) through which English has been unjustly imposed upon them. This may therefore not justify referring to British native English speakers en masse.

There is, however, a key difference between the Welsh, the Scots, and the (UK) Irish, on the one hand, and the Irish and the Maltese, on the other hand. While the latter have had to use their own resources in order to keep their national languages alive, the former, qua British, have been able to access Britain's resources in order to remedy the weakening of their national languages resulting from the compelled learning of English. While these compensatory measures might have been, so far, imperfect and not entirely effective, it is not implausible to imagine, especially in Wales, the implementation of stronger language policies (e.g. in education or public employment) aimed at restoring the primacy of the language that was historically superseded by English, without undermining the ability of Welsh speakers to be native English speakers. From this, it can be concluded that, with regard to the Welsh, the Scots, and the (UK) Irish, the injustices resulting from the dominance of English can be addressed

internally, that is, by compensating for the costs experienced by these speakers (resulting from having been compelled to learn English) through the benefit of supporting their national languages. While imperfect, this process of compensation could in principle be improved and intensified, and this would then justify continuing to use the category 'British English speakers' when examining linguistic justice *beyond* Britain. This is because any linguistic injustices suffered by those indigenous linguistic minorities would have already been remedied internally, thus not affecting the moral status of their relationship (and that of British people in general) with non-British non-native English speakers.

In summary, in a post-Brexit EU, the distribution of costs and benefits resulting from the rise of English as a lingua franca should be assessed on the basis of a revised normative framework. While the remaining native English speakers (mainly the Irish and the Maltese) in the EU would certainly continue to benefit from their native knowledge of English, their free riding on the collective production of English as a lingua franca should no longer be considered morally problematic. This is not because the Irish and the Maltese do not enjoy any benefits from being native English speakers—they do, and would continue to do so after Brexit—but because those benefits are offset by the burdens which, for them, *also* result from the unjust power dynamics that underlie the rise of English as a lingua franca. In a post-Brexit EU, therefore, both native and non-native English speakers would be more equal partners in the production of English as a lingua franca. The former would benefit from their native knowledge of English but (unlike the British) would continue to experience the burden of having to keep their national language alive, or sufficiently strong, against the background of a powerful Anglophone culture. The latter would certainly have to continue to incur the costs of learning English as a foreign language but, at the same time, they would not face the same burden of securing the survival of their national language faced by the Irish and the Maltese. In summary, the kind of asymmetry about costs and benefits highlighted by Van Parijs in relation to English as a lingua franca would no longer be present after Brexit, and therefore English as a lingua franca in the EU would no longer raise the same normative problems highlighted by Van Parijs with regard to this aspect.

This still leaves open, however, an important objection. Regardless of the moral status of those native English speakers (especially among the Irish and the Maltese) who will continue to live within the EU, it is undeniable that many native English speakers outside the EU, and especially

(post-Brexit) UK and US citizens, will continue to unduly benefit from the rise of English as a European and global lingua franca. After all, Van Parijs himself is not concerned with the free riding of native English speakers in any specific geographical location, but with their free riding *wherever they are in the world*. How can the fact that native English speakers will continue to free ride *outside the EU* be mitigated by the fact that the costs and benefits related to the production of English as a lingua franca will be more fairly distributed *within the EU*?

One might answer this question by arguing that while the injustice and unfairness of non-EU native English speakers' free riding in a post-Brexit world may not be denied, there might be effective ways of compensating for this injustice. We have seen that Van Parijs considers the idea of imposing a language tax on native English speakers implausible, and therefore proposes 'poaching the web' as a more feasible kind of compensatory measure. However, Van Parijs's reluctance to endorse a language tax is probably mainly driven by the difficulty that trying to implement and coercively impose such a tax would involve. But is it really unreasonable to think of this kind of tax in a post-Brexit scenario? Not necessarily. In preparation for Brexit, the UK is already trying to reach some form of trade agreement with the EU. Whatever form this agreement will take, the UK is likely to have to make some kind of financial contribution to the EU in order to be able to obtain some degree of access to the European Single Market. The EU could therefore decide to devote a percentage of that financial contribution to the promotion of the English language across its member states. In order to guarantee transparency, the UK could be informed upfront of that decision, and should a trade deal between the UK and the EU be struck, that percentage would constitute a clear form of redistribution of the costs of producing English as a lingua franca from EU non-native English speakers to UK native English speakers. A similar strategy could be adopted by the EU as it negotiates a trade deal with the USA and other countries whose citizens are mainly native English speakers.

One might then object that even if the EU were to adopt this proposed measure, UK, USA, and other non-EU native English speakers would continue to free ride in relation to non-native English speakers outside the EU (e.g. in most Asian, African, or Latin American countries). Two practical solutions could be proposed to resolve this problem. First, the many regional organizations in which most world countries participate could adopt similar measures when granting free or easy access to their markets

to the USA, the UK, and other mainly Anglophone countries. Second, the EU itself could devote some of the aforementioned language tax to English teaching and learning programmes in non-EU non-Anglophone countries. The EU is already the largest donor in the world, with its foreign aid amounting to $15.56 bn in 2015 (of which $768 m were devoted to education) (European Commission n.d.-b). A percentage of that amount, funded through a percentage of the language tax imposed on Anglophone countries participating in trade deals with the EU, could be devoted to English teaching and learning programmes in non-EU non-Anglophone countries.

There is a further reason for thinking that the idea of an EU-imposed language tax is both plausible and morally permissible. In his critique of Van Parijs's argument, David Robichaud (2015) argues that if, as Van Parijs claims, '[the] benefits [enjoyed by native Anglophones] are externalities produced by a large number of individuals freely and rationally choosing to learn English as a maximizing strategy, native Anglophones are doing nothing wrong by benefiting from it' (Robichaud 2015, p. 169), whereas 'if the benefits produced were only possible through the cooperation of all, or if compensation from native Anglophones were necessary to make the learning rationally advantageous for learners of EGLF [English as a Global Lingua Franca], then a contribution to the production of this good would be morally required' (Robichaud 2015, p. 169). In other words, Robichaud claims, if we can 'find reasons why natural interactions could fail at producing EGLF' (Robichaud 2015, p. 176), then we could make a moral case for asking native Anglophones to contribute. It can be argued that Brexit creates or reinforces the kind of conditions highlighted by Robichaud. More specifically, three of Robichaud's arguments help to strengthen the rationale for demanding a contribution from native Anglophones in a post-Brexit EU.

First, Robichaud points out that if another language threatened the dominance of English, thus rendering the rise of EGLF less inevitable than Van Parijs assumes, then it would be in native Anglophones' interest (and, consequently, it would be their moral duty) to contribute to the creation of EGLF. Brexit, it could be argued, opens up a new scenario, due to the growing support, among EU officials and beyond, for gradually replacing English with French as the lingua franca of a post-Brexit EU. One might therefore conclude that, at least as far as the EU is concerned, the rise of EGLF is no longer as inevitable as Van Parijs assumes, and this may reinforce the argument for assigning to native Anglophones (including both

those who are EU citizens and those who are not EU citizens but would like to enter into some kind of agreement with the EU) a moral duty to contribute to the creation of EGLF. It has already been pointed out, however, that challenges to the status of English as a lingua franca within the EU should not be seen as realistic threats but rather as rhetorical and symbolic moves. This first line of argument, therefore, does not appear to be very plausible.

However, and this is the second point, Robichaud also points out that sometimes the maxi-min micro-mechanisms (i.e. the tendency of speakers of different languages to converge on the language known best by the speaker who knows it least) that for Van Parijs contribute to the continuous rise of EGLF may be undermined by ideological factors. 'We could imagine', he argues, 'an ideological posture taken against the USA or the UK. A rejection of their ideology, of their identity and of what they stand for, could convince a substantial portion of the population not to learn English, or at least not to use it in some contexts … especially in more formal contexts where the symbolic significance of political decisions can be very important' (Robichaud 2015, p. 175). This, we saw in Chap. 1, is partly what is already happening in the EU, where some officials are starting to switch to French for ideological reason, that is, as a way of criticizing the UK and Brexit. This can therefore enhance the moral duty of native Anglophones to contribute to the creation of EGLF. Since '[a] contribution from native speakers could improve others' perception of these communities, which are often seen as self-centered, neo-liberal and hesitant to cooperate' (Robichaud 2015, p. 175), and since therefore it is in their interest to contribute, then native Anglophones in a post-Brexit EU will have a moral duty to contribute to this cooperative enterprise.

Third, Robichaud also points out that native Anglophones may in some cases need to look at the rise of EGLF as part of broader cooperative projects. While it may not be in Anglophones' interest to contribute to the former, it may be in their interest to contribute to the latter, and not cooperating on the specific issue of EGLF may somehow undermine the broader forms of cooperation in which native Anglophones have an interest in being involved. Robichaud cites the specific case of the EU, and argues that '[i]f we look at the thick web of cooperation EU countries are involved in, we could consider that it is the benefits offered by this "general" cooperative venture, not those offered by a specific one, namely the creation of EGLF, that triggers a duty to contribute. If it is in the interest of native Anglophones to remain good co-operators in the cooperative

ventures they are involved in, it could be in their interest to contribute to the creation of EGLF' (Robichaud 2015, p. 176). This kind of argument is strengthened by Brexit. In order to secure a post-Brexit trade deal with the EU, UK citizens and officials will need to display a cooperative attitude in various areas, including the creation of EGLF. This could involve accepting a language tax as part of a post-Brexit trade deal. The same applies to US citizens, and to any other native Anglophones interested in entering into cooperative schemes with EU citizens.

English as a Lingua Franca: Parity of Esteem After Brexit

A second important implication of Brexit for the use of English as a lingua franca in the EU concerns the self-respect (or self-esteem) of speakers of different languages. According to Van Parijs, people's self-respect is affected by the official status granted to their language. He argues that '[i]n a situation in which people's collective identities are closely linked to their native languages, there arises a major threat to the recognition of an equal status to all as soon as the native language of some is given what is, unquestionably, a superior function' (Van Parijs 2008, p. 13). In order to guarantee the 'parity of esteem' of all languages and ensure that the 'linguistic bowing' (Van Parijs 2011, p. 141) between different language groups is reciprocal, Van Parijs argues, we should therefore defend a regime of linguistic territoriality through which every linguistic community should be granted special language rights in order to protect their language and ensure that it remains 'a queen' (Van Parijs 2011, p. 147) within a certain territory. Another common way of granting parity of esteem to the speakers of all (major) linguistic communities in multilingual polities is by granting their languages equal official status, as in the case of the EU regime of official multilingualism, illustrated in Chap. 1 (Van Parijs 2011, pp. 123–124).

The idea of linguistic territoriality has been criticized (e.g. De Schutter 2008; Stilz 2015; Wright 2015). Moreover, there is also a tension between the number (24) of official languages currently recognized by the EU and the much larger number of languages actually spoken across the EU, a tension that only a very costly expansion of the scope of the EU's official multilingualism (to include, e.g., regional and minority languages, as well as the languages of immigrant communities) could help resolve. It is not the intention of the present section, however, to critically assess these

responses to the normative problem highlighted by Van Parijs, that is, the disparity of esteem between English and other languages. Instead, this section aims to assess whether that disparity would still be present after Brexit. This is doubtful.

To understand why, it should be noted that there are two key aspects in Van Parijs's argument. The first concerns his reference to 'a situation in which people's *collective identities* are closely linked to their native language' (Van Parijs 2008, p. 13, emphasis added). Even though after Brexit there would still be some EU citizens (mainly among the Irish and the Maltese) who are native English speakers, it is questionable whether their collective identities would be grounded in the English language, despite the fact that the latter is the language that most of them speak most of the time. Instead, it can be argued that the collective identities of the Irish and the Maltese are generally defined by Irish and Maltese respectively. Indeed, both the Irish (Constitution of Ireland 1937) and the Maltese (Constitution of Malta 1964) constitutions recognize, respectively, Irish and Maltese, rather than English, as the *national* languages of the two countries, that is, the languages that define the two nations' collective identities. And it is striking that even during the 1960s and 1970s, when Ireland decided to abandon its earlier attempts to render Irish the dominant language in Ireland, Irish continued to remain *the* national language, despite its limited use among the population (Mac Giolla Chríost 2005). This is captured by the following statement:

> Irish must have primacy as the national language and every effort will be made to extend and intensify its use. Nevertheless, for a considerable time ahead, English will remain the language chiefly used outside the Gaeltacht for various purposes. To assume otherwise would be unrealistic and would detract from appreciation of the effort needed, to achieve the national aim in regard to Irish (An Coimisiún Um Athbheochan Na Gaeilge, 1965, pp. 10–12, cited in Mac Giolla Chríost 2005, p. 127).

In both Ireland and Malta, English is only granted a co-official status, and no *national* importance is assigned to it. It is the EU's official recognition of Irish and Maltese, therefore, that guarantees the self-respect and self-esteem of Irish and Maltese speakers qua members of national communities with distinctive collective identities. This is the case even though most Irish citizens do not use Irish in many daily settings and do not master it as much as English.

The second key aspect of Van Parijs's argument is the emphasis on *parity* of esteem, rather than esteem per se. This distinction is crucial. Indeed, one could point out that even after Brexit citizens of the 27 remaining EU member states would continue to perceive the EU's recognition of their languages (i.e. the languages that define their collective identity) important for their self-respect. This could potentially lead to a proliferation of official languages, as parity of esteem seems to require expanding the scope of the EU's regime of official multilingualism in view of the EU's increasing linguistic diversity, and of the fact that many regional and minority languages are currently not granted official status. However, since *parity* of esteem, rather than esteem per se, is what drives Van Parijs's argument, the need to grant official recognition to all national (as well as regional and minority) languages only arises once the language that defines the collective identity of *some* is adopted for official purposes, while other languages are discarded. The same need does not arise if the language of *none* is granted official status. Since English, after Brexit, would no longer be associated with the collective identity of any linguistic community within the EU and in this sense would be the language of none, there would no longer be the need to ensure parity of esteem between English and other languages. In this sense, English would somehow be 'Esperantized', that is, it would acquire the status of a neutral language, the official recognition of which as the EU's sole lingua franca would no longer send the message that in the EU there are speakers of first-class and second-class languages. This move would be analogous, for example, to the Asian Development Bank's (ADB) decision to adopt English as a lingua franca in order to avoid 'the loss of face that would arise from adopting one Asian language rather than another' (Rose 2008, p. 468).

One might then argue that even after Brexit English would still enjoy a privileged status *outside* the EU, that is, the status of global lingua franca, and this would still undermine the self-esteem and self-respect of non-native English speakers within the EU. However, this argument is not convincing. Take, for example, religion. It has been argued that by officially recognizing one religion but not others, or religion as opposed to non-religion, a state treats those citizens who do not endorse the recognized religion(s) as second-class citizens, and this undermines their self-respect (e.g. Laborde 2013). What is central to this argument is the connection between citizens and *their* state. If, in the absence of official state recognition of any religion by one's state, a specific religion (even one that is dominant, but not officially recognized, in one's state) happens

to be dominant outside one's state, or even officially recognized by *another* state, that cannot constitute an infringement on one's self-respect. Similarly, in the case of language, it can be argued that it does not matter how powerful and privileged English might remain outside the EU after Brexit, and how many speakers may continue to identify with it as the source of their collective identity outside the EU. The fact that within the EU it would be the language of none would render its official recognition and promotion as the EU's sole lingua franca unable to undermine the self-respect of those EU citizens who are not native English speakers.

Yet this conclusion risks overlooking the fact that the recognition and promotion of English as the EU's sole lingua franca might, with time, lead to a language shift in many linguistic communities, whose members would feel pressured to learn the lingua franca if there are no incentives to preserve the local language. This potential loss, rather than the recognition and promotion of English as a lingua franca per se (which would not imply, in the EU, disparity of esteem), is what could have serious negative implications for the speakers of other languages, whose self-respect would be undermined by the loss of their linguistic and cultural framework. This argument, which is in many ways reminiscent of Will Kymlicka's (1989, 1995) liberal defence of multiculturalism and group-differentiated rights, might therefore still justify the implementation of linguistic territoriality measures or, if one is not sympathetic to such measures, of alternative interventions aimed at protecting minority languages from the assimilating force of English as a lingua franca. This does not change the fact that the specific injustice highlighted by Van Parijs, that is, *disparity* of esteem, would be present to a lesser extent in the EU after Brexit.

English as a Lingua Franca: Equality of Opportunity After Brexit

Having addressed the costs/benefits and esteem dimensions of Van Parijs's argument, the chapter now turns to the third element, that is, equality of opportunity. According to Van Parijs (2011), the proficiency gap between native and non-native English speakers constitutes a problem, since native or very proficient speakers are likely to enjoy greater opportunities (for work, study, etc.) than less proficient speakers. In order to reduce this proficiency gap, and the injustice resulting from it, Van Parijs suggests that dubbing (e.g. of English language movies, TV programmes, etc.) should

be banned, as this has been shown to be an efficient and relatively inexpensive way of improving English language skills wherever it has been applied.

While it is true that Van Parijs's proposal is quite modest (Réaume 2015, p. 158), it is doubtful that the same hierarchy of English language proficiency levels currently existing in the EU would still exist after Brexit, despite Britain's departure. For example, it is likely that only very few English speakers (both among the EU population and among EU officials) in a post-Brexit EU would speak with a Received Pronunciation (RP), currently the dominant variety of English in Europe and beyond (Modiano 2017, p. 317), and that most of them would speak with accents that are traditionally not associated with the same level of power and prestige as RP (e.g. Irish accent, Italian accent in Malta, etc.). This would therefore be likely to reduce the presence of 'low-mobility' English varieties (May 2015, p. 142), or of varieties that are considered inferior or judged negatively by speakers of more prestigious ones. The key point is that if the overall level of English varieties was 'lowered', due to the gradual departure of prestigious British varieties, then the impact of accent-related and other unjust language hierarchies would no longer be as strong as it is now. As Modiano argues, '[w]hen using English [after Brexit], EU citizens will all be on the same footing, that is to say, they will be communicating in an L2, and as such, only a relatively small number of people will have an unfair advantage' (Modiano 2017, p. 317). It is plausible to argue, therefore, that this would reduce, rather than increase, the need for English language learners to acquire native-like proficiency in order to enjoy the same kind of opportunities enjoyed by native speakers.[4]

A first objection to this argument is that it is not just the quality of speaking, but also the quality of reading and writing in English that matters when it comes to employment and other opportunities. This objection, however, is not particularly strong. Reading and writing in English (or in any language that is not one's native language) is something that non-native speakers can in principle master to the same level as native speakers, sometimes even better. This is because the acquisition of native-like proficiency in reading and writing is not hindered by neurobiological factors

[4] None of the foregoing analysis implies, of course, that the existence of a hierarchy of Englishes should be taken as a natural and inevitable phenomenon. Such hierarchies are inherently social, and they result in forms of injustice that ought to be addressed rather than taken for granted (e.g. see Peled and Bonotti forthcoming). However, this issue falls outside the scope of the present analysis.

analogous to those that normally make it particularly difficult for non-native speakers to acquire native-like speaking proficiency (in any native accent) (Moyer 2013) after a certain age.

A second objection is that even in a post-Brexit EU, the status of RP and of other British varieties of English would probably remain strong. While many non-native speakers, we have just pointed out, will never be able to fully master any native English accent, some of them might, for example, if they learn it during childhood, when language acquisition is less constrained by neurobiological factors. And it is likely that the desirability of acquiring RP or other prestigious British varieties of English will remain strong in view of the opportunities that it will continue to provide outside the EU, for example, in a post-Brexit UK and in the USA.

Two responses can be provided to this objection. On the one hand, the EU and its member states could promote the uniform teaching of RP (or of other prestigious British varieties of English) from an early age, for example, in school curricula. This, of course, would still leave the problem of how to deal with the Irish and the Maltese, whose native English language varieties *would* be threatened by the spread of RP, and who as a result would enjoy fewer opportunities when competing with those EU citizens who have learnt and mastered RP. Furthermore, one might argue that continuing to sustain the dominance of RP would also reinforce the unequal benefits enjoyed by native (and especially British) RP speakers, who would continue to set the standards and produce the learning resources used for English language teaching.

A second solution might therefore be to follow Helder De Schutter (in press) and endorse the establishment of 'national' forms (and norms) of English (e.g. French English, Spanish English, etc.), regulated by national academies or similar bodies.[5] This would help to de-centre the role and status of British English varieties within the EU, and it would also help to deal with the aforementioned issues concerning the Irish and the Maltese. British English varieties might still preserve a prominent status in the UK and other parts of the world, but an EU-driven process of English variety

[5] A similar proposal is advanced by Modiano (2017), who argues that Brexit will facilitate the development of a 'Euro-English', which refers to the language of those 'continental Europeans whose speech is not decidedly based on any one Inner Circle variety but is nevertheless characterized by influences from standardized English as well as their native tongues, and where there is a propensity to use culture-specific features common to the manner in which English is used as an L2 in continental Europe, when and where such usage is situationally appropriate' (Modiano 2017, p. 322).

decentralization would certainly contribute to reducing their prominence within the EU. After all, if the EU has managed so far to preserve its multilingualism, in spite of the strong pressure exercised upon it internally (by the UK) and externally (by the USA), it is not unrealistic to think that it would also be able to resist a process of intra-linguistic homogenization.

Moreover, it is somehow simplistic to consider the EU a merely passive actor under the influence of powerful Anglophone countries such as the UK and the USA. In a future post-Brexit scenario, and as already testified by the ongoing Brexit negotiations between the UK and the EU, it is likely that the EU will also be able to exert its influence upon the UK (and, possibly, the USA), and that this may be reflected in the relationship between the two when it comes to language matters. After all, if top officials in the EU, as we have seen, are contemplating (albeit rhetorically) reducing the role of English in the EU after Brexit, it is not implausible to think that if a post-Brexit EU were to keep English in a central position, it could do so in the de-centred way proposed by De Schutter. This could also have the additional desirable effect of reducing the cost-benefit gap examined earlier, as those speaking native varieties of English would no longer control the English language learning industry in the EU, as this could be administered by the EU and its (mostly non-Anglophone) member states and their national academies.

The adoption of De Schutter's proposal would also help to overcome another objection. Even within a post-Brexit EU, and even setting aside the Irish and the Maltese, there would remain potential disparities among non-native English speakers. For example, it is much easier for a Dutch-speaking child to become fluent in English than it is for a Romanian or Bulgarian child, due to the greater similarity between English and Dutch, the geographical proximity between the UK and the Netherlands or Belgium, and the fact that there already exists a large number of fluent English speakers in Dutch-speaking areas. Adopting De Schutter's proposal and decentralizing English language standardization could help to reduce this kind of asymmetry. Under that framework, for example, Romanian and Bulgarian speakers would not need to aim for British-like proficiency, a target that would be much easier to achieve for their Dutch counterparts, but they would only need to aim for Romanian-English or Bulgarian-English proficiency.

A further consideration draws on Sue Wright (2015)'s recent observation that Van Parijs's theory, like most contemporary accounts of linguistic justice, implicitly endorses an instrumental conception of language,

intended as a tool that humans can use to communicate information about a pre-existing and independent reality. Alongside this view, however, there is also a conception of language that sees it as a constitutive, socially embedded, and essentially interactive phenomenon (Wright 2015; Taylor 2016). The main implication of this distinction, according to Wright, is that if we reject the instrumental view and see language as a dialogical and creative phenomenon, it is no longer necessarily the case that native English speakers always enjoy a special advantage when communicating with non-native speakers. '[N]egotiation of meaning, recalibration in response to interlocutors and a high degree of linguistic accommodation' (Wright 2015, p. 120), Wright argues, are increasingly important, and 'a multilingual who moves between systems will be better at negotiating meaning in ELF [English as a lingua franca] than a monolingual whose education has not alerted them to the arbitrary nature of the sign nor to the fact that language is essentially action in context' (Wright 2015, p. 121). Empirical research conducted by Wright in the European Parliament confirms this (Wright 2000, 2007).[6]

This has important implications for the present analysis. In a post-Brexit EU, English-speaking multilinguals would constitute an even larger percentage of English speakers than they are now. This is not only because the vast majority of English speakers would be non-native speakers, but also because in both Ireland and Malta citizens are compelled to learn the national language alongside English, and such language is sometimes required for official or employment purposes. This is not the case in the UK, where (apart from Wales, Scotland, and Northern Ireland) individual monolingualism is the norm, and the teaching of foreign languages in schools has in fact declined sharply over the past few years. This implies that in a post-Brexit EU the majority of English speakers, both native and non-native, would be able to draw on some kind of multilingual repertoire, and this would put all of them (not only the former) in a better position to engage in the dialogue and meaning negotiations that characterize the practice-oriented view of language that Wright highlights. This would further contribute to equalizing the opportunities enjoyed by native and non-native English speakers in the EU.

In any case, should any language hierarchies resulting from the promotion of English as the sole EU lingua franca persist even after Brexit, and/or should new hierarchies arise, the EU and its member states should not

[6] For a similar point, see also Rose (2008, p. 471).

aim to encourage convergence on the most 'desirable' variety (or varieties) of English, whatever these might be perceived to be. This solution would somehow amount to accepting the view that some varieties of English are superior to others, thus completely neglecting the social factors that affect the status of different Englishes. Rather than convergence, therefore, the EU and its member states ought to promote greater 'metalinguistic awareness' (Peled and Bonotti 2016) among both native and non-native English speakers, that is, greater ability to reflect on the complex relationship between the content and process of linguistic communication, and on the various ways in which social, cultural, and linguistic dimensions interact with each other. This could be achieved, for example, through reforms of school curricula, or through the promotion of a variety of Englishes in the media. The main goal of these measures should be to normalize, rather than eradicate, any remaining differences between different varieties of English, by freeing them of the negative social connotations that are often attached to them (e.g. see Peled and Bonotti forthcoming).

A final objection should be considered. One might argue that whatever shape it were to take, the EU's adoption of English as its sole or main lingua franca after Brexit would inevitably favour the opportunities of non-EU native English speakers, and especially UK and US ones, perhaps even more so than it does now. This would especially be the case for the UK, should the UK and the EU reach an agreement that would allow UK citizens to continue to live and work in the EU without any significant barriers. The EU's adoption of English as its sole or main lingua franca, in whatever shape that were to be implemented, would inevitably favour those British citizens who would come to (or continue to) live and work in the EU after Brexit. This important observation implies that the normative argument developed in this chapter perhaps only stands, or at least is stronger, in the event of a 'hard Brexit', where significant barriers (e.g. in the form of trade barriers and immigration quotas) would be present between the UK and the EU.

Absent these barriers, however, one could also imagine a 'soft Brexit' scenario in which the absence of legal barriers could nevertheless be accompanied by linguistic barriers. For example, academics wanting to work in certain EU countries nowadays are already required to learn these countries' national languages even if their job is solely or mainly conducted in English. One could imagine a similar system in which UK or any other non-EU native English speakers wanting to come to work in the EU would be required to learn the relevant national language(s) within a cer-

tain length of time, even if English were to become the EU's sole lingua franca. Since most native English speakers are notoriously monolingual, this language barrier could contribute to offsetting the greater opportunities those of them wanting to live and work in the EU would in principle enjoy thanks to their native English language proficiency.

This solution somehow resembles Van Parijs's response to the parity of esteem problem, that is, the idea that languages other than English should be made 'queens' in specific territories. Indeed, what is being proposed here is a form of linguistic territoriality, which demands that native Anglophones be subject to strict language proficiency requirements when they intend to live and work in non-Anglophone EU countries, and whose aim is to equalize opportunities between native and non-native English speakers.[7] As already stressed earlier, it is not the purpose of this chapter to defend linguistic territoriality per se. However, the 'if,… then' approach adopted in the chapter implies that if one endorses a Van Parisjian theory of linguistic justice, then some forms of linguistic territoriality could be adopted in order to remedy language-related injustices after Brexit (should such injustices persist). In other words, whereas Van Parijs's response to the equality of opportunity problem involves a levelling up process, that is, increasing the English proficiency of non-native English speakers, the present proposal involves a levelling down process, that is, reducing the opportunities of native Anglophones by making it more difficult (though not impossible) for them to settle and find jobs in non-Anglophone countries in a post-Brexit EU.

Conclusion

The place of English in a post-Brexit EU is likely to become one of the most controversial issues in the ongoing negotiations between the EU and the UK. While the future status of English in the EU cannot be predicted, it is possible to assess the normative implications of promoting English as the sole or main EU lingua franca after Brexit. This chapter has examined such implications from the perspective of the influential theory of linguis-

[7] This measure, of course, should not be discriminatory and should apply both to native English speakers and to native speakers of other languages who would like to move to work in any EU member state. Since, however, it should be assumed that speakers of any other language would already enjoy opportunities in the territory in which their language is a 'queen', then the net effect of the measure would be to equalize opportunities between native and non-native English speakers, all things considered.

tic justice recently developed by Philippe Van Parijs. More specifically, the chapter has argued that the injustices resulting from the promotion of English as the sole or main EU lingua franca, concerning costs and benefits, parity of esteem, and equality of opportunity, would be present to a lesser degree than they are now after Brexit, and that this strengthens the argument in favour of English as a lingua franca in a post-Brexit EU.

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Concluding Remarks

It is difficult to predict the full effects that Brexit will have on the languages of the UK and the EU. The negotiations between the EU and the UK are still ongoing, and so far, they have not paid particular attention to this specific issue, apart from occasional statements of a rhetorical and polemical nature about the place of English in the EU—that we mentioned in Chap. 1. The situation, therefore, is fluid. However, and in fact for this very reason, it is important to reflect on the potential changes that Brexit may bring about in this area, and the potential responses that the EU and the UK could provide. It is even more important to distinguish the empirical analysis of the past and current status of languages in the EU and the UK from the normative assessment of what changes, if any, will be desirable in this area after Brexit. In this book, we hope to have offered a twofold contribution to this emerging debate, by showing that Brexit enhances the case for the de jure recognition of English as the official language of the UK and the embedding of autochthonous minority language rights and freedoms in a transformed UK Constitution, on the one hand, and for English as the lingua franca of the EU, on the other hand.

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