THE LINGUISTIC TERRITORIALITY PRINCIPLE: RIGHT VIOLATION OR PARITY OF ESTEEM ?

Foreword by
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Lead Piece and Reply by
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The Re-Bel initiative aims to rethink in depth, in an open, rigorous, non-partisan way, what the institutions of the Belgian federal state - or of whatever else this part of the world needs to become - can and must look like in the longer term, taking full account of the evolving European context.

The Re-Bel initiative does not aim to produce one programme or manifesto to which everyone involved could subscribe. Its ambition is rather to provide a fertile intellectual environment in which new ideas and promising initiatives of all sorts can germinate and develop, with a concern for their relevance to a thorough reform of Belgium's institutions, but also to the institutional design of other complex polities, most obviously the European Union.

The Re-Bel initiative involves scholars from all Belgian universities, runs a web site, publishes e-books and organizes workshops and public events. It intends to associate to its activities both foreign colleagues and the Brussels-based international community. The working language will usually be English.

The Re-Be initiative is supported by the University Foundation, which will host all its activities. The University Foundation was founded in Brussels in 1920 at the initiative of Herbert Hoover and Emile Francqui. One of its missions, also central in the Re-Bel initiative, is to foster fruitful contacts and collaboration between academics of all Belgian universities.

Each contribution to a Re-Bel e-book is written under the sole responsibility of its author. The views expressed in it cannot be assumed to be shared by either the Re-Bel initiative as such or the University Foundation.

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Foreword

Paul De Grauwe and Philippe Van Parijs
Coordinators of the Re-Bel Initiative

The clash between supporters and opponents of the so-called "linguistic territoriality principle" — or, as it is often characterized, between advocates of the *droit du sol* and advocates of the *droit des gens* — is one of the most emotional aspects of the conflict between Belgium's two main communities. After being repeatedly requested to do so, the steering group of the Re-Bel initiative decided to select this issue as one of the two themes to be discussed at its 4th public event, held at the University Foundation on the 16th of December 2010, and hence as the subject of the e-book based on it.

The lead piece of this e-book is the background paper that was circulated to four commentators and to the other participants of the public event. It coincides largely with the first "Lecture for the XXIst century" delivered in November 2007 at the K.U. Leuven (Van Parijs 2008) and summarizes some of the central claims articulated and defended in a book published this month (Van Parijs 2011), with a special emphasis on the theme of its fifth (and longest) chapter entitled "Linguistic territoriality". The formulation proposed in this chapter (finalized long after the lecture and also made available to the commentators) is somewhat different from the formulation adopted in the lead piece, but the substance is not fundamentally different.

Among the comments included in this e-book, those by philosopher Helder De Schutter (K.U.Leuven), by economists François Grin (Université de Genève) and Henry Tulkens (Université de Louvain) and by historian Harry Van Velthoven (Hogeschool Gent) are written versions of their oral interventions at the Re-Bel event. Because of their keen interest in the subject and original approach to it, Jan Velaers, constitutional lawyer (Universiteit Antwerpen) and member of the Venice Group, and Alain Maskens, medical doctor, writer and founder of the Brussels association Manifesto, were subsequently invited to join. An extensive "Reply" provides a selective response to all six critical comments.

References

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Lead Piece

Philippe Van Parijs

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

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1. Introduction: Three interpretations of linguistic justice

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

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

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

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

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

2. Demystification

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

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

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

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

3. Symbolic equality

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

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

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

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

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

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

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

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

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

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

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

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

4. Linguistic territoriality

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

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

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

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

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

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

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

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

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

5. Laponce's law and the survival argument

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

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

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

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

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

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

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

6. Language survival without territory?

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

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

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

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

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

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

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

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

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

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

7. Conclusion: the way forward

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

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

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

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

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

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Appendix: language trends in Europe and in Belgium

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

Source: European Commission, Database Eurobarometer Languages 2006.

Data processing and data: Jonathan Van Parys.
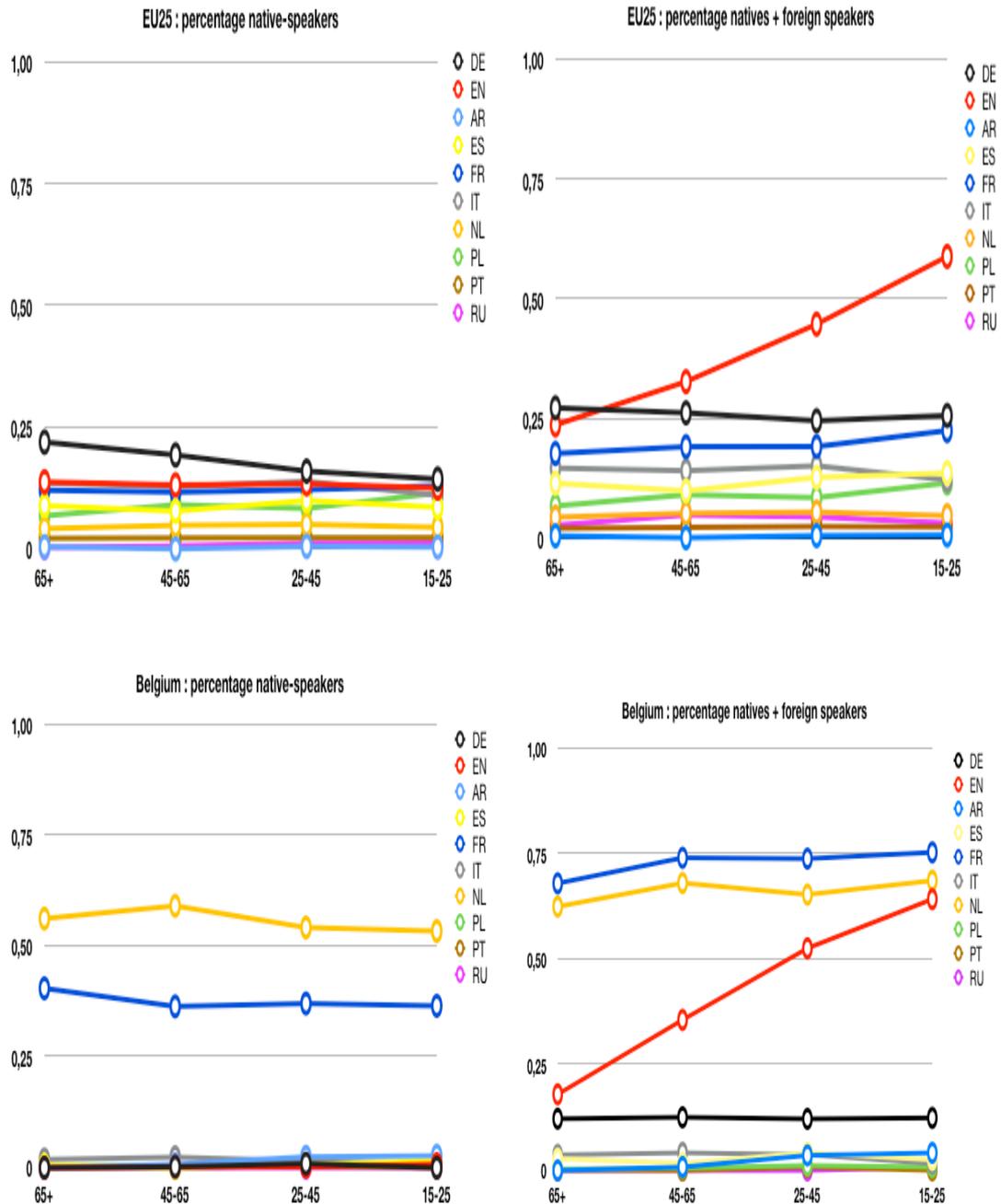
Vlaanderen : percentage natives
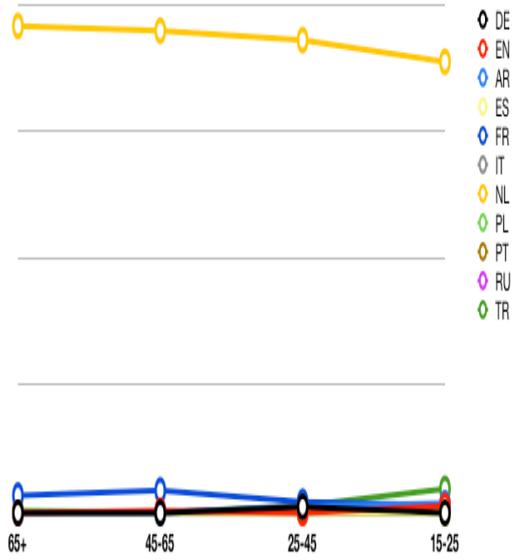
Wallonie : percentage natives
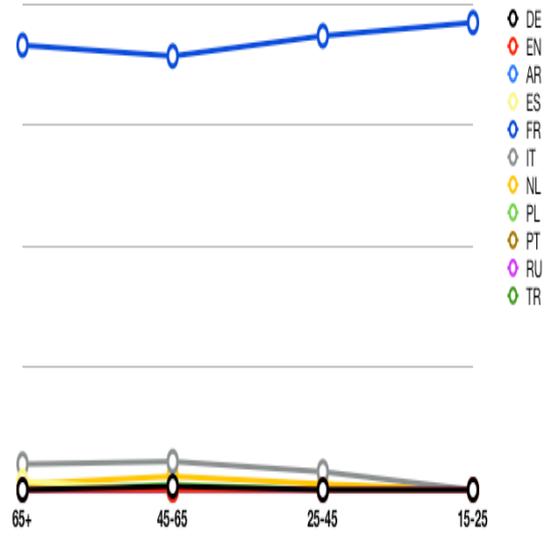
Vlaanderen : percentage foreign speakers

Wallonie : percentage foreign speakers

20

Comments

The Linguistic Territoriality Principle: Heterogeneity and Freedom Problems

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Philippe Van Parijs defends 'the linguistic territoriality principle', arguing that in multilingual countries or settings, native language groups should, if they desire so, be able to make only their language the official language of the territory on which they live in domains like public administration, political life, and public education. Immigrants are then asked to integrate linguistically in their official language use, although they can continue to speak their native tongue in private interactions. Van Parijs portrays this territoriality view as central to the ideal of linguistic justice for our current world. In what follows I will develop two arguments against the linguistic territorial principle and Van Parijs's defense of it, arguing from the same premise in which Van Parijs grounds his defense – dignity. I will also elucidate what my critique implies for Belgium.

Van Parijs and I agree that dignity is important and that we need to strive towards equal dignity for all. We also agree that dignity has linguistic preconditions: the extent to which I am treated with respect depends in part on the respect that my language receives. The question is whether the linguistic territoriality principle is the best way of expressing equal dignity.

1. Equal dignity

My first and central worry about the linguistic territoriality principle (LTP) is that it will violate the equal dignity principle because of the extent of linguistic heterogeneity in the world today. A linguistic territoriality principle asks immigrants to adapt linguistically in official settings. I think this is legitimate, at least if they can be seen as having voluntarily chosen to immigrate.[1] But this claim – for linguistic integration – presupposes that the integration occurs against the backdrop of a territory that already has an official language. That presupposition is not as evident as it may sound. The world is characterized by a massive amount of linguistically heterogeneous constellations, and to support only one language in such constellations clashes with equal dignity for those whose language is not supported.

In linguistically very homogeneous societies or territories – say, Iceland – few will see problems with implementing a LTP. In such cases there is no need to recognize other languages. But the LTP is not advocated for such unproblematic, cases. The LTP acquires its normative force from situations where

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[1] I cannot help seeing a striking irony here. Van Parijs is sometimes ready to allow for an exception to the LTP by creating 'free linguistic zones' for the talented of our world, since enforcing a LTP for smaller language groups may mean foregoing the attraction of those talented individuals (Van Parijs 2011: § 5.11). The irony resides in the fact that the exception is given to precisely those immigrants who are rich and educated, and who therefore can be most seen to have voluntarily migrated, and who will cause most damage to the survival of the language supposed to be protected by a LTP. If for anyone, shouldn't exceptions to the LTP be made for the worse-off among the immigrants – to overgeneralize: for the Moroccans rather than the Americans living in Flanders?

there is more than one historic language group. Indeed the LTP is typically argued for with cases like Quebec, Catalonia, the Basque Country, and many regions within the Baltic States in mind. But these are all cases where two or more language groups live intermingled, where there is no congruence between language and territory in the first place. In such cases, including also examples like Brussels, Kosovo or Wales, different language groups live intermingled on the same territory. What would the LTP prescribe for such cases?

In general there seem only two possibilities, which Van Parijs addresses in his book (2011: §5.12): we can redraw boundaries or we can recognize two languages. Redrawing boundaries, such that smaller territorially concentrated language groups who are included in a larger territory could have their own territorial unit, could work. But it can only work sometimes. The problem in cases like Brussels, Catalonia or Montréal is often not that monolingual territories have become mixed in a way that could be undone by redrawing boundaries. The problem is that there is simply no way to draw boundaries in such a way as to create unilingual units. If language groups live so intermingled that apartments or streets contain members of both language groups, which is the case in the just-mentioned regions, then it is unclear how this redrawing is to be carried out and why justice would require it.

What about the other solution, to recognize both (or more) languages on the territory? I can't see how this possibility is consistent with the plea for linguistic territoriality. The LTP is contrasted by Van Parijs (2011: §5.1) with a language regime that allows for the extension of rights to more than one language group in an accommodating way: we accommodate every language group by extending language rights to it. If one allows for institutional bilingualism within the territory, then the distinction between LTP and its alternative is blurred, since the territory is then characterized by a regime that within the same territory accommodates the language claims of all (non-immigrant) language groups. Moreover, if bilingualism is followed throughout, then the Laponce-argument re-appears: the stronger language may slowly and peacefully devour the weaker language, and that is precisely what the LTP is supposed to prevent from happening. Van Parijs recognizes this, and therefore by and large dismisses this bilingual way out of the heterogeneity problem (2011: 166).

But if bilingualism and redrawing boundaries are not aimed at, how then does a LTP treat heterogeneity? Van Parijs argues in his book that we can extend temporary language facilities to those people who, after the implementation of the LTP, have ended up on the wrong side of the border, until they die or move out of the territory: "They can make use of this possibility until they die or move away, without this possibility being extended to any newly born or newly arriving resident" (Van Parijs 2011: 167). But this solution flies in the face of equality of dignity, the philosophical heart of the territoriality defence: it realizes inequality of dignity, effectively conveying the message to the native minority: 'You can stay here, but don't expect that your language group can have a meaningful life here on the territory. We can't extend full language rights to you since we want to protect the other language on this territory and save it from erosion. Why? Because that is entailed by dignity for the other group.' It suffices for the linguistically worse-off to reply: 'And what about *our* dignity?' to see the problem with this message.

I think the fundamental problem of heterogeneity points to a better solution as our standard account of linguistic justice: linguistic pluralism. By linguistic pluralism I mean the view that justice entails active equal recognition. Within certain practical limits, all native (that is: non-immigrant) language groups within a region should receive equal status, so that individuals with the respective identities get language recognition.

Note that the heterogeneity problem also jeopardizes the pacification argument, which Van Parijs appeals to in the background of his defence of the LTP. Van Parijs argues that asking immigrants from within the same country to honour the LTP will make civil war erupting from the native population feeling demographically and culturally threatened less likely. Van Parijs argues that those 'sons of the soil' (see Fearon and Laitin 2011) would then be reassured that the immigrants would engage in linguistic 'bowing' and show respect to the native language. This may perhaps be the case, though on the Fearon and Laitin analysis, a large part of the source of anger of the 'sons of the soil' is the increased fight for jobs and housing resulting from the migration itself, and whatever type of linguistic bowing the immigrants perform would not alter those non-linguistic dynamics. But, more importantly, the LTP as a pacification strategy fails because of the heterogeneity problem. If there was a LTP in place, then grievances of the native population may be attenuated by enforcing the territory's language on immigrants. But, again, this solution foregoes the problem of arriving at a LTP in the first place. And given the heterogeneity discussed, this is very likely to become a conflict-prone issue, equally involving a lack of respect for 'sons of the soil' who happen to have ended up on the wrong side of the border, without having migrated there. So, once a LTP is in place, it may pacify. But on the way to its being put in place, much of the later-sought pacification may be undone, for a reason similar to the one at the heart of the pacification argument: native sons of the soil feeling ill-treated.

To summarize, principles which are legitimate for an ideal Icelandic world (territories with speakers with overwhelmingly the same native language only) tend to cause inequality of dignity in the real world. But the conclusion to derive from this is not simply that the LTP is sometimes fine, and linguistic pluralism is valuable at other places. The very same places where thinking about a LTP becomes relevant are those places where two language groups live intermingled. In ideal Icelandic cases the LTP is fine, but the cases where partisans and nationalist entrepreneurs will start putting forward the LTP, now backed by Van Parijs's theory, are not those places. We should reject the LTP as our *standard* account of linguistic justice. Instead it should rather be seen as a solution which may sometimes, in some circumstances, be appealed to. But if political actors look for models and recommendations, the standard theory they should be advised to use is linguistic pluralism.

2. Linguistic freedom

My second worry is that the LTP will unduly constrain linguistic freedom. Take a prototypical case of language decline. Imagine that a certain group of speakers of a more vulnerable language A share a border with speakers of a more successful and solid world language B. One can think of Catalan, French in Canada, and Dutch in Belgium as A's, and of Spanish in Spain, English in Canada, and French in Belgium as B's. Imagine further that many current speakers of A value their language to a large extent. At the same time, however, the speakers of A witness the gradual erosion of their language due to the fact that intermarriages and other forms of contact result in the slow assimilation of A-speakers toward B. Some speakers of A start losing their A-identity and send their children to emerging bilingual schools or to emerging monolingually B-schools where A is thought as a second language. Finally imagine that a generous set of language rights are granted to the remaining speakers of A, including subsidized mother-tongue education, hospitals (co-)functioning in A, etc.

On the linguistic territoriality view, linguistic justice for A entails the public support of only A in the territory. No language rights can be granted to B. But in the example I just gave, it is hard to identify a linguistic injustice based on dignity concerns. On the contrary, trying to preclude the emergence of bilingual or B-identities among former A-speakers may be understood to be an injustice in itself.

There is nothing wrong with people assimilating to other languages since, as soon as speakers of A start losing their identity-interest in A and increasingly refer to B as their identity context, the dignity argument starts to work to the benefit of politically recognizing B. In that case, there is no reason to protect A from gradually eroding. The fact that a threshold level of individuals is required for the survival of a language cannot become a reason for forcing some to keep speaking and living within the language. The problem with survival policies is that to protect those who wish survival, the choice of those who wish to assimilate must be restricted, and the latter must be forced to remain within their original language. But to use some as means to satisfy the interests of others is morally problematic. While there is a right to speak your own language and to receive language recognition, there is no right to have your language spoken by others. Compare this with other preferences which impose costs on others, like attending opera. While it is legitimate for people to like opera and to attend opera performances, and while perhaps a successful argument might be made to receive special state subsidies to organize opera, there is no right to have others who like and go to opera. The same is true in the case of language. I am not repeating the argument here that the LTP is incompatible with granting equal dignity to the speakers of *another* group living on the same territory. Rather the argument is that the territoriality policies are incompatible with equal recognition granted to all the members of the *same* (original) language group the survival of which is thought important.

But is it not a problem for linguistic pluralists like me that equal intra-territorial status for languages may lead to the effective domination of one language over the other? Not necessarily. It is important to see that linguistic pluralism is not a 'laissez-faire' affair. Equally recognizing two languages, say Catalan and Spanish in Catalonia, French and Dutch in Brussels, or Russian and Ukrainian in Ukraine, confers active protection on those language groups, which will help guard them against massive linguistic assimilation pressure. Given the active state support and the symbolic benefits, equal language protection will help forging future people's and people's future language identities, which are more likely to be beneficial to the protected language groups than to others outside of the territory. This alternative to the LTP does not just provide protection for the official languages of the territory vis-a-vis other languages outside the territory. The linguistic pluralism model also protects the languages internally vis-a-vis each other. Whatever the lure of French may be, Dutch is actively protected: hospital, city council and police services will continue to benefit the Dutch minority in Brussels.

Of course evolutions are possible here, and the group of French speakers may grow while the number of Dutch speakers may decline. But even if that happens, even if under such an equal status language policy, the mechanism of free language contacts started to work toward the gradual erosion of one language group and the growing strength of another, no injustice is committed. For, the switches made by those who 'leave' the weaker group and join the stronger one are choices made against the background of government-supported linguistic liberty and equality. There is no reason to protect the weaker language from gradually eroding, except when there is a threat to the viability of the weaker language, for which then some priority in funding or recognition could be established. That priority, however, is justified uniquely by reference to the interests of the remaining speakers of the weaker language (to ensure their access to hospitals, for example), not to those who left already or to the interests of language in itself. Once generous language rights are granted, including in some cases a priority for a weaker group, there is no injustice involved in language loss. There is a loss involved in the fact that a language disappears, but that loss is not unjust.

3. Local implications

What does this imply for Belgium? I think establishing the LTP throughout the twentieth century (essentially in 1932 and 1962) was unjust on dignity grounds, because it happened in a situation of significant linguistic heterogeneity and thus impaired equality of dignity for language minorities on each territory.[2] We should instead have gone for a Belgian-wide active linguistic pluralism.[3] That being said, now that native French speaking groups have almost disappeared on Flemish territory as a result of the LTP, it no longer seems unjust to enforce territoriality in, say, Bruges or Ghent, and neither is a LTP unjust in much of Wallonia, although it is important to stress that neither would linguistic pluralism be unjust. In Brussels, the LTP is not instantiated: linguistic pluralism is the order of the day in Brussels, and rightly so. The thorny issue is always the Flemish periphery around Brussels. Here we have a lot of linguistic heterogeneity. Linguistic pluralism is the best model in such cases (ideally with a priority for the weaker language in case it is facing viability problems), as it will set out to actively protect both language groups and realize equality of dignity. But is the LTP also permissible on dignity grounds? Not if the existing heterogeneity was the result of non-immigrant speakers of French or non-immigrant speakers of Dutch who have chosen to assimilate to French.

What makes the issue complex is that most of the heterogeneity, but not all, results from immigration. It is tempting to think that just as (rich) Americans moving to Sweden should receive no English language rights, so should (rich) inhabitants from Brussels moving to Sint-Genesius-Rode/Rhode-Saint-Genèse, a suburb of Brussels located in Flanders with language facilities for French speakers (as one of the exceptions to the LTP), not be entitled to French language rights. But the two cases differ in two relevant ways: there are already French speakers with legitimate language rights in R(h)ode whereas there are no English speakers with legitimate language rights in Sweden; and the geographical and societal distance between Brussels and R(h)ode is non-existent (a Brussels couple can literally move 500m further down the road), whereas the American immigrants in Sweden cannot appeal to a similar territorial and societal continuity. As far as the first part of the difference is concerned, the (let's assume predominantly French speaking) Brussels couple moving to R(h)ode is more comparable on linguistic justice grounds to a Flemish couple from Antwerp moving to R(h)ode: both find language regimes there benefiting their native tongue, and are happy to participate in it. But the Brussels couple is more entitled to language rights than the couple of Antwerp, given the second continuity reason. What this means is that the couple from Brussels 'immigrating' into R(h)ode are more entitled to language rights than the Americans moving to Sweden are, and that there are often good reasons to think that the fact of immigration is often not in itself a reason for refusing language rights. Still, in Flemish suburbs where a (full) LTP is in vogue and where no significant non-immigrant French community is present, insisting on the LTP for immigrants does not appear very unjust to me (while, again, neither is linguistic pluralism), although the second incomparability with the Americans in Sweden – the fact of geographical and societal continuity, which makes such immigration 'natural' – does make linguistic pluralism at least preferable in border areas.

In short, the LTP is fine, but so is linguistic pluralism, in most of Flanders and Wallonia. Linguistic pluralism however is better in Brussels and in the periphery, which stipulates that both languages are to be actively accommodated, and where a priority can be established where one language threatens to no longer remain viable, as it currently exists in Brussels, where Dutch is better protected than its

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[2] True, the language divide in Flanders was also a socio-economic divide, but socio-economic inequality should have been fought head-on, not without also taking away the language benefits.
[3] I certainly do not think that Belgium had a better language regime prior to the establishment of the LTP, as it was essentially French monolingualism disguised as linguistic freedom. Linguistic pluralism in the way described here had never been tried.

per capita presence would suggest. Should, even under active linguistic pluralism, people still assimilate to French, then this is in line with equality of dignity. Should this, in time and extremely unlikely, lead to a complete Frenchification of Flanders, or, extremely unlikely, to a complete Dutchification of Brussels and Wallonia, then I would regret the loss of a bilingual country but no linguistic injustice is committed.

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Using territoriality to support genuine linguistic diversity, not to get rid of it

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1. Introduction

Professor Van Parijs's work is deservedly admired for a number of reasons. One that has always struck me as particularly relevant is his remarkable ability to find, when dealing with a wide range of different topics, an original path across the sometimes treacherous terrain one has to cross when moving from analytical abstraction to practical reality and back again.

At the same time, I sometimes feel puzzled when reading some of Van Parijs's contributions. This tends to happen with those that address the broad set of issues which the famous sociolinguist Joshua Fishman has called (with hyphens) "language-in-society". This puzzlement I experience springs from the following question: how can I so completely agree with the author on much, or even most of his reasoning (usually the premises of the argument), and disagree so much with other parts of it (usually his conclusions)? How is it that I so often find the first steps of the path that Van Parijs proposes so wise, but that after a while, I get the distinct impression that we are no longer following a sensible route, but are progressively getting sidetracked (or perhaps, if you'll pardon the easy pun, *sidetricked*) onto ever more awkward terrain?

What is unusual about the text I have been invited to discuss here is that I do not disagree with the conclusion (which in fact I share) so much as with some of the considerations on which it supposedly rests. I am tempted, at this juncture, to quote the words that the great poet T.S. Eliot puts in the mouth of Thomas à Becket in *Murder in the Cathedral*: "The last temptation is the greatest treason: to do the right deed for the wrong reason". For yes, territoriality certainly *is* an indispensable tool in the management of linguistic diversity; but many of the claims made in the text before recommending it are questionable, giving the whole text a potentially self-contradictory flavour.

My reservations regard matters of both efficiency and fairness, and in the next few pages, I will try to explain why I believe that, somewhere along the path Van Parijs sketches out for us, we ought to take a different turn and follow another avenue, which should also lead us to advocate linguistic territoriality, but as part of what is, in my view, a different and more efficient and fairer approach to pluralism.[1]

I will proceed in two steps:

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[1] Some parts of the following discussion are, implicitly or explicitly, informed by the territoriality arrangement that prevails in Switzerland and which is rooted in a political and historical tradition that is deeply different from the Belgian one. These questions cannot be discussed here, but I wish to make it clear that I am not presuming that the Swiss experience, in whole or in part, constitutes an example to follow. Quite apart from the fact that the Swiss arrangement still leaves a lot to be desired, its transferability should not be overestimated. However, some of its features, in particular the fact that it is arguably correlated to a good measure of reciprocal goodwill between language communities, may be interesting for readers who are concerned with the search for solutions to the language-related issues that Belgium has been confronted with for so long.

- first, I will look at the meaning and implications of efficient territoriality in the management of linguistic diversity (section 2);

- secondly, I will critically assess some implicit assumptions made by Van Parijs about the nature of communication in a multilingual setting (section 3).

2. About the virtues and demands of territoriality

I largely share Van Parijs's vision of territoriality as a form of necessary coerciveness and I agree that it almost necessarily constitutes the backbone of language policy in multilingual polities, unless one does not care at all about linguistic diversity (independently of the reasons one might have for caring). Let me add in passing that territoriality, far from being a rigid formula, can prove highly flexible. Language regimes may be modulated by exploiting different tiers of government (typically, national, regional and local), by fine-tuning the allocation of competencies between these authorities, and building in asymmetries in favor of languages seen as weaker and most in need of protection. The range of possibilities afforded by more complex forms of territoriality is described in the "territorial multilingualism model", which also tries to jointly consider the language rights of an autochthonous majority, an autochthonous minority, and an immigrant community. Territoriality is in fact compatible with a deeply multilingual ethos, and hence with linguistic pluralism in policy solutions (see Grin 1996).

Let us however leave aside possible refinements and stick to the basic form of territoriality, which means, in essence, that one language, and one language only, has legal and political standing on any given point of the territorial unit considered (independently of its national, regional or local character). Yet even in its elementary form, the notion of territoriality requires clarification. What do we *really* mean by "territoriality", and how seriously do we take it? On this count, there may be rather less than meets the eye in Van Parijs's perspective on territoriality. His "territorially differentiated coercive language regime" (TDCLR) may look like a strong brand of territoriality, but closer examination, afforded, for example, by "Europe's linguistic challenge" (Van Parijs 2004), another of Van Parijs's thought-provoking papers on the subject, reveals a linguistic environment which is far removed from the smooth Modigliani surface referred to in the lead piece for today. It looks more like a slice of Emmentaler cheese with rather large holes. To put it more directly: Van Parijs's proposed linguistic arrangements may end up being to the near-exclusive benefit of the language that carries more clout – either by dint of number of speakers or because of economic and political influence. Two distinct problems must be identified.

The first problem is that the exceptions to strict territoriality that we are invited to accept are far from innocuous. This point is more or less explicitly acknowledged in different writings, but deserves closer scrutiny. To take just one example, going as far as to actually *ban* the dubbing of films into a language other than the world *hegemon*, or allowing linguistic enclaves in which a hegemonic language holds sway (a proposal made in other contributions by Van Parijs), cannot but undermine the surrounding "Modigliani" surface, which may rapidly shrink to nothing.

An even more destructive notion is the idea that dominant-language-medium university education in countries using another language or languages is acceptable; it most likely is not, because it sows the seeds of ever deeper imbalance (particularly in terms of parity of esteem) and robs the majority of the world population of its linguistic capital, which will be hopelessly devalued once they are excluded from the process of knowledge creation and transmission.

The territoriality arrangement that Van Parijs proposes may look strong in principle, but the proposed conditions of its implementation make it strikingly weak, exposing the language it is supposed to preserve to relentless pressure from a larger, possibly hegemonic language, until its role is confined to the purely symbolic.[2]

The second problem with this vision of territoriality is that it largely fails to do justice to the challenges resulting from the interplay of forces that may be subsumed under the (admittedly catch-all) name of "globalisation". Putting it differently, it is no longer possible, I believe, to think about local language policies in small separate spaces distinct from one another. Assume that we wish to implement a genuine, workable territoriality, ensuring sustainable multilingualism at the macro (for example European) level. In order to achieve this, various language policy measures will need to be implemented. Many of them will have little to do with somewhat disembodied measures like the admonition to non-native speakers of English to "poach the web". In order to achieve a just and sustainable multilingualism, much stronger language policy measures will need to be taken; many of them are not confined to the local arena and have an international dimension, particularly with respect to language use in international trade, workers' rights, and tertiary education.[3]

These measures simply cannot be selected, designed and implemented at a purely local level. They need to be part of a much more general approach to the management of diversity, which I suggest calling "world linguistic governance", echoing notions of world-level governance applied to finance or to the environment. This implies:

- regulating international trade in services, reaffirming, in particular, the right of parties to the General Agreement of Trade in Services (GATS), an international treaty supervised by the World Trade Organisation) to impose linguistic rules in the provision of services, such as educational services, without these being interpreted as "non-tariff barriers to trade"; in this respect, article VI, § 4 of the GATS is particularly dangerous;

- regulating international trade in goods by upholding the right of member states of the EU to demand full product labeling (product name, ingredients, instructions for use, safety information) in their official language or languages;

- regulating FDI (foreign direct investment) by upholding states' right to demand that foreign companies operating on their soil, irrespective of their nationality, operate in the local language—this must in particular apply to work contracts and internal information procedures.[4]

Summing up, proper territoriality (which is a good idea) requires measures that, without being dictatorial, are a good deal more consistent than those advocated by Van Parijs. There must be no loopholes, and closing some of these loopholes requires international coordination, particularly in the sphere of international trade. It is important to *start* by building these safeguards before contemplating any kind of facilities for a *lingua franca*. Let me emphasise this notion of coordination: world linguistic governance is simply impossible without it. This is why it is instructive to study language problems with a variety of theoretical tools borrowed from economics. Many such tools are useful, including, for example, game theory: the preservation of diversity (again, independently of the motive for which

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[2] These questions are addressed in more detail in a dossier entitled "Europe, langue et démocratie"(Grin 2005).
[3] See for example Usunier (2009).
[4] In France, this would mean proper application of the 1994 Toubon Law.

this goal is pursued) requires solving a form of *prisoner's dilemma*. As is well known, prisoner's dilemma is a classical figure of game theory, in which two players (in this case: two prisoners, hence the name of this particular game) operating in mutual isolation are almost bound to make bad decisions, from their joint perspective, whereas coordination between them would ensure a much better outcome for both. This remains necessary even when implementing solutions based on the principle of territoriality.

3. About actual communication processes

Another problem running through the text I have been invited to discuss is that the vision of multilingual communication that appears to underpin it seems far removed from the social and political realities of actual language use. Again, lack of time and space prevents us from addressing these issues in sufficient detail; I will therefore confine myself to highlighting a couple of key points.

First, although there is no doubt that "probability-sensitive learning" and "maximin" (which it might be easier to call "minimex" – for "minimum exclusion") are powerful engines of macro-level language dynamics, there may be something rather clichéd about it, and reality is more complex. The fine-grained observation of actors' actual language strategies, carried out *inter alia* in a five-year research project financed by the European Commission and drawing to a close at the time of writing,[5] reveals that when actors with different linguistic backgrounds have to interact, they engage in a considerable amount of code-switching, even in organisations with a monolingual policy (such as corporations with an "English-only" policy). Code-switching is a perfectly natural strategy, because contrary to a common illusion, competence in English among non-native speakers is much less widespread than is usually believed; it also remains at a level far lower than that of native speakers, who keep extracting rent from their language skills, as shown by abundant circumstantial evidence regarding the continuing over-representation of native speakers of English in the upper echelons of most international organizations.

Second, in interactions where code-switching is banned or at least consciously avoided by speakers, and English alone is used, it may well be for reasons that have little to do with participants' desire to be inclusive and to exclude nobody. Probability-sensitive learning is a fact; the "maximin" (or "minimex") rule may sometimes apply, but is also often a sham. Quite the contrary, the choice to use English only may be a deliberately exclusionary practice (no matter if it is applied by native speakers or competent secondary speakers of the language) aimed at asserting, by using the language of power, one's proximity to power. There is nothing new about such behavior, which had already been exposed by Gobard (1976) over thirty years ago.

Finally, one regrets that Van Parijs leaves aside (at least in the piece discussed here) the geopolitical dimensions that language almost always carries in the real world. The spread of a language cannot be a neutral phenomenon. A language is a carrier of intellectual and cultural references, with sometimes very tangible implications in the political and economic spheres. There is nothing essentialist about recalling, for example, that the legal system applying in most or all predominantly English-speaking countries is a very specific one; hence, entrenching a dominant role for the English language in the international arena necessarily abets the spread of the associated legal tradition. This is not without (potentially deleterious) effects on international trade negotiations and on the legal system set up to enforce trade agreements (see Usunier 2009).

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[5] See description of the DYLAN Project (Dynamics of language and management of diversity) on www.dylan-project.org.

Before closing this section, let me insist that "English" is *not* the problem – the problem is linguistic hegemony, no matter what language finds itself in the position of the *hegemon*.[6]

4. Concluding remarks

Many more things would deserve to be said, but will have to be left out for lack of time and space. In particular, a critique of the deeply flawed concept of "English as a lingua franca" would be in order, so as to debunk a number of clichés which, though mercifully absent from the text I have been asked to discuss, are nonetheless relevant to this discussion. Let us recall that "English as a lingua franca" does not merely refer to the use of English in communication between people with different mother tongues. It has become a persuasion, in which English is "owned" by all, therefore magically removing all issues of power. Unfortunately, languages cannot be "owned" like a car or a piece of furniture, and all the hubbub about (shared) "ownership" is little much than hot air – or, more problematically, the "sanitization" of linguistic injustice. Unfortunately, advocates of "English as a lingua franca" could be tempted to construe some of the propositions found in Van Parijs's text as arguments in favor of this flawed concept.[7]

Let us in closing return to the issue of territoriality. Let me stress that I see territoriality as a means to an end, a policy strategy at the service of linguistic diversity, which I consider a condition of both efficiency and fairness. As stated at the beginning of this discussion, I fully concur with Philippe Van Parijs on the usefulness and legitimacy of territorial solutions. The notion of "unequal dignity" as applied to language is relevant, and territoriality is an appropriate response to it. In itself, the very identification of the issue of "unequal dignity" constitutes a clear progress over earlier analyses of linguistic justice. However, the problems at hand cannot be adequately solved by a form of territoriality that merely creates linguistic "Indian reservations" that will progressively be eviscerated or marginalized. Territoriality is a good, even indispensable instrument, but if it is to work, we need a more credible version of it.

This implies an unapologetic vision of the right of different communities to protect and promote their languages, and a recognition of the legitimacy of regulatory instruments to achieve the corresponding policy objectives.

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[6] The problem would be less acute with planned languages (the best-known of which is Esperanto).

[7] Readers interested in this debate may download a recent study of the European Commission's Directorate-General for Translation on the topic of *Lingua Franca: Chimera or Reality?* whose appendix contains three interviews, including one with Philippe Van Parijs and one with me; see http://bookshop.europa.eu/is-bin/INTERSHOP.enfinity/WFS/EU-Bookshop-Site/fr_FR/-/EUR/ViewPublication-Start?PublicationKey=HC3111001.

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Brussels: fair regional borders versus fair linguistic borders

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1. Introduction

For Philippe Van Parijs, *"Intelligently designed, a linguistic territoriality regime is both necessary and sufficient to keep competence in a local language sufficiently high and universal for that language to fulfill, legitimately and sustainably, the top function as the official language of the political community. And this in turn is necessary and, if anything, is sufficient, to secure equality of dignity between peoples whose identities are closely associated to a language"*

Thus, an important role of the separation of a country into distinct linguistic areas is to protect peoples against the injustice associated with the fact that, when two or more languages are left to coexist in an uncontrolled manner on one same territory, one can progressively dominate and drive out the other(s) (Laponce, 1993). *"The primary, most fundamental injustice, it is often felt and claimed, resides precisely in what this dominance expresses: a lack of respect towards the 'dominated' languages and their native speakers, the ascription of an inferior, humiliating, insulting status to the people whose identities are closely tied to them."* (Van Parijs, 2010).

This principle of justice in the context of linguistic diversity (*'linguistic justice'*) therefore is an important reason to support linguistic boundaries and territories as installed in Belgium in 1932, then confirmed and 'fixed' in 1962. Since then, each "commune" (county borough) of the Belgian state belongs to one of four linguistic territories ("taalgebieden"): Dutch-speaking, French-speaking, German-speaking and bilingual French-Dutch.

At a later stage (1970) it was decided to separate the country into *regional* entities ("Gewesten") with powers relating essentially to the economy, employment, and territorial matters. The *regional* boundaries were made to coincide with the *linguistic* borders of the monolingual Flemish and French territories, eventually leaving for the Brussels region only the 19 officially bilingual communes located in the middle of the province of Brabant. In contrast with the many discussions around linguistic justice, this latter decision has not been prepared by elaborate analyses in terms of justice for the people whose living conditions or dignity could have been affected by this imposition of new regional boundaries (*'regional justice'*).

2. The regional border around Brussels: facts and issues

Yet, recent data clearly indicate that the *regional* border of the Brussels Region as it lies currently (December 2010) has deeply negative and unfair consequences for its inhabitants. These are easily understood if one considers the following facts:

–   The current location of the *regional* border has no historical basis. It is well known that the political and administrative territory to which the 19 communes have belonged during the last millennium has always been Brabant, whether the Duchy or, more recently, the Province. The "Ammanie" of Brussels (one of the 6 jurisdictions of the Duchy) in the 15th century already corresponded to a large extent to the current Brussel Halle Vilvoorde administrative district ("arrondissement")[1].

–   The regional border as it currently lies has no geographical basis either. The border thus runs across streets, settled areas, or natural sites, so that issues such as mobility, environment, security, are difficult to address in an optimal way[2].

–   Furthermore, it does not make any sense at the socio-economic level. Commercial relationships between Brussels and surrounding communes in Brabant date back to the eleventh century. Migration from Brabant has been an important factor for the growth of the Brussels population in recent centuries[3]. And, as of today, about 175.000 workers commute daily from communes in Brabant for jobs within the "19 communes".

–   The territorial distribution it imposes is not balanced. The most recent dismemberment of Brabant left only 4.8% of the whole territory for the Brussels region, compared to 32.5% being added to the Walloon region territory and 62.7% to the Flemish region territory. This leaves for Brussels a very small area (161 km^2), only 0.5% of the Belgian territory, much smaller than the area occupied by city-states in other European federal countries (see table).

City-State	area (km^2)
Brussels	161
Geneva	282
Bremen	404
Vienna	457
Hamburg	755
Berlin	889

–   Finally, the regional border artificially separates the rich periphery, where wealthy commuters reside and pay taxes, from the poor centre where unemployment is high and which must support the cost of a dense infrastructure available to all (Kesteloot and Loopmans, 2009). This has severe financial consequences for the Region (Verdonck et al., 2010).

So, in terms of history, geography, territorial management, socio-economic efficiency, or distributive justice, there is no basis for supporting the current location of the regional border.

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[1] See for instance the illustration in De Becker and Vanhemelryck, 1982, p. 89.
[2] A detailed discussion of the specific issues that arise unavoidably when administrative and political borders divide a metropolitan area into three distinct pieces has been presented in E-book 7 of the Re-Bel inititiative (2010).
[3] Of the 113,207 inhabitants on March 15, 1842, 17,411 were born in Brabant. (Henne and Wauters, 1845).

3. The question of respect and dignity

Also important in this discussion is the question of respect and dignity: if one admits that fair *linguistic* boundaries are important *"to secure equality of dignity between peoples whose identities are closely associated to a language"*, then fair *regional* boundaries are similarly important to secure equality of dignity between peoples whose identities are closely associated to a territorial entity. In the same way as languages naturally tend to dominate one another, peoples and political entities tend to compete with one another, even within one same State. Some will necessarily dominate for specific reasons, demography, wealth, land, strategic assets. This dominance then may lead to a lack of respect towards the inhabitants of the dominated regions.

The current location of the regional borders of Brussels and the consequences thereof do clearly place the region in a weak and vulnerable position vis-à-vis of the others in the country. Let us illustrate this with one example. As we have seen, the particularly bad figures for public finances, poverty and unemployment in Brussels result largely from the current position of the regional border. Yet, very negative comments have been regularly expressed over the years about the Brussels people being beggars and bad managers[4]. Worse, this financial imbalance has regularly been used and is still being used as a lever to obtain advantages during negotiations on the institutional status of the Belgian federated entities[5]. The vulnerability of the Brussels region within its current limits is such that there is even a significant risk it could disappear by being annexed either into a Flemish Republic or a Francophone Nation, or else being co-managed by Flanders and Wallonia into a Belgian confederation (as is already partly the case via the Flemish and French communities).

This all is in spite of the fact that a majority of the Brussels inhabitants claim that their ties and identity lie essentially with Belgium and the Brussels region, not with the Dutch or French language (Janssens, 2007). If justice requires people to be granted equal dignity through respect for the constitutive elements of their identity, then justice requires remedying the weakness and vulnerability of the Brussels region within the Belgian state as certainly as it requires protecting the Dutch language.

How can this be achieved? Two options can be thought of. One is to maintain the current position of the regional border, but to compensate for its many inconveniences by a better redistribution of the fiscal resources and a better co-operation between Brussels and the neighbouring regions in managing the matters of common interest. The other is to move the regional border to a position better adapted to the socio-economic and geographic reality.

4. Regional justice without adapting the territory?

The first option is unlikely to succeed. It would have almost the same weaknesses as adopting a non-territorial solution to ensure linguistic justice. To paraphrase Philippe Van Parijs, there is a tremendous structural strain inherent in any set up in which distinct political entities elaborate and discuss their own projects separately and then need to negotiate and compromise with each other on

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[4] See for instance: Vidts and Ponette (2003): «... Heeft Brussel een gat in de hand ? ... Verdoken transfers en de 'georganiseerde inefficiëntie' liggen (mee) aan de basis van de onderfinanciering van Brussel. ... Vooraleer bij de federale overheid te gaan bedelen om extra geld, zou Brussel het best eerst eens nadenken over een bestuurlijke reorganisatie. »

[5] See for instance: Bart Maddens (2010): "De Vlamingen zullen dat rabiate en onredelijke verzet tegen cobestuur enkel kunnen breken door de herfinanciering van Brussel te gebruiken als onderhandelingshefboom. Anders gezegd: de Brusselse vraag naar meer en véél meer middelen is voor de Vlamingen een kostbaar wapen dat ze niet lichtzinnig of overhaast uit handen mogen geven.In Israël en Palestina streeft men van oudsher naar een vredesakkoord volgens het basisprincipe 'land for peace'. In Brussel moet dat worden: 'geld in ruil voor cobestuur'."

countless issues, because they happen to be part of a tight territorial continuum (Van Parijs, 2000). This approach has not succeeded in the past years, when the federal State still had significant powers over matters of common interest – so, how could it when more and more powers will be delegated to the regional entities? How could it when the closest neighbour region has already expressed its will to co-manage Brussels? How could it when 40% of the vote in that region supports political parties who want to deprive Brussels from its regional statute and autonomy?

An optimal solution for guaranteeing the Brussels people equal justice and dignity is therefore to move the *regional* border to a position which will be optimal in that respect, based on rigorous analyses, and acceptable in a democratic way to the populations who might be directly affected.

Here again, we are left with two options.

5. Moving both the regional border *and* the linguistic border?

One option is to keep the linguistic border aligned with the regional border, and thus move it together with the regional border. Thus, the territories added to the Brussels region would change their linguistic statute from monolingual Flemish or monolingual French to bilingual Flemish and French. In that case, the new position of the borders will have to be decided on the basis of a balanced estimate of the consequences of the change in terms of linguistic vs regional justice. We have detailed here above some of the most obvious problems or injustices that a new position of the border should be able to decrease or eliminate.

But the cost in terms of linguistic justice of moving the joint borders must also be assessed, so as to reach an acceptable compromise between regional and linguistic justice. According to Philippe van Parijs, in the European case, the most credible way of pursuing the equal dignity of the various languages concerned and the associated identities:

> "… consists of allowing each of these languages to be 'queen' in some part, large or small, of the EU's territory, thereby granting a privilege, within the limits of that territory, to the identity associated with the language to which that territory has been ascribed. Within those limits, it is that language, and not a lingua franca, that is given the top function, and that operates as the official language of the population as a political community. This guarantees that it is not always the same people who need to do the bending down. It allows each linguistic community in turn, depending on location, to be the special one. It inhibits arrogance by blocking universal supremacy" (Van Parijs, 2010).

Let us imagine that independent international experts come to the conclusion that, in order to protect Brussels and its citizens form regional injustice, the size of the region should be multiplied by four or six. If we retain the option to align the linguistic border with the new regional border, this increase, while potentially very significant in terms of regional justice, would still limit at 3% only the portion of the Belgian territory which would be granted a bilingual statute, thus leaving a very comfortable 97% of it for the monolingual territories where each of the linguistic communities will "be the special one" respectively.

Also relevant for estimating the cost in terms of linguistic justice of moving the border, is the observation that the need for territorial 'protection' for the Dutch language has become much less critical today than in the past. Indeed, the Dutch language, now spoken by the wealthy Flemish

majority in Belgium, is no longer associated with an inferior status in this country (Witte and Van Velthoven, 2010).

6. Moving the *regional* border only.

However, should such a change in the position of the *linguistic* border in the Brussels periphery still be felt or estimated too high a price to be paid, then there is another option: to separate the regional from the linguistic border, and place each at the location which is optimal in terms of the corresponding justice respectively. This is in line with the fact that the regions ("Gewesten") and the linguistic territories ("taalgebieden") do correspond to distinct institutional concepts (articles 3 and 4 respectively of the Belgian Constitution), and can therefore be treated separately.

This would mean that communes reunited with the current 19 communes in the Brussels region would keep their linguistic statute: monolingual French or mono-lingual Flemish. Impossible? Not necessarily: this situation already exists in other European regions where Latin and German cultures have the chance of meeting in a common regional entity. For instance, 4 of the 26 Swiss Cantons are composed of communes with different linguistic statutes[6]. Furthermore, the regional institutions are already bilingual.

True, as already expressed in 1861 by John Stuart Mill, democratic institutions are likely to work better in unilingual territories: *"Among a people without fellow-feeling, especially if they read and speak different languages, the united public opinion, necessary to the working of representative government, cannot exist."* Mill however added: *"But several considerations are liable to conflict in practice with this general principle. In the first place, its application is often precluded by geographical hindrances. There are even parts of Europe, in which different nationalities are so locally intermingled, that it is not practicable for them to be under separate governments."* (Mill, 1861). In such cases, the real democratic challenge will be to utilise our intelligence, will and technological resources to ensure that a real democratic debate can become possible even within a bi- or multilingual population.

7. Conclusion

In conclusion, *regional justice* and *linguistic justice* must go hand in hand if a fair solution is to be found for the evolution of the Belgian federal institutions. As we have seen, in the case of Brussels, locating the *regional* border alongside a fair *linguistic* border does not make for a fair *regional* border. The position of the *regional* border as it lies today has negative and unfair consequences for many people. These consequences should be rigorously analysed so that a fair regional border can then be proposed.

If it is felt desirable to keep the two borders – *linguistic* and *regional* - totally aligned, then a balanced compromise will have to be found between the positive consequences of expanding this common border in terms of regional justice, and the negative consequences of this expansion in terms of linguistic justice.

Alternatively, one could separate the two borders, and place each of them at a location which optimally suites their respective objectives.

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[6] For instance, in the canton of Bern, there are three different linguistic territories:
« Les langues officielles sont: dans le Jura bernois le français; dans le district de Bienne l'allemand et le français; dans les autres districts l'allemand. » (Article 17 of the Constitution of the canton of Bern).

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Territoriality in an acceptable way

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My discussion bears on the following three points : 1) Territoriality: for exclusion, or for promotion? 2) The choice of a regime : by whom? and when? 3) How do we apply these ideas to the Brussels area, within the Region and in the periphery?

1. Territoriality: meant to be for exclusion — or for promotion?

a) An evolution in terminology.

In Van Parijs (2004: 42-149), the issue here under discussion was designated exclusively by the expression of "linguistic territoriality principle"[1]. Within Belgium, that expression is systematically understood (in academic as well as political statements often made by *e.g.* constitutional law Professor Vande Lanotte) as implying a one to one correspondence between each geographical (or political) area and one specific language[2]. This has established a sort of undisputed common wisdom in Belgium, according to which the territoriality principle is a synonym for unilingualism. When couched in legal form, the principle receives an institutional implementation the source of which is then called the *right of the soil* (grondrecht)[3].

Now, in Van Parijs (2010 and 2011: passim), the expression of "linguistic territoriality principle" is avoided and replaced by what he designates as a "linguistic territoriality regime" (in Van Parijs 2010) or, and better, "territoriallly differentiated coercive linguistic regime" (hereafter TCLR), as in Van Parijs (2011, chapter 5). No "principle" anymore, and thus no foundation either for a right of soil. But then what is it replaced by?

b) A definition

A TCLR is defined as *"a set of legal rules that constrain the choice of the languages used for purposes of education and communication"* (Van Parijs 2010).

That no "principle" be invoked anymore is not without significance: the principle is in fact abandoned as a justification because the legitimacy of the existence of "a set of legal rules" is done in other terms, lengthily and beautifully, in chapter 5 of Van Parijs (2011).

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[1] Van Parijs adds that to legitimately defend itself, a linguistic community is entitled to "grab a territory". I strongly challenged this view in Tulkens 2008, asserting that institutions that establish territorial unilingualism are in triple contradiction with the values of *(i)* democracy, *(ii)* justice and *(iii)* nondiscrimination.

[2] The constitutionally bilingual Brussels Region is of course a major infringement to the universality of the "principle".

[3] An expression which, in the sense specified above, has a purely Belgian significance. It is also used in other countries, say, in France or in the USA, but with a quite different meaning.

Let me say that basically, I find the notion of TCLR a quite valid and useful one. The author's arguments for its justification are convincing.

c) Connection with the earlier notion

When contrasted with the Belgian common wisdom recalled above of unilingual territoriality, the key new point now introduced in the reasoning by Philippe Van Parijs is the one of *flexibility*. Indeed, in his detailed exposition of what an TCLR can be, it appears that there are many alternative rules, that is, regimes, that can be conceived of, and these may differ in the extent of what they constrain, and in the degree to which they do that. Thus, there are as many versions of TCLR as there are different such rules.

d) A critique and a suggestion

Van Parijs claims TCLR are justified to *defend* a language, and I share this view. But I wonder whether he is not too unilateral in this search for justification. Indeed, what about rules when they consist of, or are interpreted as *ways to exclude* the use of any other language than the one legally attributed by the regime to the area? Such case is nothing else than an extreme version of the TCLR, *imposing* unilingualism with no exception. Here defense is sought by means of exclusion, which quickly leads to discrimination and injustice.

Quoting this extreme case, on which I shall return, leads me to a first critical comment of Van Parijs's writings: what the rules exactly are is in fact a bit fuzzy! A long series of scattered examples is given, but why is the reader not offered instead *a well-ordered list of rules*, presented with appropriate comments as to their virtues (positive or negative) *vis-à-vis* the paramount criterion of linguistic justice?

To be constructive, let me hasten to add that I would dream to see the rules of an LCTR be oriented towards the *promotion* of the language which is to be protected, rather than towards forbidding the use of competing languages. Additions of rules of that nature would be welcome.

2. The choice of a regime

My second point is in the form of a double question: by whom, and when, should a regime be chosen?

a) By whom ? That is: who is to decide about choosing a TCLR, and the rules it contains?

I am not sure there is anything on that in Van Parijs (2010), but Van Parijs (2011: section 5.13) asserts that it should occur "*no doubt, by some sort of democratic process*". I am in full agreement.

But let us read what follows: "One […] should not prevent politically organized linguistic communities from changing their minds in the light of new trends and democratic debate about whether or not territorial protection is worth the trouble. (…) But the purpose of the regime is likely to be better served if subsequent debates (…) did not focus on abolishing, creating or shifting some linguistic borders, but rather on relaxing or stiffening the coercive rules for the territory concerned." I much agree, but I think the point needs to be made more clearly: Philippe Van Parijs *is in favor of consulting populations on changes of linguistic regime*.

This was exactly the conclusion of my Re-Bel radical proposal of December 2008 (Tulkens 2009). I am glad to retrieve it here, and I know that I am not, by far, to be the only one to think that way. Philippe, welcome to the club! In fact, asking the citizens' opinion is a triviality for all educated people who reasonably care about the welfare of their co-citizens, more than about territorial nationalism.

b) When? Of course, at any reasonable time, and with any reasonable frequency, compatible with the organization of administrative life in a country of reasonable people.

Here, as a professional economist, I take pleasure in highlighting that philosopher Philippe Van Parijs is taking recourse to "benefit-cost" arguments to rationalize public decisions on these points (see Van Parijs 2011: section 5.12).

3. Applying all this to the Brussels area.

Although I have a lot to say on that aspect of the subject, I shall limit myself to two short questions:

1) Within the confines of the bilingual Brussels Capital Region, can Philippe Van Parijs tell us which kind of TCLR is exactly in force there? Once this is made precise, would he please tell us whether it is acceptable in the spirit of linguistic justice, and if yes, why?

2) For the unilingual geographical area called the Brussels "periphery" (understood as including the 6 communes with "facilities" as well as those where a significant proportion of voters is French speaking), can Van Parijs tell us which kind of TCLR is exactly in force there? Again, once this is made precise, would he please tell us whether it is acceptable in the spirit of linguistic justice?

In case of a difference between the answers to questions 1) and 2), a compelling justification, if any, for that difference would be intellectually welcome.

In the meantime, I take advantage of this discussion to summarize in the Appendix below the gist of my views.

Appendix

The conclusion of Tulkens (2009) was :

"My message is as follows: a fundamental reform that the Belgian community badly needs is to *abandon* the notion that, in our multicultural country, a territory belongs to a single community (in this case, a linguistic community), *with its unilingualism implication* — and to replace it by the idea that for each local constituency (each commune), the language or languages that have official status be those chosen by a reasonable proportion of its inhabitants. Institutionally, this would transform the zero-sum game of exclusion of our current institutions into a positive sum game of cooperation among individuals who effectively respect each other, irrespective of whether they speak, practice and wish to live with one, two or more languages."

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The linguistic territoriality principle: a historian's perspective

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There are three levels of discussion.

1. The normative framework

I would like to congratulate Philippe Van Parijs for spelling out this framework by highlighting the generality of some basic mechanisms, with as an interesting starting point how to secure "linguistic justice" and "equality of dignity" (or "parity of esteem"). Therefore chapter 5 of his book (Van Parijs 2011) opens with the "American in Waterloo" anecdote, as an illustration of a "colonial" linguistic attitude, the mentality of many French-speakers in Flanders, especially in the past.

Basically, there is no contradiction with the frame of reference in our book (2011): a sociolinguistic one (the interference between a language with a superior status and a language with an inferior status) and the relationship between nation building and language policies. This also corresponds with the theory of the Czech author Miroslav Hroch (1995), based on an international comparative study regarding the evolution of non-dominant ethnic groups. They could develop three important demands for the right to self-determination: first, the development or improvement of a national culture, based on a local language which had to be used in education, administration and economic life; secondly, the creation of a complete social structure, including their "own" educated elites and entrepreneurial classes; thirdly, the achievement of equal civil rights and of some degree of political self-administration. The latter was negotiable. So, I agree with the evolution sketched by Van Parijs: a territorial regime requires administrative borders, it does not require these borders to be political ones, nor the borders of sovereign states as a consequence of secession. It all depends on the political and socio-economic context.

In this sense, Belgium is a rather unique laboratory, because it has passed through virtually all stages in its internal development: unitary state; protective language legislation; principle of coercive territoriality; functional cultural autonomy, broadcasting and education; phased development of a federal state based on communities and regions with their own institutions, competences and finances; evolution towards a form of "confederalism", starting with the splitting up of the national parties. The acquisition of partial autonomy based on a structure governed by public law can then be the criterion for nationalism, namely Flemish and Walloon nationalism.

Quite interesting was the implementation of the top-down mechanism and even more the bottom-up mechanism, called "Laponce's law": "the kinder the people, the unkinder the languages". Other important points of attention on which I will not elaborate here, are:

- Linguistic territoriality, a "coercive linguistic regime" is consistent with respect for fundamental liberties. How coercive a regime is, depends on how extensive its constraints are, how ambitious it is, how general it is, how severe the sanctions are.

- Linguistic territoriality is not the same as linguistic homogeneity.

- Linguistic territoriality must not be confused with the ancestral "right of the soil".

- The problem of "linguistic facilities": the difference made between long time residents, newcomers and newborns, short time residents. The need for cheap and effective language learning facilities.

- The need for a fixed linguistic border to solve never-ending disputes, as was the case between Flanders and Wallonia.

- The application of the European Convention for the protection of minorities, and the difficulty to find a clear definition of "minority", certainly when there is conflict of interest and there are hidden agendas.

2. The choice of historical illustrations

It is very tempting to stress the similarities rather than the differences in each case. Regarding references to Belgium, especially mentioned in Chapter 5 of Van Parijs's (2011) book, I will comment on some basic linguistic elements:

Firstly. A coercive linguistic territoriality regime was an option originally taken by the Walloon movement. It rejected each form of bilingualism in Wallonia, even in the interaction between highly educated children of the Walloon bourgeoisie and an underclass of Flemish immigrants. It considered monolingual French in Belgium as a dam in terms of territory and in terms of career possibilities. It was the main reason, together with the alliance of the Walloon socialists with the French-speaking bourgeoisie in Flanders, why the Flemish question became a free question in the socialist party just before the first World War. However, it is noteworthy that in contrast with the Walloon socialist Jules Destrée quoted by Van Parijs (2011, chapter 5, fn 61), Célestin Demblon, who belonged to the same party as a representative for Liège, had already pointed out in 1909: "Either we give the Flemish workers in Wallonia the same [linguistic] rights as the Walloon workers in Flanders […] or the outcome will be administrative separation". Yet, even a superior language may prefer to hide behind a linguistic barrier, depending on specific political and socio-economic circumstances. A linguistic territoriality regime was willingly adopted by the Flemish movement. According to the principle of reciprocity both movements agreed in the 1930s to give no linguistic rights to their minorities. In Wallonia, unlike in Flanders, no exceptions were allowed. After having chosen in principle for two unilingual territories, the following step was a fixed border and the strengthening of the Flemish principle of territoriality, which made the transition towards federalization easier.

Secondly, there is the effect on national organizations, for example on the central administration in Brussels. At the request of the Walloons, a bilingualism of the services was introduced, combined with monolingualism of the civil servants. These were divided according to language roles, between which there should be a fair balance, later converted into equality. The knowledge of the second national language was limited to a minimal number of positions. This exposed the key issue: the linguistic problem as a social problem regarding linguistic criteria for recruitment, appointment and promotion. French speakers dominated the administration. Bilingualism was seen as a competitive advantage for Flemings. As a result the Walloons chose to give up a considerable part of the labour market in order

to secure as many monolingual French speaking jobs as possible. The administrative elite tried to limit the danger through bureaucratic infighting based on an authoritarian corporate culture. So, only slow progress was made to this fair balance, with large scale evasions in some departments, which gave rise to dissatisfaction on the Flemish side. In the Ministry of Foreign Affairs "equality" was only reached around 1970. Another consequence was a growing Flemish demand for splitting linguistically some administrations, starting with the Ministry of Education. Yet, the political choice for the principle of territoriality influenced the linguistic organization of the central administration and further weakened a Belgian identity.

Finally, there is the role of the capital. Here again, political choices have been made. For almost one and a half century Brussels did not play the role of a bilingual capital between Flanders and Wallonia. That was the result of an "accommodating" linguistic regime, strongly defended by the francophone elite, disregarding the language laws where possible, in order to turn the agglomeration into a merely francophone city. The principle of bilinguality was not accepted and later on only slowly put into practice. Indeed, the process of Frenchification only stopped in the 1970s. One of the reasons was that Flanders got control of its own separate cultural and educational network. Besides, the language laws of 1963 guaranteed bilingualism and the recruitment of Dutch-speaking civil servants. These laws were also applied in a minimalist way in a number of municipalities and avoided whenever possible. Afterwards, in 1980, the Brussels Capital Region also opted for bilingualism of the services, based on monolingualism of the civil servants. Today francophone politicians demand the same mechanism for the Brussels communes and a change in the language law. At the same time, from 1966 on, Flanders had become the strongest economic region and economic power generated linguistic power, with effects on the labour market and a growing demand for bilingual personnel. In short, in one generation Dutch was recognized as a standard language with a high status.

3. The current situation

It cannot be denied that for a very long time Flanders kept Belgium linguistically together. French was the obligatory second language in education, while in Wallonia the pupils had the choice between Dutch, English and German and in the French-speaking schools in Brussels Dutch was neglected.

The recent evolution in Wallonia's language policies is most interesting as they emphasize multilingualism in education (the French Community advocating immersion schools), in tourism and museum sectors. It is also part of the "Marshall-plan" (2005) in order to revitalize the Walloon economy. Moreover, individual language facilities on the internet are already implemented in some Walloon communes. Changes can also be seen in the attitude of French-speaking politicians. Meanwhile, in Flanders there is an accelerating spreading of English in the academic world, recognized as the worldwide lingua franca, vital for appointments and promotions, and with an increasing effect on the curricula.

There are two main points of discussion: the linguistic border between the Brussels Capital Region and Flanders, and the future status of the Brussels Capital Region. In my opinion, an intentional weakening of the Flemish position in Brussels and the end of the balances in the design of the Brussels model (the implementation of Plan B on the French-speaking side; the development of a Brussels nationalism) will damage the future existence of Belgium more than the separatist thinking of Flemish-nationalist parties.

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On territoriality, linguistic borders and the protection of minorities

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The powerful argument made by Philippe Van Parijs in favour of the principle of territoriality as the foundation for language legislation is an important contribution to a debate that has been under way in this country for several decades and that, from time to time, paralyses political life. Once again, today, there is no broad consensus regarding the answer to questions such as: should the territoriality principle or the personality principle apply? Should we proceed on the basis of homogeneous linguistic regions or recognise the rights of linguistic minorities as well? Is it desirable for Belgium to sign treaties on the protection of minorities? Do individuals always have the right to speak the language of their choice, or can they be compelled to use the official language of the linguistic region where they live? Is the linguistic boundary beyond discussion or must it remain open to the possibility of change?

1. Social cohesion

It is to his credit that Philippe Van Parijs sets out very clearly what precisely is at stake in this debate: it is, indeed, a matter of "linguistic justice based on respect for all languages." The "equality of languages" was for a long time far from a reality in this country. In 1921, the socialist Pierard, speaking before the Belgian Chamber of Representatives, referred to the situation as an erroneous principle: people are equal, language are not. French is a global language, Flemish is spoken only by a few million people; with French you can travel around the world, while with Flemish you can be understood at most from Ostend to Edinghen, he argued. And he was right: languages are not equal. They do, however, deserve equal respect because the people who use them are equal and deserve equal respect. For Philippe Van Parijs, that is the essential foundation for the principle of territoriality: by allowing every language to be "Queen" in its own area, one shows the language and the people who speak it equal respect. An equally important foundation for the territoriality principle in our times, in my view, is that in the multicultural society of the 21st century, where dozens of languages are often spoken in a given area, there is great need for a *lingua franca*, a common language that enables everyone truly to live together, to understand each other, to be able to communicate with each other and to establish a shared vision of society. That *lingua franca* cannot be anything other, at a national or regional level, than the language that has traditionally been spoken in a given area and that has also been defined as an official language for that area.

Many states opt in their Constitution for one or more official languages. They do so not in order to infringe on private linguistic freedom, but to regulate public use of language in their institutions, government, law courts, army, education, etc. Although the choice of official language has traditionally been left to the national (constitutional) legislators, the importance of that choice is increasingly recognized at an international level as well. It is worth noting in this regard that there is

growing emphasis on the fact that the official language must not be undermined by an overly generous recognition of the rights of linguistic minorities. The Explanatory Report (1995) of the Framework Convention for the Protection of National Minorities already stated explicitly that "knowledge of the official language is a factor of social cohesion and integration". In the same vein, the European Charter for Regional or Minority Languages also points out from the outset (in its Preamble) that "the protection and encouragement of regional or minority languages should not be to the detriment of the official languages and the need to learn them". In recent texts by the OCSE High Commissioner on national minorities, the Venice Commission and the European Court of Human Rights, the emphasis is placed primarily on the role of the official language in a multilingual society and on the subjective rights that citizens can derive from the existence of an official language. In his recent assessment of the "Draft Law on Languages" in Ukraine, the OSCE High Commissioner on National Minorities pointed out that:

> The State language can be an effective tool in ensuring cohesion. Consequently, promoting the use of the State language is also beneficial to persons belonging to national minorities. Having a command of the State language increases the opportunities for effective participation in society at all levels. This requires that persons belonging to national minorities are given and make use of the opportunity to learn the State language. All members of society, including persons belonging to national minorities, may be expected to use the State language in certain communicative situations in the public domain, as specified by law. To put it differently, there is no right of persons belonging to national minorities never to be expected to use the State language.

The Venice Commission, in its recent opinions "On the Act on the State Language of the Slovak Republic" and "On the Draft Law on Languages in Ukraine", also strongly emphasized that "the promotion of the State language guarantees the development of the identity of the State community, and further ensures mutual communication among and within the constituent parts of the populations."[1] It also noted that the official language has to play an important role "in maintaining the cohesion between the different linguistic groups of the country"[2] and that it has an "integrative force". In this context, the European Court on Human Rights ruled in its decision in the case of *Mentzen v Latvia* 14: "the Court acknowledges that the official language is … one of the fundamental constitutional values in the same way as the national territory, the organisational structure of the State and the national flag. (...) by making a language its official language, the State undertakes in principle to guarantee its citizens the right to use that language both to impart and to receive information, without hindrance not only in their private lives, but also in their dealings with the public authorities."

2. Stable borders and minority rights

To plead in favour of the territoriality principle is necessarily to plead for stable linguistic boundaries. For the principle implies that when people migrate to live in another linguistic area, they learn the official language of that area in order to be able to deal with the official institutions, communicate with local residents and, in short, to integrate into the society to which they now belong. It is therefore contrary to the territoriality principle to argue that the boundary between two countries or two linguistic regions within one country should be changed if it appears after a certain time that a large group of newcomers has not learned the language of the area in question. At the international level,

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[1] CDL-AD(2010)035, §42.
[2] CDL-AD(2011)008, §97.

this option has already been rejected. Even where there is a large concentration of a linguistic minority within parts of a state – as is the case in many European states – this is not seen as a reason to accept attachment to another state, i.e. the kin-state. Precisely in order to prevent demands by linguistic minorities from leading to conflicts between states, the Framework Convention for the Protection of National Minorities rejects the demands of minorities for a change in borders[3]. It does, however, require states to protect national minorities within their own territory.

Although this is not explicitly addressed in his paper, there are indications that Philippe Van Parijs does not really share this approach. On the one hand, he has argued elsewhere for a change in the linguistic boundary by attaching a number of municipalities on the periphery to the bilingual Brussels-Capital Region, and on the other hand, in the paper under discussion here he does not mention the protection of linguistic minorities. Perhaps the suggestion for a limited change to the linguistic boundary may be understood as a pragmatic position, adopted in the hope that such a compromise would make it possible at last to settle the dispute regarding the linguistic boundary. Philosophers are often wary of too much pragmatism. And rightly so, in my view. By changing the linguistic boundary because a number of Flemish municipalities adjacent to Brussels have over the years become predominantly French-speaking, one would pave the way for further changes in future to the linguistic boundary in municipalities with comparable linguistic compositions. Moreover, to do so would be to reward those who do not respect the language of the area, which after all is the foundation of the territoriality principle which is being defended.

The principle of territoriality does not necessarily mean completely homogeneous linguistic areas. Philippe Van Parijs does not argue for this either. He notes that the territoriality principle is often limited to "the coercitive regulation of (state organised or state-subsidised or at least state-recognised) education and to communication in public settings." That leaves room for the individual's linguistic freedom and for the rights of linguistic minorities in the private sphere, in the broad sense of the word. A territoriality principle that did not leave room for these rights and that aimed at achieving complete assimilation would not be tenable, nor would it be acceptable. The territoriality principle is not absolute. Its relativization is the *conditio sine qua non* if one is to demand respect for the language of the area and the inviolability of the linguistic boundaries. The right to keep one's own language and cultural identity is developing, within international law, into a fundamental right. It deserves protection, without thereby detracting from the status of the official language. As the Venice Commission once again stressed recently, it is a matter of striking a "fair balance between the protection of the rights of minorities on the one hand and the preservation of the State language as a tool for integration on the other hand."[4]

The editor-in-chief of *De Standaard*, Bart Sturtewagen (2011) recently wrote: "There is only one way out of the political impasse if the Flemish and the francophones are ready for a twofold paradigm shift. The francophones must understand that there can be no covenant with Flanders as long as the integrity of the Flemish territory is not recognized. But in exchange for that recognition, Flanders must learn to live with speakers of other languages, francophones, on its territory. Flanders is entitled to demand that they respect our language and culture. But it must also offer them the space to live out their own culture." In the Belgian context, the "fair balance" will indeed consist both in strengthening

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[3] See Art. 21 Framework Convention for the Protection of National Minorities: "Nothing in the framework Convention shall be interpreted as implying any right to engage in any activity or perform any act contrary to the fundamental principles of international law and in particular of the sovereign equality, *territorial integrity* and political independence of states." (my italics)
[4] CDL-AD(2011)008, §116.

the territoriality principle and the position of the official language of each region, and in recognizing the right of minorities to their own language and culture.[5]

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[5] See also Velaers (2009).

Reply
Philippe Van Parijs

On the territoriality principle and Belgium's linguistic future

A reply

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No, my Francophone critics did not band together to reject the linguistic territoriality principle as atavistic nonsense. No, my Flemish critics did not frantically converge to proclaim the linguistic untouchability of Flemish soil. On the contrary, of all my critics, it is Helder De Schutter who attacks the territoriality principle in the most resolute and systematic way: in sharp opposition to my central argument in its favour, he claims that the implementation of this principle "clashes with equal dignity for those whose language is not supported" (De Schutter §1). At the opposite end of the spectrum, it is François Grin who states most plainly that he "fully concurs" with me on "the usefulness and legitimacy of territorial solutions" (Grin §4). Indeed he finds that the exceptions I allow room for make the territoriality arrangement I support "strikingly weak, exposing the language it is supposed to preserve to relentless pressure from a larger, possibly hegemonic language" (§2).

This uncustomary fact is a good omen: evidence that suggests that we are here having a real, honest intellectual debate, driven by a genuine attempt to articulate and understand sensible arguments from all sides, and not a tactical replication of the ethnic line up to be found in political negotiations, nor a routine rehearsal of community-specific prejudices that make the position heralded by whomever is speaking entirely predictable once we know which language he happened to learn as a toddler. This does not mean that all disagreements have shrunk effortlessly into insignificance under the lens of impartial and informed academic reason. But decisive steps towards a consensus can be made, providing one takes the trouble to clear up misunderstandings about what it is exactly that is being argued for and against and to work out whether remaining disagreements are about normative or about factual matters, about the aims to be pursued (and their relative importance) or about the means best suited to achieve them.

This is the objective pursued in the following pages, in which I try to take up in orderly fashion what I believe to be my critics' central points (§§ 1-8) and which I shall close with a prescriptive picture of Belgium's linguistic future far more explicit than the few hints contained in the lead piece (§§ 9-12). I am most grateful to all six of my critics for thoughtful comments that made me see various issues in a different light and forced me to sharpen the formulation of what I believe to be justified and why.

1. Territoriality is not homogeneity

In the title of the lead piece, I used the phrase "linguistic territoriality principle" because it is commonly used in the Belgian, Canadian or Swiss debate in order to refer to setups akin to what I am advocating. In the text itself, I spoke instead of a "linguistic territoriality regime", and in chapter 5 of my book *Linguistic Justice for Europe and for the World* (Van Parijs 2011a, henceforth referred to as *LJ*), I adopted the more convoluted but more precise expression "territorially differentiated coercive linguistic regime", often abbreviated, for convenience, as "territorial regime". In contrast to what I propose calling an accommodating regime, a coercive regime is a set of rules that constrains the choice of the language to be used in public communication and public education. Henry Tulkens (§1) aptly highlights this terminological shift from "principle" to "regime", and welcomes it because "principle" suggests too easily a justification based on some fundamental "right of the soil", whereas a regime, he rightly points out, is just a set of rules. He wishes, however, that I had offered "a well-ordered set of rules", rather than a rather fuzzy sequence of illustrations.

I sympathize with this aspiration, but could not possibly satisfy it, because of the necessarily pragmatic, context-specific nature of any sensible answer to the question of what these rules should be. For reasons stated in the lead piece, a concern for justice as equal dignity requires coercive rules that are sufficiently powerful to stabilize a vulnerable language against displacement through the operation of what I call the "maxi-min dynamics", i.e. the mutual reinforcement of probability-sensitive language learning and the systematic use, in everyday communication, of the language best known by the speech partner who speaks it least well.[6] But how much coercion is needed and in what form in order to achieve this is highly sensitive to the particular context. Very little, if anything, is needed to stabilize French in Wallonia, for example, as long as most of the people who settle there come with a significant prior knowledge of French *and* face an environment in which competence in French is close to a survival condition given how few Walloons can communicate smoothly in any language but French. Far more is needed in a context — familiar enough to anyone acquainted with the Flemish core of Belgium's language quarrels — in which settlers have hardly any prior knowledge of the local language and can rely on a high level of competence of the local population in their own native language. There is no need to coerce people into doing what they do spontaneously. For this reason, the degree of coerciveness of the rules that make up a justifiable territorial regime can vary widely.

Note also that, as rightly stressed by Grin (§1), a territorial regime can be quite complex. In particular, it does not necessarily consist in protecting a single language. The opposition between a territorial and a plural regime, central in Helder De Schutter's comments, can therefore be misleading. Contrary to what he suggests (§3), there is a territorial regime in place in the Brussels Region for example, admittedly not one that protects Dutch against French, but one that protects both against, say, Arabic (the Region's second mother tongue, after French, in the younger generations) or against English (the second best known language, after French, in all generations except the oldest): you cannot get administrative documents, public education or political participation in Arabic, for example, even if numbers would seem to justify it: there are after all more Arabophones in half a dozen Brussels communes than Germanophones in the nine communes of Belgium's German-speaking Community. Thus, how coercive (i.e. non-accommodating) a language regime is and should be is a matter of degree along many dimensions (*LJ* §5.1), one of them simply being the number of languages

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[6] This maxi-min dynamics, whose understanding is essential to the justification of territorial regimes and to the discussion of linguistic justice issues generally, is briefly explained in §2 of the lead piece and extensively discussed in *LJ* §§ 1.3-1.7. In this more extensive discussion, I go a long way towards accepting the various qualifications insightfully formulated by François Grin (§3).

that are being protected by the regime. In most cases, there is only one, but there can in principle be more.

In all cases, however, a territorial regime, as I understand it, stops short of regulating private communication. As noted by Van Velthoven (§1), it must therefore be clearly distinguished from from linguistic homogeneity and even more from exclusive monolingualism at the individual level. It is perfectly compatible not only with the preservation of languages distinct from the official language, but also with the encouragement of their intergenerational transmission and of thriving cultural activities using those languages. Consequently, as argued by Velaers (§2), even a territorial regime protecting a single official language is perfectly compatible with a sensible interpretation of the European convention on minority rights. It can in principle countenance not only tolerance for linguistic diversity but even public support for it, for example through the subsidizing of cultural life in non-official languages (say, Francophone associations or Arabophone libraries) or through the use of some of them as a medium of teaching in part of the curriculum (as in so-called immersion schools). What matters is only that the regulation of public education and public communication should sufficiently constrain the maxi-min dynamics so as to secure universal competence in the common official language.[7]

2. Territoriality against freedom?

The core of my argument in favour of a territorial regime in the sense thus clarified is framed in terms of equal dignity (or equal respect, or parity of esteem). None of my critics challenges the importance of this normative concern. But whether this concern does much to justify a territorial regime is challenged by some of them. I shall consider this challenge in §§ 7-8 below. But I first need to say something about a number of distinct concerns, not all entirely reducible to equal dignity, which are appealed to in several of the comments, whether in favour of the position I defend or against it.

Firstly, as emphasized most explicitly by Helder De Schutter (§1), there seems to be a clash between territoriality and freedom. A territorial regime is a coercive regime. When it is binding, it prevents people from doing what they would otherwise choose to do. It is of course in the nature of institutions, including just institutions, to coerce people into doing some things (paying taxes, for example) and not doing other things (dumping pollutants, for example). It does not follow that justice and freedom are distinct values which clash with one another. As argued at length in an earlier book (Van Parijs 1995, chapter 1), just institutions do not shrink (real) freedom but essentially consist in distributing it in a fair way. Once equal dignity is made part of justice, so the core of my argument goes, some constraints on the use of language are justified: not on private communication at home, in associations or in the streets, but in publicly recognized education — where they are not intrinsically different from the obligation to teach mathematics for example — and in public communication — where they operate more as constraints on the language the citizens can expect to be understood and addressed

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[7] A territorial regime shaped by considerations of this type is perfectly consistent with the removal of some silly features of Belgium's current linguistic regime, such as the obligation to write all road signs, including those carrying the names of towns, in the official language of the region in which the sign stands. It is about time that one should start writing all over the country "Antwerpen" (rather than "Anvers"), "Liège" (rather than "Luik"), "Leuven" (rather than "Louvain"), "Tournai" (rather than "Doornik") etc. This would not only help reduce confusion, mockery and irritation among foreign travellers. Calling a town by the name it is given in the mother tongue of its inhabitants rather than in our own is one of the many ways, and a particularly easy one, in which respect for the other national language can be expressed.

in than on the language in which they are allowed to express themselves. Unlike the right not to go the opera — with which De Schutter (§1) suggests what is in my view a misleading analogy —, neither the right not be taught at school in a particular language nor the right to be listened and talked to in one's preferred language belongs to any sensible list of inalienable fundamental liberties.

3. Territoriality against democracy?

Secondly, as stressed above all by Henry Tulkens (§2), there seems to be a clash between territoriality and democracy. I explained and illustrated in a recent collection of essays (Van Parijs 2011b) how I see the relationship between justice and democracy. In a nutshell, among the millions of ways in which a democracy — thinly defined by the conjunction of universal suffrage, majority rule and free voting — could be organized, one must select those that are most conducive to the realization of justice duly specified. This is admittedly quite different from the view held by many economists, to the effect that the standard by which democratic decision-making is to be extent to which the decisions it produces satisfy the citizens' given tastes over the set of public goods under the control of the democratic entity concerned. The assumption *De gustibus non disputandum*, thus taken for granted in the standard economic approach, is rejected in the view I defend, variants of which have been articulated by a long line of political philosophers, from Jürgen Habermas and John Rawls to Joshua Cohen or Jon Elster. According to this view, democracy is to be conceived and shaped as the framework of a deliberative process that *transforms* preferences in order to produce substantively just decisions, rather than as the best feasible tool for revealing pre-existing individual preferences or interests for public goods broadly defined, aggregating them and satisfying them as well as possible.[8]

An optimal democratic design, from such a standpoint, cannot be one that lets each neighbourhood or each municipality decide what its linguistic regime is going to be any more than what its tax regime is going to be, though for significantly different reasons. Letting the dwellers of each portion of a territory regularly decide by a simple majority what its linguistic regime is going to be would turn any linguistic regime into an accommodating regime, be it with an inbuilt time lag. By contrast, what a territorial regime amounts to doing is make it realistic to expect that people who settle in the territory concerned will have the courage and humility to learn the local language. If they do not muster this courage or humility and simply wait for their numbers to grow until they manage to twist democratically the local linguistic regime in an accommodating direction, whatever contribution a territorial regime may make to justice as equal dignity is being undermined.

As emphasized by both Van Velthoven (§1) and Velaers (§2), border fixity is essential to the territorial principle.[9] Because the institution of a territorial regime is not driven by some absurd "right of the soil", there is an unavoidable arbitrariness in the drawing of the border, but the systematic shifting of this border as the outcome of local democratic decisions or linguistic censuses must be ruled out. By no means does it follow — it hardly needs saying — that democracy has no role to play. In this sense, Henry Tulkens (§2) is fully justified in wishing me, to his perceptible relief, "welcome to the [democratic] club". However, I claim that the borders and their fixity must be part of a deal

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[8] I take Tulkens (2009: 2) to express his commitment to one version of the latter view when he writes that "the fundamental value of democracy […] is understood as adequacy *vis-à-vis* the people's preferences ». Whether or not he would confirm this commitment on due reflection, this "aggregative" (versus "deliberative") conception of democracy is widely shared, and by no means absurd.

[9] Even the so-called "dynamic linguistic territoriality principle" described by Stojanovic (2010) as applying to the (very rural) Romansch area of Switzerland — and favourably referred to by Tulkens (2009) — ascribes to a linguistic community that is a local *minority* the power to preserve a coercive regime that protects its language.

democratically adopted on a higher scale, guided by a conception of justice that incorporates equal dignity and enlightened by a lucid analysis of how the maxi-min dynamics threatens this equal dignity in a context of linguistic inequality.[10] Some will protest that such a set up would be "less democratic" than one that leaves it up to each local entity to determine its linguistic regime. I am perfectly willing to concede this. But as I argue at length elsewhere (Van Parijs 2011b) and as a little bit of reflection should make plain, optimal democracy and maximal democracy are far from being one and the same thing.

4. Territoriality and ethnic pacification

A third important concern in this discussion is pacification. Along with Jan Velaers (§1), I believe that territorial regimes with fixed borders help pacify relations between linguistically distinct groups both across and within state boundaries. Helder De Schutter (§1) challenges this view. Given that many places are multilingual, drawing a linguistic border is likely to be contentious and can lead to sharp linguistic conflict. I shall certainly not deny that drawing such borders can be tricky, and I devote quite a bit of space to this issue in my book (*LJ* §§5.12-5.13). Temporary linguistic facilities and a firm commitment on the part of the local linguistic majority to make proficiency in the official language accessible to all local children growing up with a different mother tongue are necessary but often not quite sufficient conditions for securing peace (as well as justice) in the many situations in which no clean cut is possible.

However, I cannot see how anyone could deny that in Belgium, as in many other places in the world, the sometimes painful and laborious introduction of a territorial regime has done much to achieve lasting pacification. De Schutter (§3) seems to deplore that a coercive territorial regime put an end to the accommodation of Francophone minorities in Flemish cities. But can he deny that the linguistic situation quickly became more peaceful there than in those places where an accommodating regime survived, in particular in Leuven owing to the presence of the country's main Francophone university (until the late 1960s) and all around Brussels owing to the lack of fixity of the linguistic border (until the early 1960s), to the preservation of limited electoral and judiciary facilities in a large part of Flemish Brabant (until now) and to the concession of more extensive administrative and educational facilities in six suburban communes? As illustrated more than established by Belgium's linguistic history, lasting pacification is a welcome likely consequence of a well-designed territorial regime. But this fact, if verified, is not central to my argument. The foundation on which the latter rests is justice as equal dignity. For peace cannot be bought at the expense of justice. Justice is the most fundamental value.

5. Territoriality and resistance against hegemony

Before turning to this key issue of equal dignity, a few more words on two other arguments used by some of my commentators (in addition to pacification) on behalf of territorial regimes. One is resistance to ideological domination by the culture associated with the invading language. This is a concern particularly close to François Grin's (§3) heart, in the context of the growing dominance of

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[10] The reason for the rules needing tob e determined on a higher scale is not that those in power at the higher level are intrinsically more able to be guided by a sense of justice, but because the terrioriality principle is in the first instance about what can be legitimately expected from people settling in a particular area, and leaving up to the settlers to decide by themselves (albeit after a time lag) what can be expected from themselves would amount to pulverizing the rules which my equal-dignity-based arguments sustain are justfied.

English in Europe and beyond. I do think a territorial regime of the sort I advocate does provide some protection to "weaker" languages and "smaller" cultures against drowning in the flood of what is being produced in "stronger" languages by "bigger" cultures. But Grin (§2) complains that I am not going far enough, that I am satisfying myself with an Emmentaler cheese when I should be pushing harder for a polished Modigliani surface. For the exceptions to linguistic coercion I allow may trigger the unravelling of the territorial protection. It is wrong of me to approve the growing presence of English courses in higher education[11], for example, or to foster the viewing of undubbed English-language films, or to recommend the creation of small "linguistically free zones" (Brussels being one obvious candidate to which I return in § 9 below) in the limited sense of being accommodating towards the global lingua franca.

Grin and I disagree on this issue and we have had other opportunities to discuss each other's arguments.[12] As I try to argue at length elsewhere (*LJ* §§1.9-1.10), the effective pursuit of global justice is doomed in the absence of an effective mode of cross-border communication involving all layers of the population. For reasons that have nothing to do with any alleged intrinsic superiority, this medium will be English, and the democratization of competence in English is therefore a must. Some asymmetry in the degree of dissemination of the Anglophone culture versus all others is therefore unavoidable. But this is not a sufficient justice-based reason for opposing the spreading and the use of English in higher learning, for example, or in the administration of the European Union, as the impact of this asymmetry is negligible — at any rate if we non-Anglophones adopt the right attitude —, compared to the massive importance, for the prospects of worldwide justice, of being able to communicate, argue and mobilize cheaply across borders. Effective protection against ideological hegemony cannot and must not come from tightening territorial protection but from a resolute, competent, uninhibited oral and written use of the lingua franca by non-Anglophones (*LJ* §1.11). Let us all try to do as well as we can what Grin himself does so magnificently, rather than do what he says we should do.

6. Territoriality and social cohesion

Finally, there is social cohesion, which Jan Velaers (§1) considers just as important as equal dignity as "a foundation of the territoriality regime in our times". I entirely agree with him about the centrality of this consideration, prominent, for example in a number of court decisions which he rightly quotes with approval against an overenthusiastic celebration of linguistic diversity. It is extremely important to ensure that people actively sharing a territory should also actively share a language. Democratic participation cannot be effectively institutionalized if people cannot talk to each other, nor can opportunities be equalized among citizens from all linguistic groups or feelings of solidarity develop across ethnic boundaries. It is precisely for reasons of "social cohesion" in this sense that I emphasize universal access to proficiency in the official language as a condition for the legitimacy of a territorial regime (*LJ* §§ 5.5 & 6.7).

Such reasons, distinct from equal dignity, may provide more than we need as a justice-based rationale for the coercive protection of the local language in a context in which the latter competes with

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[11] A recurrent hot issue in Flanders. See, for example, the recent opinion piece by the Rector of the Vrije Universiteit Brussels Paul De Knop (2011) and a response by two members of the Flemish nationalist party N-VA (Van Dyck & Celis 2011).
[12] See our respective contributions to a thematic issue of the Revue d'économie publique (Van Parijs 2003 and Grin 2003) and our respective in-depth interviews published as an appendix to the European Commission's "Lingua Franca" report (Grin 2011 and Van Parijs 2011c). See also *LJ* chapter 1, Appendix 2, for an extension discussion of Esperanto, which Grin advocates as an alternative to English.

"weaker", low-status immigrant languages. But this justification is more problematic in contexts such as the one that serves as the central illustration in my book — the worldwide dominance of English — where the conflict is with a stronger, high-status language that holds the potential of becoming, beyond a more or less awkward transition period, a language shared by the whole population. No doubt the social cohesion of Ireland or of French Flanders, for example, owes far more to the local populations' shared knowledge of English and French, respectively, than to whatever little Gaelic or Flemish they are still able to speak. It is therefore not always true that the binding idiom "cannot be anything other, at the national or regional level, than the language that has traditionally been spoken in a given area" (Velaers §1).

In the Belgian context, a concern for social cohesion can be persuasively invoked in order to justify the learning of French or Dutch by immigrants from all over the world, but not so easily to justify the learning of Dutch by Francophones or Anglophones who could easily get away with living in Flanders without learning any Dutch and communicating with locals in French or in English. If left unconstrained, such a sociolinguistic pattern would accelerate the learning by locals of these languages. It would lead to universal proficiency in the stronger non-local language after a transitional process that may prove somewhat chaotic but does not even need to be that long if backed by a facilitating set of policies in matters of migration, language use and education. Moreover, this alternative way of pursuing social cohesion would have the advantage of achieving it on a higher scale. This is unwittingly pointed out by Van Velthoven (§2) when he suggests that the territorial regime put into place in the 1930s created a pressure towards a decentralization of competences to linguistically defined entities, that it thereby triggered the breakup of Belgium's unitary state and that it may even have sown the seeds of eventual separation.

Unity is not an aim in itself, and therefore the fact that territorially differentiated coercive regimes generate centrifugal tendencies supplies no knockdown argument against them.[13] My point is here simply that social cohesion considerations only offer a contingent and qualified support to the linguistic territoriality principle. Appeal to some other consideration is needed if we are to justify protecting a weaker language against a stronger one that offers a realistic potential of generating social cohesion on a higher scale, as French did for example for the initially very multilingual territory of the French Republic, and as some hoped for quite a while it would do just as thoroughly for the Kingdom of Belgium.

7. Linguistic justice versus regional justice?

Thus, though plausible at first sight, arguments against territorial regimes that appeal to freedom (as incompatible with coercive institutions) or to democracy (as preference aggregation), once scrutinized, turn out to rest on feeble foundations (§§ 2-3). On the other hand, arguments in favour of territorial regimes based on pacification, cultural resistance or social cohesion,[14] though not irrelevant or unwelcome, are more contingent and less cogent, in my view, than what I regard as the most general and fundamental justification of linguistic territoriality: justice as equal dignity (or parity of esteem). I shall not rehearse this justification here, but simply recall the three channels through which the set of coercive rules that define a territorial regime serve justice as equal dignity: (1) they inhibit

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[13] Not a knockdown argument, but still an argument that needs to be addressed by supporters of linguistic territoriality and of the linguistic diversity it helps preserving (see *LJ* §6.9).
[14] Linguistic diversity is also often invoked in favour of linguistic territoriality but it hardly features in the comments: it is very briefly mentioned only by Grin (§§ 1 and 4). Chapter 6 of *LJ* is entirely devoted to it.

"colonial attitudes", (2) they prevent a "kindness-driven agony" and (3) they secure a key background condition for offering each tongue the option of being "a queen" (*LJ* §§ 5.3-5.5).

One puzzling — and hence unavoidably instructive — challenge to this equal-dignity based argument came from Alain Maskens, the author of a couple of books in which he persuasively pleads for a non-ethnic Brussels identity (Maskens 2000, 2004). Maskens does not contest the importance of taking seriously, in the Belgian context, the equal dignity of communities defined by their linguistic identities. But he insists that equal dignity is also owed to people defined by their regional identities. As there is no pre-established harmony between the two concerns, a compromise is needed between the respective claims of "linguistic justice" and "regional justice". In his view, one form this compromise could take is that of a territorial trade off, whereby the officially bilingual region of Brussels-Capital would be expanded somewhat at the expense of both officially monolingual regions — not as much as perfect regional justice would require but more than perfect linguistic justice could tolerate (Maskens §5). Alternatively and more originally, it could take the form of a nested combination, whereby the regional border would be comfortably expanded in the light of "rigorous analyses" preferably entrusted to "independent international experts", while the present language borders would remain unaltered inside this expanded region (Maskens §6).[15]

Why do I find this challenge puzzling? Because I do agree that there are two conflicting sets of sensible considerations pulling in oppose directions here, while finding it weird to capture this conflict in terms of territorial claims based on linguistic justice and regional justice, respectively. At the core of my approach to territoriality lies the claim, which Maskens is not denying, that there is something about the nature of language — its being a communication tool and the associated maxi-min dynamics — that explains why equal respect for the linguistic dimension of people's identity — unlike respect for its religious or culinary dimension, for example — requires territorial protection (see *LJ* §4.1). For the sake of linguistic justice so conceived, the borders of the relevant territories are *prima facie* best established so as to maximize, among the citizenry residing in a territory, the proportion of native speakers of the language picked as its official language, while minimizing the proportion of non-native speakers of that language. However, there is no *a priori* reason why such borders thus drawn optimally from a linguistic point of view, should also be the borders best suited for the devolution of the widest range of policy competences to decentralized entities. An efficient exercise of competences in matters of mobility, public health, town planning or taxation, for example, may be incompatible with a high level of decentralization to entities with borders drawn according to linguistic criteria. Maskens (§2) argues that this is blatantly the case in the Brussels metropolitan area, and no urban economist or geographer looking at Belgium from abroad needs much time to reach exactly the same conclusion.[16]

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[15] Because the drawing of the new border would need to be made in the light of scientific analyses about the substance of which he makes no claim, Maskens remains unavoidably noncommittal about how significant the enlargement would need to be. He does stipulate, however, that this modification of the regional border should be "acceptable in a democratic way to the populations who might be directly affected". But it is essential to his approach that this democratic determination should be very different from the local consultation invoked in the democratic argument against linguistic territoriality (see §3 above): how small the Brussels region is kept "directly affects" the whole of the Brussels population, which should therefore have a say. Consequently, it can be taken for granted that, once operationalized, Maskens's criterion should push out Brussels's borders in all directions far beyond the six communes with facilities. For the sake of illustration, he asks us to imagine that the size of the region would be "multiplied by four or six" (Maskens §5). In the following discussion, I shall assume instead that the further strengthening of interdependencies through the development of the RER/GEN network will force the "rigorous analyses" to include, for instance, Leuven and Ottignies-Louvain-la-Neuve in the metropolitan region, and hence to recommend that Brussels' comfortable enlargement should correspond to something like the old province of Brabant (even though a commune-by-commune approach is admittedly more likely to include Mechelen than Tienen). However, the validity of the argument below does not hinge on where exactly the border is drawn.

[16] See, for example, Cheshire (2010) and Eeckhout (2011).

In order to avoid perversely inefficient decentralization, it has therefore repeatedly been proposed to expand the bilingual Brussels region far beyond its current borders so that it can include most, if not all, its metropolitan region, including the communication hubs and intellectual centres of Leuven and Ottignies-Louvain-la-Neuve. Most of the people making such proposals are Francophones. This is not only, I believe, because any sensible expansion on these grounds would bite far more into Flanders than into Wallonia. This is also because many Francophones simply fail to realize how much of an *attrape-nigaud* such an enlargement would be from the Flemish standpoint, even though it can correctly presented as a relative equalization of the proportion of Dutch-speakers and French-speakers in the enlarged Brussels. What they overlook (or sometimes pretend to overlook) is that within the boundaries of this larger area, once made bilingual, the maxi-min dynamics would work at the expense of the weaker language in essentially the same way as in the smaller area of the current Brussels region. The process may be slower than in the past because the gap between the respective social statuses of the two languages has narrowed in recent decennia (as noted by Maskens §5). But it will be no less inexorable because of the lock-in nature of the maxi-min dynamics against the background of massively asymmetric bilingualism at the start. Those who seriously propose such a straightforward expansion of the bilingual Brussels region have not learned the lessons of the acute linguistic conflicts that exploded in the 1960s around the Brussels and Leuven "oil stains", nor understood why fixed language borders, as already mentioned, are crucially important for linguistic justice as equal dignity.

Such a reproach does not apply to Alain Maskens though, at least in so far as he is asking us to take seriously the second of his two options: a substantial enlargement of Brussels to its metropolitan area *without* a matching shift in the language border (Maskens §6). This is an original proposal that is worth pondering about. But the best way to motivate it, it seems to me, is not as he does in terms of "regional justice", or respect for the dignity of the Brusselers, versus "linguistic justice", or respect for the dignity of the Dutch- and French-speakers, with the latter best served by a minimization of the bilingual area and the former best honoured by a territorial expansion of the Brussels region at the expense of its two neighbours. It is this direct link made between regional expansion and respect for regional *identity* (as distinct from the interests of the Brussels Region or its inhabitants) that I find puzzling. A more satisfactory way of motivating Maskens's proposal seems to me to ask squarely the question of how best to decentralize political authority in a linguistically diverse country. On the one hand, the democratic imperative favours an option that maximizes the extent to which politics can function in the first or best language of the bulk of the people — and hence a coincidence between regional and linguistic borders. On the other hand, concern for an efficient handling of interdependencies favours an option that brings under the same authority areas that are linked by a dense set of positive and negative externalities — and hence, in the Brussels case, for regional borders that reach far beyond the linguistic borders. The current situation approximates the former option (with the six communes with facilities as the main deviation), while Maskens advocates the latter. Each of these options is in principle consistent with my equal-dignity case for a territorial regime, and each has its own advantages and drawbacks.

The main advantage of Maskens's proposal is that it would be possible to go much further in the devolution process, because the size of cross-regional externalities, while still far from insignificant, would be less massive and ubiquitous under his proposal than they unavoidably are when one of the regions is just a city or even, as in the Brussels case, the central neighbourhood of a larger urban area. Keeping Brussels as tiny as it is now not only makes it necessary to keep Belgium alive. It means that we shall have to keep a federal Belgian state with far more substance than we could otherwise get

away with. This general point was neatly illustrated in the context of a very instructive workshop on Brussels hosted by the K.U.Leuven research centre VIVES (16 June 2011). The organizers warmly recommended a recent book by Harvard economist Edward Glaeser, whom they had attempted to invite for the occasion. After explaining why cities systematically tend to attract lots of poor people and reaffirming the great importance of redistribution for the sake of both social justice and economic efficiency, Glaeser illustrates in his book how disastrous it can be for cities to deal with redistribution themselves: "A *nation's poor are every citizen's responsibility*", he writes, "*not just the people who happen to live in the same political jurisdiction. It is fairer, both to the poor and to cities, if social services are funded at the national rather than the local level.*" (Glaeser 2011: 258). Not everyone at the workshop may have heard this with delight. But a point is sometimes more readily heard, grasped and believed when yelled from across the Atlantic: no tiny Brussels without a robust Belgium.

For those who are sensitive to the many advantages of decentralization, both general and specific to linguistically diverse countries, this is a major drawback of the current small-Brussels option and a major advantage of Maskens' alternative. Yet, as things stand in the 21st century, the latter is a non-starter. In large measure because the Brussels *francophonie* could not be trusted to do what Maskens proposes, namely grant territorial protection to Dutch language in the bulk of Brussels' hinterland, the dissolution of Belgium's unitary state has involved the attribution to the other two regions of 95% of the old province of Brabant, thanks to Brussels the wealthiest area of Belgium since its inception and now more than ever. Owing to the ejection of the UCL from Leuven and to other aspects of the linguistic protection of the Flemish vicinity of Brussels, Brabant wallon has now emerged, along with Vlaams Brabant, as the (per capita) richest province in the country. At the same time, as a result of several decennia of growing autonomy, the Flemish and Walloon regions have gained in both authority and identity. Can we really expect them to willingly donate to the Brussels region the wealthiest chunks of their territories, namely the parts of the province of Brabant they managed to claim as theirs in the regionalization process? Or can one expect a strong Belgian or even European government to force them to give up under threat what they would not willingly donate? The not very philosophical answer to these questions is no. And the philosophical footnote would be that no "regional injustice" would thereby be perpetrated, providing of course the Belgian federal state remains firmly in charge of the competences with strong cross-regional externalities, not least the key redistributive powers.

Moreover, it is not too difficult to turn this necessity into a virtue. Firstly, preserving the coincidence between regional and linguistic borders has the advantage of giving a clearer message about the area in which citizens are expected to integrate by learning the same one official language, instead of giving the impression that there is a grey area (the monolingua portion of a bilingual area) in which this is only half expected: the implementation of the territorial regime would be facilitated as a result. Secondly, the absolute necessity of keeping more powers at the central level owing to the small size of the central urban component of the federation generates a structural pressure to maintain a more generous solidarity across all components of the federation and thereby to better serve the ultimate ideal of global distributive justice. Consequently, both a more effective pursuit of linguistic justice as equal dignity and the achievement of justice as equal opportunity on a higher scale may be welcome by-products of what may look at first sight, compared to Maskens's original proposal, a second best option.

8. Territoriality against equal dignity?

Of all my critics, Helder De Schutter is the most radical. For unlike Alain Maskens and even Henry Tulkens, he flatly denies that a territorial regime is an appropriate way of pursuing justice as equal dignity.[17] Or at least he accepts this only for a limiting and increasing rare Iceland-like case in which linguistic homogeneity is high at the start. By contrast, the standard case is now one of linguistic heterogeneity, where people with different native tongues share a territory that could not reasonably be cut up or cleaned up so as to create homogenous areas. And in this standard case, De Schutter (§1) argues, a plural regime that grants recognition to two or more languages with a significant presence would score far better in terms of justice as equal dignity than one that gives a privilege to just one. Moreover, even in a situation that is homogeneous at the start, thwarting people's preferences by constraining their choices of language use, in particular by preventing them from turning to a language they regard as more useful, or more prestigious, or more beautiful, would be a way of disrespecting their linguistic identity, which cannot simply be assumed to coincide with the mother tongue they happened to inherit. De Schutter's alternative pluralistic approach should have led to the adoption, throughout the country, of a bilingual regime of a type best approximated by the one currently obtaining in Brussels (§3). Such a regime offers no guarantee against one of the languages ending up displacing the other altogether. If this were to happen, De Schutter would be willing to call it a regrettable loss, but no injustice would be committed (§§ 2 and 3).

I fully subscribe to De Schutter's view that linguistic suicide is not *per se* an injustice: there is nothing like a right of survival for each existing language, nor a correlative duty for its speakers to keep it alive. Linguistic suicide can be perfectly consistent with equal dignity, though only on condition that linguistic communities themselves waive their right to territorial protection for their language because they are unwilling to bear the various dimensions of its cost (Van Parijs 2011: §5.14). However, they must first be given the option of using such a protection against the subversive maxi-min dynamics that would otherwise threaten justice as equal dignity along the three channels briefly listed above (§ 7) and spelt out at much greater length in my book (*LJ* §§ 5.3-5.5). I have no problem admitting that the introduction, strengthening or clarification of a territorial regime could threaten the equal dignity of people who identify with one or more languages distinct from the official language that is being protected. Equal dignity is safe, however, if we secure the satisfaction of a number of conditions which I wish to list here more systematically than I do in my book.

Firstly, the type and degree of coerciveness of the rules must not only comply with fundamental liberties — in particular the free choice of language in private interaction – but also be commensurate with what is needed to secure universal proficiency in the official local language. As mentioned earlier (§1) linguistic minorities can and should be given collective linguistic rights if granting them these rights involves no serious risk of trapping them in the ignorance of the official language. Secondly, the education and media systems must be so designed that proficiency in the official language is effectively accessible at an affordable cost (in money, time and effort) to all members (of learning age) of the linguistic minorities, whether newcomers or not. Thirdly, room must be made for transitional linguistic facilities, i.e. the granting of the same linguistic rights as before, in so far as practicable, to those stuck by surprise on the "wrong" side of the new (or more strictly interpreted) linguistic border, but not to newcomers or the newly born. Fourthly, those left unsatisfied by the coercive regime, even thus constrained by various obligations and softened by

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[17] See also his excellent earlier critique of the linguistic territoriality principle (De Schutter 2008), one of the very best philosophical discussions of the topic.

transitional facilities, must be at liberty to move out of the territory to which the new regime applies. Last but far from least, in order to have a response to the linguistic minorities protesting "What about our dignity!" (De Schutter §2), the background must be one of general reciprocity: you are expected to learn my language in this place just as I would have to learn yours wherever your language is official.

Bearing these conditions in mind, what may be found embarrassing for my equal-dignity case for territoriality is not linguistic heterogeneity per se, but those cases where the exit and reciprocity conditions are hard or even impossible to fulfil. This concerns minorities that have no linguistic homeland to which they could reasonably be told they have the option of moving.[18] In those cases, it is not only the exit condition that becomes tricky, but the reciprocity condition then needs to be formulated in such a counterfactual way that it becomes far-fetched: "If there ever was a place in the world in which your linguistic community could and would implement a territorial protection of its language, and if I were to settle there, then I would muster the courage and humility to learn your language just as I expect you to do here for our language." In *LJ* (§5.14), I recognize and discuss this difficulty. However, it is of precious little relevance to the linguistic issues that have been agitating us in Belgium. Francophones who dislike the local linguistic regime in Flanders do not need to travel far to get bilingual or pure francophone soil under their feet. Moreover, ever since the 1930s reciprocity is easily satisfied for both language groups within the country itself.

I should add that the more widely the equal-dignity-based rationale behind the territoriality principle is understood, the less coercive the regime will need to be. This understanding requires appreciating the full implications of the inexorable maxi-min dynamics, to which I believe De Schutter pays insufficient attention. Once the power of this mechanism is recognized, people on both sides of the linguistic divide should understand that the possible sources of Belgium's deeply asymmetric bilingualism are not exhausted by the alternative suggested in Yves Leterme's ill-fated *Libération* interview: if it is not the Francophones' intellectual incapacity that accounts for their linguistic incompetence, he insinuated, it can only be their arrogant bad will.[19] It is a third factor, the powerful yet diffuse operation of the maxi-min dynamics, that is the chief factor that helps create the asymmetry and that locks us in it. Sharing this insight should at one and the same time induce Flemings to show more understanding for the Francophones' overall mediocre knowledge of Dutch and induce Francophones (and Helder De Schutter) to have more sympathy for the Flemings' insistence on territorial coercion.

9. Europe's trilingual capital

What follows from all this, Henry Tulkens (§3) legitimately asks, for today's Belgium and in particular for Brussels and its periphery? I already gave several partial answers to this question, but I shall now integrate them into a fuller picture of the direction in which I claim we should move. I shall do so by listing and motivating briefly the main components of what I believe to be a feasible and desirable linguistic regime for the Brussels Region, its immediate surroundings and the rest of the country. The

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[18] For this reason, "continuity" is not an argument against territorial coercion (De Schutter §3), but rather in favour of it: the easier it is to move to one's "linguistic homeland", the less of a problem the coercion should be regarded as being. The failure to recognize French as official in Vlaams Brabant or Durch in Brabant Wallon sould be regaderd as far less problematic, in this respect, than the failure to recognize Arabic, let alone Urdu or Lingala, in Brussels.

[19] «Au départ, l'idée était que beaucoup de francophones allaient s'adapter à la nouvelle réalité linguistique. Mais apparemment les francophones ne sont pas en état intellectuel d'apprendre le néerlandais, d'où la prolongation de ce statut d'exception.» (Leterme 2006).

order followed does not reflect the chronological order in which these components should be put into place: we shall have to use any opportunity that arises in order to progress along each of the directions I shall sketch. Nor does the order reflect the relative importance I give to each component. Instead, it is dictated by the fact that some components of what I propose provide a background in the absence of which other components would be less realistic and/or less defensible.

First of all, the Brussels Region itself, wherever its borders are drawn, should be given an officially trilingual status, with English added to French and Dutch. This does not mean that English should be given exactly the same status as the other two languages. No need whatever, for example, to add a third linguistic version to every street name. But public communication and administrative procedures of all sorts and at all levels within the borders of the Region, must become possible in English as well as in French and in Dutch. As a result, it should become possible to get away with settling quite comfortably in Brussels without knowing either of the two local languages. This first component of what I propose can be interpreted as a further relaxation of the present-day bilingual regime. Some relaxation in this direction has already happened. For example, the use of English is predominant, sometimes even exclusive, in the huge posters publicly displayed by the European Commission on the Berlaymont building. It is also present, next to French and Dutch, in the Brussels public transport system. Moreover, in part of Brussels' public education system — namely the four and soon five European Schools funded by the European Commission and the governments of the member states —, pupils can graduate without having followed a single lesson in either French or Dutch.[20] My proposal is to extend and officialise such "facilities" for English in public communication and public education — including through the development of open and co-funded so-called type II European schools with English as one of the teaching languages — and to further extend them to the judiciary and, in due course, to political life.

Why this relaxation? As De Schutter (§1 fn1) rightly points out about the toleration of "linguistically free zones" in general, this cannot have anything to do with the pursuit of justice as equal dignity. Not only is it a concession that favours the use of a language that is not exactly vulnerable, but it is meant to benefit mostly people who do not have English as their mother tongue and do not identify with that language at all. According to the best data we have (Janssens 2007), people with English as their native language (or one of their native languages) form around 3% of the Brussels adult population and unlike people who speak it well (around 35% of adult Brusselers according to the same source), they will always remain a small minority. The justification for a move to official trilingualism has nothing to do with the dignity of Anglophones. It can be traced to the contingent fact that the government in charge of the first rotating presidency of the European Economic Community — Belgium, as it happens, because of the alphabetic order — had to find an improvised shelter for its first public servants in January 1958. From then on, Brussels grew step by step into the uncontested political capital of the European Union. This is a major historical responsibility, in the service of a daring, difficult, unprecedented project, of momentous importance for the effective pursuit of worldwide justice. Brussels would dishonour itself if it did not do its utmost to discharge it properly. And this has linguistic implications, which few would have anticipated in 1958.

What happened since is that the worldwide spreading of English, successive EU enlargements and the local operation of the maxi-min dynamics are working together to make English each day more dominant in interactions within and around the Brussels-based EU institutions. As argued at length

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[20] Whatever their linguistic section, European School pupils need to choose one out of three languages — English, French or German — as a second medium of secondary education. In the Brussels schools, most of those who are not in the English section choose English as their second language.

elsewhere (*LJ*, chapter 1) and briefly restated above (§5), this is a trend to be welcomed and accelerated. Convergence towards a shared language is an essential condition for the European Union to function better and to become able to take over a number of functions which nation-states are no longer able to perform properly.[21] Consequently, if Brussels is to be up to the job it happens to have been entrusted with, it will need to upgrade the official local status of the unofficial language of the European institutions. Some may understandably regret this, often in an emotional and narcissistic mood, but also sometimes, as with François Grin (§3), in a reflective and articulate way. The citizens and authorities of Brussels, however, should not waste any time on such regrets and rear guard battles. They must instead adjust proactively to the linguistic imperative inherent in Brussels' historical mission, in the interest of both the smooth working of the European Union and the prosperity of the local population.

10. An overflow tank for Brussels' expats

As argued by implication above (§7), the comparatively accommodating linguistic regime thus granted to the half per cent of Belgium's surface that counts as the capital of the European Union must not be regarded as freely expandable to the metropolitan area that surrounds Brussels. Those who choose to settle in this area must accept the possible inconvenience of having to learn the language of the region, whether Dutch or French. Europeans must be clearly told that although Brussels is, must be and will become more and more their capital, with the rights and duties this entails, Belgium as a whole is not and must never become their colony. As argued above (§§ 3 and 4), the fixity of the linguistic border is crucial. For this reason, the splitting of the B-H-V constituency, though not directly relating to the language regime, was understandably regarded on both sides as asserting the non-expandability of the area in which a more accommodating linguistic regime will prevail. This should hold for English no less than for French.

The implementation of this linguistic *carcan*, i.e. the linguistic integration of households settling on officially monolingual land beyond the borders of the accommodating Brussels Region, will not always be self-evident. It will constitute a challenge for both Flanders and Wallonia, but a more serious one for Flanders than for Wallonia for three reasons.[22] Firstly, people coming directly from abroad are more likely to know at least some French than some Dutch. Secondly, far more Brusselers can speak French than Dutch — 96% versus 28% according to the most reliable data (Janssens 2007). And thirdly, Brussels being nested inside Flanders, its immediate periphery lies mostly in Flanders. The resulting challenge will prove unmanageable unless it is eased through the combination of two strategies.

Compared to the second, the first of these strategies is simple and cheap. It consists in including in the trilingual Region of Brussels Capital the six Flemish communes with facilities for French, thereby making these six communes just as accommodating as the Brussels Region itself in a clear, unambiguous way that does not breed confusion about the official monolingualism of Flemish Brabant. This is no infringement of the linguistic border fixity rule which I insisted (in §3 above and in

LJ §5.2) is intrinsic to the territoriality principle.[23] In the 1962-63 deal that fixed the linguistic border, the linguistic facilities conceded to these six communes were not transitional facilities to be gradually phased out (of the sort recommended in §8 above and in *LJ* §5.12). It was then decided, laboriously but unambiguously, that these facilities would apply not just to the people who then lived in those communes, but also indefinitely to any newcomer or newly born. Half a century after the deal, street names are still and are meant to remain in both languages, and although the bulk of the current inhabitants of these communes lived elsewhere at the time or were not born, they are all entitled to exactly the same administrative and educational facilities as the people who were taken by surprise by the fixation of the border. No wonder, therefore, that the proportion of people with French as their only native language is nowadays on average higher in those communes than in the Brussels Region itself (see Janssens 2002). Those who were chanting *"Faciliteiten, stommiteiten!"* in 1962 were absolutely right if what they meant was that granting such permanent facilities would allow the "oil stain" to proceed unimpeded in these communes. But they were wrong in believing that this would be, in the long term, a bad thing for Flanders — just as the Francophones outraged a few years later at the prospect of the UCL being ejected from Leuven did not anticipate how good a thing this would turn out to be for Francophone Belgium. Let me explain.

One is now beginning to discover the new nature and size of the challenge presented by the implementation of the territorial regime in the Flemish communes to the East and South of Brussels, from St Stevens Woluwe to Hoeilaart via Tervuren and Overijse. In this opulent part of Flemish Brabant, the main problem will be less and less the unwillingness to learn Dutch by snooty Belgian Francophones. They are beginning to understand at long last that in Flanders even more than in Brussels it makes a lot of sense to make your children bilingual by sending them to a Dutch-medium school while transmitting French at home. In the years to come, the trouble will stem instead more and more from the swelling Brussels-based expat community, only a small minority of which can be expected to become actively interested in learning Dutch. As a striking illustration, take the huge forty-year old Tervuren-based British School, a powerful magnet for Anglophones in Flemish Brabant. Starting in September 2011, it is offering, next to the pure English-medium curriculum, a bilingual one. "Finally!", some may cheer after hearing this, "at long last, these folk have realized that they are established in Flanders and understood the importance of showing respect for the local language". But they will quickly have to shelve their enthusiasm: "bilingual", it turns out, here means "English/French".

The point thereby illustrated is that in order to prevent the territorial regime becoming either a joke or a nightmare in those communes, it is essential to provide sufficient living space to the growing number of foreign nationals who are as perfectly willing and able to integrate into Brussels as the EU capital as they are unwilling and unable to integrate into the Flemish or Walloon populations. Removing the remaining confusion by adding the six communes with facilities to the trilingual Brussels Region is an obvious way of enhancing the power of these communes as permanent magnets that will help release the pressure on the rest of Flemish Brabant.[24] If metaphors can help:

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[23] For this reason, my proposal for the six communes does not "pave the way for further changes in future to the linguistic boundary in municipalities with comparable linguistic compositions" (Velaers §2). On the contrary, against the background of a "clean splitting" of the rest of the constituency of Halle-Vilvoorde, which I have long been supporting for precisely this reason (see e.g. Van Parijs 2007), the adjustment of the political border to the linguistic border which I advocate is bound to reduce remaining pressures to shift the latter outward, as explained below. By contrast, the systematic "pluralism in border areas" recommended by De Schutter (§3) along lines which Tulkens (2009) would certainly find congenial is exactly what would undermine what both Velaers and I find essential in a territorial regime.

[24] Without waiting for this to happen and Brussels to become officially trilingual, the Flemish government could show how clever and forward-looking it is by introducing administrative facilities for English in these communes, instead of stubbornly tarnishing its international reputation by multiplying skirmishes around the facilities granted to French.

such a small expansion of the Brussels Region does not amount to the construction of a corridor or the sowing of a *bretelle* that would hold together the two pieces of a *nation francophone* that will never exist. Rather, it provides a badly needed overflow tank for the exploding Brussels-based expat community.

What I am arguing for obviously constitutes a slight redrawing of the regional border. As explained above, this minor shift would not be a shift in the language border, but an alignment of the regional border on the language border. Nonetheless it implies that Flanders would be giving up an admittedly tiny but fairly crowded and affluent portion of its territory: about a third of one percent of its surface and slightly above one percent of its population. This will not mean much in terms of tax base: the taxable part of the incomes earned by the residents of these communes will keep shrinking, as it has been doing for years in the South-Eastern quarter of the Brussels Region, because the proportion of wealthy residents escaping partly or fully Belgian income taxation will keep rising. Nonetheless, it would be silly to deny that a concession is involved, for which a compensation must be sought as part of a broader package.

What this broader package should be is now obvious to me.[25] In order to provide the government of the German Community with a coherent bundle of competences, one needs to transfer to it the bulk of the so-called place-related (as opposed to person-related) competence, currently exercised by the Walloon Region in the nine German-speaking communes in the East of the province of Liège. This would be tantamount to transforming these communes into a full-fledged region of *Ostbelgien* and hence to removing from the Walloon region about five percent of its surface and two percent of its citizens, that is a population of about the same size as the population living in the six communes with facilities around Brussels and a territory seventeen times bigger. Creating this fourth region is obviously a more serious boundary change than the tiny shift involved in adding six smallish communes to Brussels. No one could seriously advocate the former while objecting to the latter on the ground that regional borders are sacrosanct. True, the creation of this fourth Region, through a fellow Germanic one, can hardly be packaged as a gift made by Wallonia to Flanders. But nor is the adding of the six communes to the trilingual region of Brussels-Capital a gift by Flanders to Wallonia. Fundamentally, both moves consist in the two large Regions giving up a small part of their territory and their population in the interest of a smoother, simpler and more transparent functioning of the

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[25] I suggested earlier (Van Parijs 2007) a different deal, whereby the four smaller communes with facilities would join Brussels, while the two bigger ones (Rode and Wemmel) would see their facilities phased out. But I subsequently changed my mind (2010a, 2010c) because new facts and arguments persuaded me that there was a far more elegant and intelligent alternative. Firstly, the latest demographic data about these communes indicate that, in one of them at least (Kraainem) the number of Belgian citizens has started falling in both relative and absolute terms, and thereby suggest that the proportion of "Francophones" (in the sense of Belgian citizens with French as their mother tongue) may well have started declining. (This is not visible in election results, as analysed for example by Frees (2011), in part because a large proportion of the non-Belgians settling in these communes does not vote but above all because such results unavoidably use a lens that admits of only two colours and are therefore intrinsically unable to capture the novelty of the challenge.) Secondly, with the imminent opening of the fourth big European school in Laeken (scheduled for September 2012), Wemmel will need to serve as an overflow tank just as crucial for releasing the pressure on the Flemish communes to the North of Brussels as four of the other communes will remain for the East and South. Thirdly, the growing plausibility of turning the German-speaking Community into a full-fledged Region (see e.g. Vande Lanotte 2011) has drawn attention to a far greater alteration of regional borders sufficiently analogous to supply an evident counterpart. Finally and perhaps most decisively, I realized the political impossibility of differentiating the fates of these communes after forty years of shared official status and similar sociolinguistic dynamics. Both the Flemish and Francophone negotiators would face something like "Sophie's choice" (the mother who arrives in Auschwitz and must decide whether her son or her daughter will be gassed): they would have to decide and justify which of their keen supporters they would save and which they would sacrifice — by letting them be engulfed by Brussels in one case, by abandoning them in Flemish hands in the other. Under the agreement reached between the negotiators in September 2011 on the splitting up of the electoral district of Brussels-Halle-Vilvoorde (unlike the confused *bricolage* concocted for the judiciary district), the asymmetry between all six communes and the rest of Flemish Brabant become deeper than ever, which further undermines the political plausibility of the deal I proposed earlier, while constituting another important further step in the direction I now advocate. The fruit may not be ripe enough for picking, but the ripening goes on.

linguistic dimension of our federation: the linguistic identity of each component will be sharpened and the implementation of the territorial regime will be made more effective and more sustainable.

11. Born-again Brusselers

In order to make the territorial regime manageable in Flanders, the slight expansion of trilingual Brussels here proposed will be far from superfluous. But it will not be sufficient. Even expanded by six communes, the Brussels Region remains very exiguous (0.7% of the country's surface, 61 times smaller than Flanders, 73 times smaller than Wallonia without Ostbelgien). Because of the linguistic *carcan*, people drawn to Brussels by its cosmopolitan function will tend to suburbanize less than would otherwise be the case, thereby helping preserve the central urban area from decay but also boosting housing costs within its borders. Combined with comparatively high local birth rates and an attractiveness to poor immigrants shared with most prosperous Northern cities, this will make it increasingly difficult for young people growing up in Brussels to find affordable accommodation in their ever more densely populated city. The problem for the Flemish periphery, therefore, will not just be the affluent expats unwilling to learn Dutch, but even more the far less affluent native Brusselers who will keep pouring out of the urban core. Whether they like it or not, Flemish communes will have to house many of these people, as no fence, no discriminatory law and no racist attitude will ever be able to prevent them from crossing the Brussels ring road in search of a place to live and bring up their children, not too far from where they grew up and from where they are likely to find work. Their integration will happen smoothly, in the interest of both themselves and the local population, only if enough of them will have acquired in Brussels, prior to moving into Flanders, an adequate level of competence in Dutch. Unfortunately, though probably higher than it has ever been in the 1000-year history of the city, the proportion of Brusselers who have more than a basic knowledge of Dutch as a second language is still very low.[26] For this reason, though not only for this reason, it is essential to boost dramatically the knowledge of Dutch by Brussels's home-grown population.[27]

Is this possible? Yes, but only if there is enough humility to learn from elsewhere and enough boldness to innovate. Firstly, we must take the trouble to have a very close look at what is being done abroad: how can pupils in Luxembourg and in Barcelona achieve proficiency in the two (and even three) locally official languages, despite the large presence, in those cities not much less than in Brussels, of many children with none of the official languages as their native language?[28] Each situation is different, and straight transpositions seldom make much sense. But in order to avoid major blunders and in order to broaden our perception of what is feasible, there is nothing more fruitful than understanding what works, what does no work and why in places broadly similar to ours.

Secondly, partly in the light of the lessons to be drawn from what is being achieved elsewhere, we must dare to experiment and innovate. For example, we must take seriously ideas as radical as the

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[26] See Janssens (2007). Both De Schutter (§2) and Van Velhoven (§2) suggest that the maintenance of Dutch in Brussels is largely due to the rights given to the Flemish inhabitants of Brussels, and hence to the accommodating (binary) pluralism that prevails in the Brussels Region, unlike the rest of Belgium. The possibility of having Dutch-language schools in Brussels (which would be ruled out under a coercive regime on behalf of the dominant language) is no doubt a necessary condition. But, combined with Flanders' relative prosperity, the firm territorial protection of Dutch in the immediate periphery of the tiny bilingual area is crucial: the steady fall in the number of native Dutch-speakers living in Brussels would not begin to be offset by the growth in the number of secondary Dutch speakers if no Dutch was needed to get a job and live comfortably all around Brussels. Paradoxically, the linguistic territoriality principle both sucks Flemings out of Brussels and turns non-Flemish Brusselers into competent Dutch speakers.

[27] Using the terminology of *LJ* §5.1, this would essentially amount to turning Brussels' coercive bilingual regime from a disjunctive one (less coercive than official monolingualism) into a conjunctive one (more coercive than official monolingualism).

[28] See Van Parijs (2010b) for a synthesis of the workshop organized on this topic by Aula Magna in May 2010.

proposal that all Brussels children should learn to read and write in Dutch, as is already happening in some immersion schools in Wallonia. Less radically, we must "responsibilize" the schools, networks or communities operating in Brussels for their contribution to the bilingualism of its population by making the level of their (ultimately federal) funding depend not only on the number of pupils they attract but also, through a handsome per capita bonus, on the number of these pupils who do not have the school language as their mother tongue (regardless of whether this mother tongue is one of the official languages). All this will be to no avail unless accompanied by vigorous measures to secure an adequate supply of teachers, especially native speakers of Dutch willing and able to come to Brussels and stay. The removal of absurd administrative obstacles to teaching in the schools of the other language regime may help. But more will be needed, such as an appropriate use of the large stock of publicly owned housing, in order to fix enough teachers with a profile in high demand, whether attracted from the other two regions or locally bred. Finally, school cannot do it all, and an intelligent synergy with Brussels-based media and cultural actors must help create virtuous circles of competence and contact that will enable children growing up in Brussels to practice their languages beyond school.

To facilitate this multidimensional innovation process, it would be of great help if the ultimate responsibility for the fair and efficient education of all young Brusselers were clearly allocated to the government of the Brussels Region, and if powers were accordingly transferred from the Communities. This will only happen, however, when there will be enough assurance that the regional authorities will not seize these new powers to squeeze Dutch out of the city as swiftly as possible, but on the contrary mobilize them to the full to disseminate competence in Dutch in the population more vigorously and effectively than has ever been the case in the history of the city. Not out of veneration for the Flemish literature or under pressure from Flemish nationalism, but in the first instance because it is in the interest of the children to whom they are politically responsible. Linguistic competence will be a core asset for the Brussels population as a whole and, whatever their other qualifications and sector of activity, for most of its individual members.[29] The chief lasting comparative advantage of the locals will be their ability to connect the increasingly cosmopolitan and English-using capital of the European Union with the two neighbouring regions in which Dutch and French will remain entrenched.

This obviously supposes that the locals should learn English too, as everyone else in Europe and beyond. With respect to English no less than with respect to the other national language, large-scale language acquisition will require a lot of imagination and innovation. One of the ways forward, already briefly mentioned (§9), is the development of open European Schools of type II, i.e. jointly funded by "Europe" and "Belgium" in proportion to the number of pupils who are versus are not children of EU civil servants.[30] But access to proficiency in English should not remain an elite feature. Providing it is sequenced in an intelligent way and providing spotless spelling and syntax are not regarded as meaningful objectives, the simultaneous learning of three languages is by no means a pipedream, if started early enough, with plenty of opportunities for practice both available (as they are in Brussels) and used (as they are far too little so far). Under these conditions, there is no reason why more English should come at the expense of other languages. No zero-sum anguish should inhibit progress towards sustainable widespread trilingualism. Competence in English will be essential to link up efficiently with the Brussels-based international institutions and community, while competence in the two main national languages will indispensable to be able to serve as links with the surroundings in

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[29] See Mettewie and Van Mensel (2009) on the unsatisfied demand for bilingual and trilingual workers in the Brussels region.
[30] See Van Parijs (2010d) for a discussion of the potential of this formula and the obstacles it faces.

a way unavailable to outsiders. More important than any other investment, producing and reproducing a trilingual workforce will be Brussels' most productive investment in the decennia to come.[31]

This conception of the linguistic future of Brussels obviously requires, on the part of Brussels' Francophone majority a sharp break away from the attitude that has been prevailing until recently and from the rear guard battles it keeps feeding. As regards English, the frustration and resentment about French having been irreversibly dislodged from the top position in and around the European institutions must give way to an active appropriation of English as a tool for cross-border communication and mobilization — and to a feeling of relief about the fact that the language that emerged as the global lingua franca happens to be so closely related to French. The change of attitude towards Dutch is even more important. Instead of looking down at Dutch as a remnant of Brussels's remote past, instead of resisting it as a language which the few true Flemings left in Brussels rigidly insist on using, instead of seeing in it no more than an idiom one is obliged to learn for purely utilitarian reasons, Francophone Brusselers are well advised to value it as they have never done before. As eight of them put it in a recent opinion piece: "Our education endowed us with a deep bond with Francophone culture and the French language. But the Flemish culture and the Dutch language are and must remain equally important components of the Brussels identity. Very far from wanting to eradicate Dutch from Brussels, we believe it is of capital importance for the future of young Brusselers, whatever their origins, that they should learn Dutch incomparably better than their elders, that they should be proud of being able to speak it, that it should be part of what they are." (Borlée & al. 2011). While gradually making its way through the intellectual and cultural elites, this new attitude needs to percolate far more widely. It is essential not only to generate the political will to introduce the policies needed to spread trilingualism, but also to help motivate Brusselers of all ages to learn Dutch as well as English in addition to French[32]. Contempt is just a cheap excuse for ignorance and laziness. It needs to give way to respect and appreciation.

By fostering the democratization of trilingualism, the attitude thus advocated fits as a core element in a strategy for preventing jobs in and around Brussels from being snapped by youngsters from Flemish or Walloon Brabant currently more trilingual in the above sense than the average youth growing up in Brussels. It also fits in with an inclusive and forward-looking Brussels patriotism of the sort first explicitly articulated, perhaps, in the December 2006 call "Nous existons/ Wij bestaan/ We exist".[33] This patriotism is quite distinct, I dare presume, from the "Brussels nationalism" which Van Velthoven (§2) claims "will damage the future existence of Belgium more than the separatist thinking of Flemish-nationalist parties". The development of the inclusive patriotism I advocate for the capital of Europe will certainly blow up any lingering hope that Belgium will ever be held together through the con-domination of Brussels by Flanders and Wallonia. But no harm is being done here: colonial dreams should be ditched forever. By contrast, there is no reason to believe that a Brussels patriotism that honours, indeed cherishes both of the languages that link it to Belgium's two larger regions should damage the federation rather than strengthen it.

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[31] Trilingualism is the sense used so far clearly means, for a significant proportion of the Brussels population, quadrilingualism or more. The consistent domestic use and intergenerational transmission of immigrant languages must be strongly encouraged, both as a way of recognizing the value of an important dimension of residents of foreign origin and as a way of preserving an important economic asset. The hundreds of languages that are being practiced daily in Brussels home must be cherished for themselves but also valued as a mutually beneficial links with many places around the world. Relative to French, Dutch and English, however, including them in the curriculum is not a priority and can be counterproductive.

[32] See Laurence Mettewie's (2004, 2011) research showing how the effectiveness of language learning is affected by the psychological attitude towards it.

[33] See http://www.brusselsvoice.be/en/node/831 for the text of this call and the list of the ten thousand or so Brusselers who signed it.

12. The linguistic dilemma of Belgian democracy

The previous three sections should have gone a long way towards meeting Henry Tulkens's (§3) request for a fuller picture of how I see the linguistic future of Brussels and its periphery. This picture may even turn out to be closer to his own view than he expected. But I am not quite done yet. Before closing, I need to add a few words about the linguistic future of the other components of the federation, and in particular about how the monolingual territorial regime that applies and, in my view, should apply to them can be compatible with a sensible running of our federal democracy.[34] For no democracy can function, it seems, without enough people from all corners of the demos being capable of talking to each other. No Belgian democracy can function without at least the elites in Flanders and Wallonia being able to communicate with each other. As Van Velthoven (§2) rightly notes, "for a very long time Flanders kept Belgium linguistically together". In recent years, however, competence in French has been declining quickly among the Flemish elite, in part because of competition with English but also because Flemings feel that it should not be up the country's linguistic majority, especially now that it has become the more affluent of the two communities, to make the effort of learning the language of the minority. On the other side of the border, despite the widely publicized emergence of a couple of hundreds of schools with immersion classes that cater for a tiny subset of Francophone pupils, it cannot be said that great efforts are being deployed. Whereas every Flemish child has French lessons from the fifth year of primary school onwards, those Walloon kids who do learn Dutch only do so seriously at secondary school, and many do not have any Dutch at all.[35] Any outside observer is bound to find it weird that the part of Belgian population that views itself and is perceived by others to be the one more attached to the existence of Belgium should expect to get away with learning so poorly the language of the country's majority?

Against this background, how can one secure the linguistic preconditions for the viability of Belgian democracy? There are two options. One consists in both Flanders and Wallonia living up to the European Union's proclaimed ideal of "mother tongue plus two", i.e. competence in (at least) one other non-native language in addition to English, in this case the second national language.[36] For most parts of the European Union, this is likely to remain wishful rhetoric. But possibly not in Flanders, where the proportion of the population that is (self)reported to speak English and French at more than a basic level exceeds 50%.[37] Can this be sustained and improved? Certainly for English: average competence grows quickly every year, as younger cohorts replace older ones. But possibly also for French, providing policies and circumstances prevent the maxi-min dynamics from

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[34] I am not talking here about the survival conditions of the country. As noted before (§6), Belgium's territorial regime does create centrifugal and, at the limit, separatist pressures. But as I and many others have had other opportunities to explain, the guarantee of survival of the country follows neither from mutual affection nor from common nationhood but from the double fact that neither of the two main regions is willing to quit Belgium without Brussels, nor able to quit Belgium with Brussels. See e.g. Van Parijs (2011d) for one succinct explanation addressed to a foreign audience, and Barry (2001: 312) for one foreigner's snappy and unsympathetic, yet insightful summary: "But the endless process of haggling that is Belgian politics is so nauseating to all concerned that it is widely thought that the country would already have broken up if it were not for the problem posed by Brussels, a Francophone enclave in Flemish territory that is too big a prize for either side to be willing to relinquish."

[35] In 1998, the teaching of one foreign language (Dutch, English or German) was introduced in the last two years of primary school with two hours per week, but this subject is no part of the requirements for obtaining the primary school degree (C.E.B.). Pupils in the professional sections of secondary schools of the French community do not have any compulsory foreign language course at all, which means that many Walloon children (who do not have Dutch in primary school) graduate without having followed a single Dutch lesson. In technical and general sections, there is usually a choice between Dutch and English as first foreign language, and only in some cases the possibility of a second foreign language, with far less hours. (For further details, see Blondin & al. 2008.) In 2009-10, among the pupils who have to take a foreign language in the first year of secondary school, 46% choose Dutch, with big sub-regional differences between, for example, over 80% in Brabant wallon and less than 30% in Liège or Luxembourg (Gérard 2011).

[36] See the report of the commission chaired by Amin Maalouf (2008).

[37] See the appendix to the lead piece of this volume (graph 7).

squeezing it out: the learning of French must keep preceding the learning of English at school, France must remains a top holiday destination for Flemings and French citizens must not develop too enthusiastically the capacity and desire to speak English. Of these three conditions, only the second can be assumed to be safe (barring dramatic climate change), but it is of precious little French-learning use if the other two are not satisfied.

 What about Wallonia? The challenge is far greater. Not only do most Walloons, unlike all Brusselers, live quite a long distance from any significant concentration of Dutch native speakers. In addition, the operation of the maxi-min criterion will make French prevail in most conversations with Dutch-speaking Belgians and English prevail in most conversations with Dutch citizens. Unavoidably, this will badly affect the chance of ever practicing Dutch and hence both the motivation and opportunity to improve and maintain it. In such a context, democratizing competence in Dutch would require considerable resources. In particular, it would require placing the learning of Dutch at an early stage in the curriculum, before the learning of English. And it would require attracting a large number of native speakers of the Flemish variety of Dutch who would be willing to teach in Walloon schools despite a wage level lower than in Flemish schools. And all this would need to happen with tight budgets and rigid hiring rules. What is quite realistic in Brussels, providing the local linguistic wealth is intelligently harnessed, looks hopelessly out of reach in Wallonia, especially as the irresistible general rise in the knowledge of English will tend to evict Dutch from inter-Belgian conversations in which it could otherwise have had a chance given the declining proficiency in French in Flanders' upper strata. This does not mean that nothing could or should be done in Wallonia. Indeed, the data suggest that the proportion of young Walloons that will end up knowing Dutch well or very well by the end of their learning period will be higher than it has ever been in the history of the country.[38] But to make competence in Dutch a widely shared feature of the Walloon population, someone would need to find a way out of the apparently insuperable obstacles just described.

Is there an alternative worth pondering about? Perhaps.[39] It would consist in acknowledging that in all three regions English has irreversibly become the second most widely known language, and that the younger people are the wider the gap between their average competence in English and their average competence in the second national language. In light of the most relevant data available, it can even be safely conjectured that English will have overtaken both French and Dutch as Belgium's most widely known language when the youngest cohort of adults will have completed their language learning period.[40] Could Belgian democracy function through a medium distinct from the native languages of nearly all its citizens? This is exactly what we are expecting from most sub-Saharan African countries. So, why could we not expect it from ourselves? Perhaps because our strongly autonomous regions do function in local languages. But what about Indian Union? In most of its states, the democratic system functions in an official language different from the two languages that enable communication at the level of the Union as a whole. Here too we should take the trouble to look more than a few miles beyond our borders and more than a few years beyond our time. What is unimaginable nonsense or scandalous heresy for parts of the old elites[41] may already be self-evident to

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[38] See the appendix to the lead piece of this volume (graph 8).
[39] Along these lines, see Bruno De Wever (2010: 38): "Increasingly, English is becoming the lingua franca in the world and also in Europe. It may be wondered whether this offers the perspective for a future Belgium in which English will be a common medium for communication in well-defined fields, such as federal politics. Or is there a perspective hidden in the more mental shifts, which may effect an increase in the willingness of French speakers to learn Dutch? Maybe space will thus be created for bilingualism imposed by the authorities for anybody whose ambition is a social position anywhere in the country. »
[40] See the appendix to the lead piece of this volume (graph 4).
[41] As revealed, for example, by some hostile reactions to the use of English as the sole medium of communication in the Re-bel initiative.

segments of the new ones.[42] Moving in this direction would definitely infringe versions of the territorial regime more rigid than the one I defend (see the discussion with Grin in §5). But let us keep in mind that territoriality is not synonymous with local monolingualism. Whether in Belgium, in the Europe Union or beyond, no democracy will be able to do a decent job without shared proficiency in a language that does not coincide, for many people, with the language protected in the region where they live.

Even in this second scenario, I hasten to say, wider and better knowledge of the second national language would by no means become redundant. It would definitely go some way towards meeting the demands of the opponents of the *tout à l'anglais* and the hopes encapsulated in the EU's slogan "Mother tongue plus two". More importantly, there are many things that can be achieved thanks to knowing the language of the other that could not be achieved through the channel of a shared lingua franca. Proficiency in the latter is no adequate substitute for the ability to follow directly the debates conducted in the other national language, whether face to face in the media, nor for the ability to address members of the other linguistic group directly in their own language. Speaking the other's mother tongue is a way of proving respect and breeding trust. It is therefore a major asset in the service of persuasion and a major contribution to the healthy functioning of a democracy. In the second scenario, competence in the other national language will therefore remain of great importance. But whereas competence in English is bound to spread throughout society in Belgium as elsewhere, good competence in French will become more and more of an elite feature in Flanders while competence in Dutch will remain the privilege of an elite in Wallonia, though hopefully a less tiny one than today. Only the exceptional sociolinguistic conditions that prevail in Brussels, if used far more vigorously and intelligently than now by the authorities responsible to its population, can justify a realistic hope for democratized trilingualism.

This brief tentative exploration of what seems to me the more promising of the two scenarios closes my sketch of what I believe Belgium's linguistic future can be, must be and will be. This sketch was guided at the same time by the values I believe in and by what I have learned from many friends and colleagues speaking different languages and practicing different disciplines, not least the six other contributors to the present volume. It is in the essence of such a sketch that it should be revisable in the light of further evidence and insights. But a coherent, explicit picture of where we are going and need to go is essential to guide our steps. As neatly put in a very similar context by the very first author who bothered to address systematically the challenge of multilingual democracy: "*Ohne weite Gesichtspunkte kein naher Erfolg, ohne theoretische Einsicht kein sicherer, praktischer Vorschlag!*" [43]

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[42] As illustrated, for example, by the SHAME demonstration (subtitle: "No government, great country") or by initiatives such as Hackdemocracy (http://hackdemocracy.org).

[43] "*Without remote perspectives no immediate success, without theoretical insight, no certain, practical proposal.*" (Renner 1918: 38). Karl Renner was one of the main Austrian social-democratic thinkers and leaders (he became prime minister in the interbellum and first president of the Austrian Republic after World War II). In a book first published before the World War I, he rejected the linguistic territoriality principle and advocated for the Austrian Empire a non-territorial form of federalism based on eight linguistically defined nations (see *LJ* § 5.5). The quotation is taken from the beginning of the second edition of this book. Although Renner's substantive view is fundamentally different from mine, I find the justification he gives for bothering to elaborate it highly congenial and of more general relevance to much of what we academics can contribute to politics. Here is the fuller passage: "*Wir unternehmen im gewöhnlichen Leben keinen Weg ohne Ziel, ausser um zu lustwandeln. Die politische Spaziergängerei muss auch bei uns ein Ende nehmen. Darum ist nichts aktueller als diese unreale, unaktuelle, ferne, utopische Endergebnis, als diese scheinbar theoretischen Grundsätze, Postulate, Tendenzen, die den Leser so leicht ermüden! Erst aus ihnen können wir leitende Gesichtspunkte für unser nächstes Handeln und ein Urteil über die Zweckmässigkeit unserer Augenblicksvorkehrungen ableiten… Ohne weite Gesichtspunkte kein naher Erfolg, ohne theoretische Einsicht kein sicherer, praktischer Vorschlag!*"

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