

**Quebec's language laws:
the long story of a complete misunderstanding**

In this paper, I wish to argue in favour of Quebec's language laws understood as one way to exercise the collective right to self-determination of the Quebec people. By «Quebec's language laws», I mean to refer to provisions like those saying that French is the official language of Quebec, that French is the main language in the working place, that French is the compulsory language of education for children of immigrants and that French is the predominant language on commercial signs.ⁱ By «collective rights», I mean rights that are claimed and owned by collectivities, that impose reasonable restrictions on individual liberties and that are justified without invoking individualistic considerations. Nations or peoples do have a collective right to self-determination in that sense and this implies among other things that they have linguistic collective rights. And it is on the basis of such linguistic collective rights that one can justify the implementation of collective language policies. My main purpose in this paper is to argue for these points. I wish to do so in the course of answering various general philosophical criticisms that have been brought forward against such language policies.

In the first part of this paper, I shall examine in a cursory way ten criticisms that question the philosophical foundations of such policies. In the second part of the paper, I shall answer more specific criticisms raised against Quebec's language policies.

(i) The first objection against collective language rights and thus against collective language policies is that this view presupposes a conception of national groups according to which they must be distinguished from a mere collection of

individuals, whereas one is intuitively led to conceive society as nothing more than an association of individuals. Under such an account, there is no room for a collective body of some sort that would not be reducible to an association of individuals. So *a fortiori*, one can hardly accept granting collective language rights to such a dubious entity.

But this metaphysical view about society according to which it is just an association of individuals is controversial and can be critically appreciated by those who describe their own society as an organic whole. So how are we to settle the debate between these two different ways of understanding society? Is society to be understood as an association of individuals or as an organic whole? But do we really need to commit ourselves toward either of these metaphysical views when we are talking about the political realm? By «peoples» or «nations», we should simply understand political entities such as sovereign states (such as Canada or the USA), federated states (such as Quebec), quasi federated states (such as Catalonia) or other governmental bodies that are in place because of a certain devolution of powers (such as Scotland), as long as the populations within those political organizations entertain a certain national consciousness. No one will ever want to deny the existence of these political entities and it is precisely to them that one may appeal to when one talks about the collective rights of peoples.

With the concept of political nation, we are able to introduce next to the individual citizen a notion of national community that is not metaphysically loaded. We can therefore say that language policies are designed to protect and promote the collective rights of nations or peoples understood in the political sense.

(ii) Another criticism against collective language policies is that these amount to promoting a particular view of the good life. Defending French in Quebec amounts to a bias in favour of a particular conception of the good life. Now granted that any liberal state must remain neutral toward particular views of the good life and of the common good, some are inclined to claim that language policies cannot be tolerated.

But this particular account of language policies is based on a completely mistaken view of language. Language is not a particularist feature of society. On the contrary, it provides the medium in which one can develop a wide and irreducible variety of views about the good life. So it is not itself a particular view about the good life. Language belongs to the structure of culture and not to the character of the culture, to use Will Kymlicka's famous distinction. It is a primary social good in Rawls's sense, that is, it is a constitutive feature of a nation. So the state may after all be justified in promoting and protecting language.

(iii) The preceding argument establishes a connection between nationality and language that may seem problematic, since language is seen as an institutional good and is constitutive of what a people is in the political sense. According to a third criticism, language should be seen as the private property of individuals and not as the collective feature of a national group. The argument is that language is not sufficient to ensure a distinct national identity and that it is not even a necessary feature. It is not a sufficient condition because two distinct nations (for instance, England and the USA) may share the same language and it is not a necessary feature, because some nations are multilingual (e.g. Canada, Belgium and Switzerland). So it is problematic to justify language policies by trying to establish

a connection between language and nationality and suggest that a particular language is constitutive of a national identity.

Concerning the first charge, that is, the suggestion that language is not a sufficient condition for national identity, I feel like saying that it should not be surprising to note that two different political nations can share the same language, for language can play an important role in shaping the identity of the people, even if it is not always by itself distinctive. If language favors more social cohesion, cooperation and coordination between citizens in a distinct set of institutions that are embodied in a distinct crossroad of influences and offering a distinct context of choice, then language can play an important role in shaping a distinctive national identity, even if it is not itself a distinctive language.

Concerning the second charge, the one according to which language is not a necessary condition for national identity, I do not want to deny that there are multilingual nations. But even in this case, there is a close connection between nations and language, for multilingual nations are aggregates of linguistic communities. Thus a nation is always either a single linguistic community or an aggregate of linguistic communities. So even if there is not a one-to-one correspondence between languages and nations, there is still a very close connection between language and nationality, for nations are either single linguistic communities or aggregates of such communities.

(iv) Many believe that language is just an instrumental good for communication and, in that sense, it must be conceived only as a rational means to pursue one's particular view of the good life. It is indeed an irresistible tendency to describe language as an instrumental commodity for individuals. If so, language policies

must be the target of criticisms, because these policies are designed to protect and promote a particular linguistic *identity*. Under such an account, languages cannot be merely instrumental for they are closely tied to personal and national identity. This is why those who see language as instrumental want to reject them.

The instrumentalist view of language no longer holds when one considers a political concept of the nation, because language then plays a role in the institutional identity of citizens. So one cannot reduce the linguistic policies of the state to those that are required merely for communicative efficiency. If some entertain this belief, it is because they falsely see language as purely instrumental. But it is a mistaken view of language and a mistaken view of our relationship to a linguistic community.

(v) But there is another reason for doubting the importance of language policies. This criticism runs as follows: if such policies are so important according to some, is it not because they subscribe to the idea that language has an intrinsic value ?ⁱⁱ If language is part of the institutional identity of persons and peoples, and cannot be reduced to its instrumental role for the individual, and if one is willing to protect and promote this institutional good, aren't we committed to say that it has an intrinsic value?ⁱⁱⁱ

It was indeed suggested before that language should not be seen as having only an instrumental value for the individual. But does it mean that it has an intrinsic value? Not necessarily. It can also have an instrumental value for the preservation of cultural diversity.^{iv} But is cultural diversity an intrinsic value ? From the point of view of political liberalism, it does not matter. The only thing that matters is that we can achieve a sincere consensus on the principle asserting the value of cultural

diversity. Most countries today subscribe to the principle. There is an overlapping consensus on this issue no matter how one arrives at the conclusion.

(vi) But if part of the justification of political liberalism for language policies is that such policies are instrumental for cultural diversity, in addition perhaps to being instrumentally valuable for the individual, does it not mean that those who favor such policies must always consider assimilation to be a moral harm?^v Now, so the argument goes, there are five thousand languages all over the world and most of them are about to be extinct. Is it not proof that we should not value language even for the purpose of protecting cultural diversity ? Must we not accept that assimilation is a fact of life ? Since it makes no sense to systematically disapprove of all forms of assimilation, it shows that the argument for language protection based on the value of cultural diversity is defective.

This is once again a misguided argument. It confuses the value of cultural diversity and the rejection of assimilation. Cultural diversity is certainly an important value, but the autonomy of individual persons is also an important value. If what a nation has to offer is restricted to a minimum, and if there is nothing distinctive about it, then many individuals will perhaps be tempted to assimilate to a different national societal culture. And if they do, there is nothing wrong with that.

It must also be emphasized that if the majority of members no longer wish to remain part of a distinct nation, there is also in that case also no harm to assimilation. So one must not confuse the principle asserting the value of cultural diversity and the rejection of all forms of assimilation. There are some forms of assimilation that are not harmful, but it is always harmful to reject the principle of the value of cultural diversity. That principle must be defended alongside with the

liberal principle asserting the value of individual autonomy. It is the failure to appreciate a pluralist axiology asserting both individual autonomy and cultural diversity that leads one to believe that the preservation of cultural diversity is synonymous with the denunciation of all forms of assimilation.

(vii) If we cannot justify language policies strictly on an individualistic basis, is the account still liberal?^{vi} Some liberal individualists will be tempted to think that way, but the view now confuses individualism and the defense of individual autonomy. Liberalism requires of course that we assert the value of individual autonomy, but it need not justify everything on that basis. Doing so would commit us to liberal individualism, but we can defend individual autonomy without subscribing to liberal individualism. We can adopt political liberalism. Now, in addition to the autonomy of the individual, political liberalism asserts the self-determination of peoples.

(viii) But are we not committed to the view that language policies must override the rights of individuals ?^{vii} This is a charge that one often hears against language policies. Admitting collective rights for any given group is seen as problematic because it implies that the interests of the group must override the interests of individuals. But this interpretation is based on a wrong appreciation of language policies. By adopting such policies, we are, speaking broadly, trying instead to reach an appropriate equilibrium between individual and collective rights. Both rights should enter into a tension with each other and should not be ordered in a hierarchy.

(ix) Another usual criticism is that it is pointless to protect and promote a linguistic minority by allowing it to impose language laws upon its own citizens, because this

minority will most of the time oppress its own linguistic minorities. But the answer to that criticism is fairly straightforward. In order to avoid the oppression of minorities within minorities, we must also adopt collective minority rights for these minorities that are internal to the minority nations.

(x) If only institutionally organized communities understood as political nations may aspire to be recognized are we not recognizing only those societies that are fortunate enough to be politically organized and ignoring those that find themselves in a weaker position? The answer is that political nations may also include aboriginal populations organized into reserves. So there need not exist a very sophisticated set of institutions owned by the population in order to be able to talk about it as the subject of collective rights.

Let us now at last take a look at Quebec's *Charte de la langue française*, commonly known as «Bill 101». I shall raise three different issues. I want to discuss the notion of French as the official language of Quebec, the compulsory obligation to send children of immigrants in French schools and the predominance of French on commercial signs.

In Quebec, French is the official language, but this means only that French is the «common public language». And this in turn means that the Quebec government recognizes the existence of public minority languages such as aboriginal languages and English in some public institutions. It is a well known fact that Quebec is, in Canada, the place where aboriginal peoples have kept the most their own language.

Yes, French is the common public language, but no, we must not force French down the throat of everyone. We must accept that there are minority cultures within

Quebec. The notion of a common public language is precisely the way that we have found to do just that. Integration to a common polity in which French is used : yes; but assimilation to French : no. On the contrary, we have to publicly recognize the existence of public languages other than French.

The phrase «common public language» is not pleonastic, for there are public institutions in which the spoken language is not French. To say that French is the official language in Quebec is to say that French is the common public language on Quebec's territory. It means that two individuals with a different mother tongue or whose language spoken at home is different should exchange with each other in French in the public domain unless they find themselves in the institutions held by the minorities. So the idea of a common public language is compatible with supporting English and Aboriginal public institutions.

Most de facto multilingual societies operate with only one official language. Those that are officially multilingual often operate with a territorial model.^{viii} That is, their country is divided between different territories each of which imposes a single language. One rarely sees the example of a society in which the institutions of a linguistic minority are publicly recognized and financially supported by the state on the very same territory. Now this is precisely what is happening in Quebec. The Quebec state supports, promotes, finances and recognizes public institutions in which English is mostly spoken : first and secondary high school, schoolboards, colleges, universities, hospitals, social services, etc. The same remark applies to aboriginal languages. It should be recognized that these are innovative approaches. English Quebecers and aboriginal peoples living in Quebec provide a rare example where bilingualism is applied on an institutional basis and not on a territorial basis.

We are not merely letting people use their own language in private. We are talking here about public institutions in a minority language supported by public funds. The existence of a common civic identity is in Quebec compatible with the existence of publicly recognized minorities. We are not practising the *Jacobain* style of civic nationalism. This is in my view a clear case of a constrained nationalist policy, one that does not attempt to assimilate minorities by ignoring them as most liberal individualists do.

In Quebec, French is compulsory for the education of immigrant's children. That is, immigrants must send their children to French schools at the level of first and secondary high school. Some have argued that this policy was violating their right to choose between sending their children to French or to English schools. But do we really violate their right to choose ? Quebec is the only place in North America where French is the official language. If an immigrant wants to live in an English environment, he can choose to do so by moving anywhere else in North America. If he decides to live in Quebec, and if he is informed that French is the official language. So his decision to live in Quebec amounts to a decision to live in French. And so, he should not be troubled by the fact that he will have to send his children to French schools. By deciding to stay in Quebec, he is as a matter of fact deciding to send his children to french schools. So he is after all exercizing his freedom of choice.

Notice also that according to the Charter, immigrants are perfectly free to send their children in private english schools. Of course, these schools are costly and not everyone can afford such an investment, but the Quebec government is subsidizing private schools up to 60%. Furthermore, immigrants are also free to send their children in summer camps for immersion into English. In addition, French public

schools provide courses in English. Finally, these children will be authorized to study in an English college after their secondary high school. This complex arrangement is our way to accommodate the individual rights of immigrants while protecting the collective rights of the Quebec people.

But the policy also implies that French parents must send their children to French schools. So are we not here violating the right of Francophones to choose? These parents are not like immigrant parents who had the occasion to decide whether they would establish themselves in Quebec or elsewhere. Francophone parents happen to live in Quebec and so they cannot have the right to choose, unless they decide to move. So are we not violating an important individual freedom here? To answer this charge, it is important to note that like immigrant parents, francophone parents already living in Quebec can also send their children to private English schools, allow them to participate in immersion summer camps and make sure that their children learn English as a second language in the public french schools. But the main argument against the charge is that the vast majority of Quebecers accept to impose upon themselves such restrictions. They accept that they must send their children to french schools. It cannot be a violation of their right if they accept to impose upon themselves such restrictions.

The deliberation process has been long and complicated before reaching a consensus. Before the Charter was implemented, two successive laws were introduced and then abandoned: Act 22 and Act 63. So the Charter is not the result of an imposition by an elite of politicians. It is a consensus reached within the population after a long deliberation process. Furthermore, the debate still continues and anyone is invited to criticize the actual law if he wishes to do so. And if a majority of citizens were to decide that they no longer want to impose these

restrictions upon themselves, then they should not. So this self-imposition of restrictions is the result of a truly democratic process and cannot for this reason be treated as a violation of basic rights and liberties. If the majority of Quebecers were against the Charter, it should be removed. But as long as there is a strong consensus to that effect, it remains perfectly democratic and respectful of individual rights.

Throughout this discussion, I have not yet mentioned a further annoying aspect concerning this charge that Quebec is violating the immigrant or the francophone parent's rights to choose. If the question may even be raised, it is because contrary to most places in the world, Quebec is practising a self-constrained form of nationalism by financially supporting and recognizing minority languages. Otherwise, the question about a possible right to choose could not even be raised. So there is something perverse in that argument against Quebec's Charter. One can imagine a nationalist who is ignoring minority rights and who is supporting the nationalist agenda of his own state by favoring the assimilation of minorities within his own country. Here, the rights of immigrants to choose a different language of education for their children is in a way not violated, but it is because there is not even left a possibility to choose. Such a nationalist may want to criticize Quebec for not allowing immigrants and francophone parents to choose between two public educational systems, but one should not fail to notice that alternative school systems for the English minority and the aboriginal communities are put in place precisely in order to constrain nationalistic policies. The unconstrained nationalist is blaming the other for violating a right to choose, but this question can only be raised because Quebec's society practises a self-constrained form of nationalism. So in addition to being unfounded, as I explained earlier, the charge is unjust. Some may claim that in their own country, citizens would have had the right to choose if there had been publicly supported institutions in minority languages, but this merely

amounts to a virtual right that can never be exercised, because, for nationalist reasons, there is as a matter of fact no such publicly supported institutions for linguistic minorities in that country.^{ix}

Let me raise one final issue concerning Quebec's language law. In Quebec, the predominance of French on commercial signs must be secured. We are allowing for other languages on commercial signs, but French must be predominant. Initially, the law stated that commercial signs had to be in French only, but it was ruled as unconstitutional by the supreme court of Canada. The supreme court decided to treat the problem of commercial signs as an instance of freedom of expression and it ruled that freedom of expression was being violated by the aspects of the law concerning commercial signs. Now it is far from clear that individuals are actually involved and are in effect expressing themselves on commercial signs. It could be claimed instead that «moral persons» are involved. And so the individual freedom of expression would not be violated. But let us put this point aside and let's admit for the sake of discussion that freedom of expression is involved in the case of commercial signs. Presumably, the owner of the store can be said to express himself on the commercial signs of his company.

Are we now violating fundamental individual rights by requiring French on commercial signs? The reply could be that freedom of expression concerns the content and not the form. It is not violated if the only constraint concerns the particular language and not the contents of what is said. But let us also leave that point aside and let us suppose that freedom of expression may also apply to the form of language. For someone who can speak only one language, being forced to advertise in another language amounts to limit his ability to express himself, no matter what he wants to say. The question is whether the predominance of French

on commercial signs is a violation of the freedom of expression of the individuals. The supreme court of Canada has ruled that it was not unconstitutional. I believe that this ruling was just.

But then one wonders if there is after all anything wrong with Quebec's language policies. The conclusion that I wish to draw is that it is fundamentally just and that the fundamental freedom and liberties of Quebec's individual citizens are not violated. Quebec's Charter can be seen as a very reasonable way to accommodate the collective rights of the Quebec people and the minority rights of aboriginal populations, as well as the collective rights of the english minority within Quebec. It is also a reasonable attempt to reach an equilibrium between Quebec's collective right to self-determination, and the individual rights and liberties of Quebec's citizens.

ⁱ See *Charter of the French language*, © Gouvernement du Québec, 2002, <http://www.olf.gouv.qc.ca/english/charter/>.

ⁱⁱ For a defense of the intrinsic value of language, see Réaume, Denise, «Official-Language Rights: Intrinsic value and the Protection of Difference», in Kymlicka, Will and Norman, Wayne, *Citizenship in Diverse Societies*, OXFORD, Oxford University Press, 245-272.

ⁱⁱⁱ Weinstock, 254.

^{iv} Kymlicka criticizes this approach, but he assumes an individualistic justification in his argument. See *Multicultural Citizenship*, 121-123.

^v For a discussion of this view, see Idil Boran, «Global Linguistic Diversity, Public Goods, and the Principle of Fairness», in Patten & Kymlicka, 189-209.

^{vi} Weinstock, 256.

^{vii} Weinstock, 255.

^{viii} For a description of territorial bilingualism, see Jean Laponce, *Languages and their Territories*, Toronto, University of Toronto Press, 1987.

^{ix} There is a variant of such a perverse argument against Quebec. Since we are not unconstrained nationalists, we support many public institutions in many different languages. But the question may be raised: why should we impose a single language to immigrants ? I was once asked that question by a Belgian colleague. But Belgium does not even allow immigrants to come in !!