MIGRANT TONGUES

JUSTICE, LANGUAGE POLICY, AND THE FAMILY

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Abstract

How do migration receiving states justify that newcomers to their territory have to learn the local language? In addressing four kinds of justifications, this thesis introduces the novel perspective of family life and migrant languages in the debate on multiculturalism and concludes that only minimal “thin” rather than extensive “thick” demands of integration are warranted. First, immigrants' children have a standing interest in their mother tongue in virtue of their interest in a well-functioning family. Second, multilingualism is beneficial and receiving states have an interest in integrating migrant tongues into their policies. Third, prior history on a territory does not provide and adequate justification for the asymmetric treatment of national and immigrant groups. Fourth, the claim that immigrants arrive voluntarily and hence accept to integrate in the receiving states only holds if they have sufficient alternatives. In a world of global inequalities, however, this is not the case.

Resum

Com es justifica el fet que els immigrants hagin d'aprendre la llengua nacional del país receptor? Aquesta tesi tracta i analitza quatre aspectes relacionats amb aquesta qüestió i introdueix la perspectiva de la vida familiar i la llengua dels immigrants en el debat del multiculturalisme. La conclusió que s'extreu es que no es pot exigir als nouvinguts un màxim d'integració a nivell lingüístic. En primer lloc, els fills dels immigrants tenen l'interès de preservar el seu idioma matern, per a un millor funcionament en el si familiar. En segon lloc, el multilingüisme és beneficiós, per tant, els estats receptors haurien de considerar les llengües dels immigrants en les seves polítiques lingüístiques. En tercer lloc, el fet que el grup nacional tingui una història més llarga sobre el seu terrirori, en comparació amb grups d'immigrants més recents, no justifica un tractament assimètric. Per últim, l'argument que els immigrants que deixen el seu país de manera voluntària acceptin d'integrar-se al país nou, només té vigència si els immigrants tenen suficients alternatives. Fet que en el món desigual on vivim, no es dóna freqüentment.

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Introduction

Migration is an awkward phenomenon. Awkward because it is so mundane but disconcerting at a time. In the morning we drink our African coffee with cane sugar from Latin America, read the news on Asia, and pay an online order to a branch in Europe. But not only goods, information, and capital circulate freely in our globalised world – so do people. Probably, most of us have or had some family members who emigrated or immigrated. Tourists, expats, or foreign students are common to most of us. Curiously, however, few other phenomena attract so much attention in politics and media. Discourses condense so easily into an apparently existential dichotomy between us and them. And indeed, "strangers" do speak another language and have different traditions than we – they don't *belong* to "our" group. Our understanding of such belonging became decidedly stationary and non-migrant at latest since our kind became sedentary and stopped moving with the game. Settling in a territory is normal, being itinerant suspicious – despite mankind's early and ongoing history of migration.

Carrying a genetic heritage of itinerant hunters and gatherers does not transform all humans into eternal travellers, however. And the necessary key to overcome this conditions in our times is to adapt to the settled group – to *integrate*. One crucial aspect in this integration is to learn and use the local language. In fact, the development of speech has played a crucial historical role in the development of our species leading to the creation of tools (Diamond, 1997) and, unlike other primates, raising offspring without physical contact – spoken language substituted impractical clinging to the body of one's mother (Falk, 2009). In this context, language and its variants became an important yet often subconscious in- and out-group marker. Similarly, having one common language has been tightly related to the raise of modern nation states and their respective forms of democracies: where all were granted the same formal power to decide by whom to be ruled, people had to cohere minimally also by means of a shared official language (Kymlicka, 2001: 312ff.). It is for this reason that immigrants who settle in a national territory[1] are expected to master the local language: they need to understand the official language to become full citizens with unconstrained access to opportunities.

Yet, what we have kept from the prehistoric times is the mode in which language is acquired: parents impart the "mother tongue" to their children together with their extended

[1] I shall use the terms national, local, dominant, etc. interchangeably but always in a territorial sense.

families (cf. Falk, 2009). Family belonging is unchosen, often emotional, and thus in potential conflict to duties and loyalties towards one's nation-state. And this tension is multiplied with immigrants: they rarely come individually but in families and communities who, to the mind of locals, "speak in tongues". Their integration is challenging because they are similar but different – living in families but using other languages.

This interaction between the three factors – migration, language, and family – gives an idea of how they are historically embedded. But it does not indicate a normative picture of how things *should* be. That immigrant families are suspect to the local population does not justify *all* kinds of demands on them – even if immigrant families had to learn the local language, this does not involve that they cannot speak their native languages – or migrant tongues – anymore. How we deal with demand of linguistic integration on immigrant families is not historically pre-determined but can be shaped. The present dissertation in *normative political theory* works with this assumption in addressing precisely why we should demand a certain degree and kind of integration from immigrants. The overarching question dealt with here is thus the following:

How should demands of linguistic integration on immigrants' families be justified?[2]

There are thus demands of integration that generate duties on immigrants. And these demands and duties can be justified by reference to different reasons – integration is not questioned as such, but rather how far some reasons bring us to entrench it. The selection of reasons addressed here warrant, so this thesis argues, a "thin" kind of integration: immigrant families have only a duty to learn the local language to ensure basic and immediate interaction. To establish this conclusion, I suggest to re-draw the balance between reasons from under-represented theoretical perspectives in the first two chapters and re-assess justifications of the literature's dominant arguments in the last two chapters. The four chapters provide thus the following replies to the above question:

CHAPTER 1 – Mastering their mother tongue is in *children's interest* independently of the status of that language and should not be undermined by duties of integration.

CHAPTER 2 – Migration-induced *linguistic diversity* has benefits which should inform policies of the receiving society beyond the focus on national or global lingua francas.

CHAPTER 3 – Facts of *history and territory* are insufficient to ground a necessary priority of the national over other languages and hence immigrants' duties of integration.

[2] Variants of this question are: What permissible personal cost should immigrants face when integrating into the receiving society? Should they be expected to abandon their mother tongue? The definitive question in the main text is decisive because it puts the accent on *justifications* for different positions. The formulation of the question suggests furthermore that I am mainly interested in linguistic (hence, cultural) rather than social (economic), or civic integration (cf. Miller, 2016: 130ff.).

CHAPTER 4 – Migrants' *voluntariness* in leaving their homeland and hence integrating in the receiving society does not obtain in a world with deep inequalities.

The main motivation for focussing on these specific aspect is that they relate to the two pioneering theories in the field of cultural and linguistic diversity: Will Kymlicka's *Multicultural Citizenship* (1995, Oxford University Press) and Philippe van Parijs' *Linguistic Justice for Europe and the World* (2011, Oxford University Press). Both authors – despite pursuing different projects: the protection of national and indigenous minorities in the first, the just introduction of English as global lingua franca in the latter – argue that immigrants have a duty to integrate in virtue of locals' longer territorial history and their *choice* to migrate. At the same time, neither of the two theories accounts fully for migration and the family perspective. Nevertheless, I do not aim to substitute but rather to complement their frameworks as to why and to what extent immigrants should integrate. Some aspects of their theories will have to give, but none which undermines their valuable overall theories on *general* diversity including non-immigrant groups.[3] This dissertation aims thus to strengthen and readjust the moral foundations of "multiculturalism" such as pursued by Alan Patten in his most recent book.[4]

Its novelty resides thus in approaching this literature from the perspective of immigrants' families and their language. Kymlicka and Patten (2003) have edited a book on the linguistic dimension of multiculturalism and some few authors have engaged with the intersection between family ethics and multiculturalism more broadly (Archard, 2002). That is, no normative theorist I am aware of has yet looked into justice from the viewpoint of languages spoken in the family. This is of little surprise when the mother tongue coincides with the public language as it normally does. Introducing the complication of migration from the specific micro level of family languages also aims to push political theory further into Kymlicka's and van Parijs' direction – applying rigorous moral reasoning in the everyday and not merely in abstract "high theorising".

The remainder of this introduction does four things. First, it isolates the relevant aspects of the three involved debates on family ethics, language policies, and then immigration (section I). This order, just as the order of the three chapters in this thesis, is motivated by an attempt to progress from less to more controversial assumptions – from the commonplace of family's importance to the conditions of immigrants' legitimate agency. I then elaborate on the methodology and central premises employed in this thesis (section II). Sections III and IV deal with, on the one hand, the role and centrality of Kymlicka's and van Parijs' contributions to my research and, on the other, this thesis' outline.

[3] This thesis is thus not a critique of Kymlicka's multiculturalism *as such*, but rather an attempt of introducing migration as one of its principles and not mere consequences. Therefore, it does not actively engage with its recent "intercultural" critique (Meer et al., 2016) or the populist – more rhetorical than substantial (Kymlicka, 2016a; Banting & Kymlicka, 2013) – backlash about multiculturalism's death.

[4] *Equal Recognition. The Moral Foundations of Minority Rights* (2014, Princeton University Press).

I. THREE DEBATES: FAMILY, LANGUAGE, AND MIGRATION

A. Family Ethics: What is a Family?

The family has in liberal political thought traditionally been relegated to the "private" sphere. John Rawls considered it part of the "basic structure of society" that comprise those coercive and involuntary institutions which affect our life prospects but should nevertheless not be questioned by public reason (cf. Clayton, 2006: 100ff.). This is not uncontroversial. Susan Moller Okin (1989) criticised Rawls for his uncritical attitude towards the family as further entrenching existing power-, especially gender-, relations. This is an important argument. Yet, I shall focus on a complementary but more specific aspect here: even if the "reproductive labor" of families is "socially necessary labor" (Rawls, 1999: 157), children are not merely means to reproduce their parents' cultural identities[5] – children have a distinct interest in becoming autonomous and free members of society.

These considerations deserve special attention in the case of migrant families. The children of immigrant adults often do not speak the national language at home and receive thus less linguistic input than other children. If it involves an overall negative effect on their welfare or later opportunities, their interest would be better served were they to speak only the local language independently of their parents' intentions. And this is a common understanding of what is at stakes in this discussion: migrant parents' authority vs. their children's future autonomy. But this dichotomy is not helpful – just as children are not merely the means for the reproduction of their parents' culture, so should the receiving society not harness them without further justification. Objective criteria are needed to settle this question.

Such objectivity is often found in the higher instrumental value of the receiving society's language (Robichaud & De Schutter, 2012). Since public life there does not take place in migrants' language, children have access to more opportunities by mastering the local rather than their parents' language. This is Kymlicka's argument. Van Parijs sees language similarly as a function of how likely it is to be a global lingua franca. Chapter 1 argues that a child has an equally objective interest in learning its mother tongue independently of its instrumental value as seen by Kymlicka or van Parijs. Effective communication is key to establish family bonds as well as children's autonomy. And this occurs most likely with the language parents master best – their mother tongue.

[5] I will not address the discussion on the right *kind* of family (matrimonial, heterosexual, etc.) here but define it in minimal terms as having *some* caretakers raising a limited number of children.

In doing so, I shall argue that mother tongues are crucial for effective parenting and the creation of family values on the basis of Harry Brighouse and Adam Swift's latest book *Family Values – The Ethics of Parent-Child Relationships* (2014, Princeton University Press). Language is here considered conducive for these specific goals. This focus on language allows for a more concise comparison between different institutional arrangements which Kymlicka's and van Parijs justify on instrumental grounds. In doing so, I am not committed to an exclusive instrumental role of languages – they might have intrinsic, non-reducible, non-instrumental value as well.

Furthermore, institutional arrangements matter when distinguishing between ideal and non-ideal theories of justice: depending on whether agents comply with their just duties or not, other theoretical recommendations arise. One such duty is not to discriminate, exclude, or otherwise disadvantage people on the basis of their origin – a duty not all agents live up to. This is especially problematic if children "inherit" such treatment. In that case, a trade-off obtains between a child's family interest and the adverse effects on its opportunities this has. I will engage in this kind of non-ideal reasoning in chapter 1. And this "micro" account matters for "macro" language policies of migration receiving states which are analysed in chapter 2. This brings us to the next debate.

B. Language Policies: What Is a Language and What Is the State's Role in It?

In 1983, Brian Weinstein, observed that political theory has much to say on "the language of politics", but much less on "the politics of language" (cf. Kymlicka, 2001: 312n18). And this remains largely true with the major exception of Kymlicka & Patten's (2003) edited volume and van Parijs' (2011) monograph. Yet, while both accounts are concerned with the protection of national languages and, in the case of van Parijs, the benefits of English as a global lingua franca, they both lack a systematic account of the impact their linguistic policies have on families. Admittedly, their recommendations will most likely serve national and English-speaking families' interests. But Kymlicka and van Parijs accept, or even endorse, that immigrant families' mother tongue is eventually not used anymore after some generations – that is, they stick to their respective dilemmas of protecting national languages either from other regionally dominant languages or English. Yet, this must not be the case: it might actually be a "trilemma" of trading-off the global lingua franca, the national language, and mother tongues. I shall introduce this threefold representation that adds family language in chapter 2.

But what is language and why is it something the state should get involved with? Linguists have been sceptical of the concept of "a" language and insisted on its inherent power dimension.[6] Now, delving fully into this critical tradition would undermine the assumption that distinct languages exist. I shall not go that far here, but yet work with a

[6] Cf. the anonymous quip that condensates this idea: "A language is a dialect with an army and a navy."

broad definition of language involving two necessary elements: it is a *communicative system* which especially young individuals can innately learn and that ensures *meaningful interpersonal intelligibility*. This definition detaches language, in contrast to Kymlicka and van Parijs, from territory and state institutions. Sign languages, for instance, enter thus its scope. This is where the critical tradition influences the present approach: languages are everyday practises and we should be wary of "mystifying" them with overly restrictive definitions. Moreover, it would be impossible to consider alternative arrangements where non-territorial languages are granted a role without such a broad definition. This understanding enables us to see language as what it is and can be. In this spirit, I will analyse not only why (migration-induced) multilingualism is feasible (chapter 1), but also why it is desirable for the receiving society to maintain and foster the benefits of linguistic diversity, especially if it is due to immigration (chapter 2).

Now, what if languages need a territory to be viable? Van Parijs and Kymlicka make this point and their reasons for rejecting non-territorial alternatives are analysed in chapter 2 and 3, respectively (cf. Patten, 2014: 227ff.). Even if they were right, they still underestimate, to varying degrees, that national territorial groups can change or maintain the languages they speak. And this leads us to the question of the legitimate state action in language matters.[7] For, the receiving state might be said to act permissibly in neglecting immigrants' mother tongue loss as a matter of its *neutrality*:[8] a state should favour no language or culture beyond the coordinative question of which one or few can have official character – but such an institutional choice needs to be duly justified. Focussing on immigrants' languages does add in complication, but it does not render state action and its theories necessarily non-neutral or unmanageable. For, newcomers can only be asked to integrate if there are legitimate reasons to do so.

Now, imagine a language so complex that it can only be spoken by people who were brought up in it, without the interference of any other language. Adult immigrants to this society would be unable to live up to their duty to integrate even if the state was neutral and locals did not act wrongfully, and their children would have learnt either the family or the public language. Fortunately, no child is confronted with this choice. But this situation is nevertheless instructive for how duties of immigrants are connected with duties of receiving states: the latter can only demand integration that is feasible, achievable, and coming at no unreasonable cost to family life. Immigrants' duty to integrate depends thus on duties of the receiving state to make integration available.[9] In

7 The state is thus presupposed to be a legitimate actor to pursue language *policies*, i.e. deliberate, rational, and duly motivated actions that guide people's language use on the basis of a set of principles.

8 A state cannot be as neutral and *hands-off* with regard to language as with, say, religion – *a* language is needed in public life while the state can be perfectly secular with regard to religion (Patten, 2003: 365). But the state can nevertheless determine its policies on the basis of their pragmatic effects or their justification (Patten, 2014: 104ff.).This thesis combines an analysis of both aspects.

9 This includes the minimization of adverse effects (discrimination, exclusion, etc.) – e.g., sensitize nationals that speaking with an accent is normal and no sign of lower intelligence. Miller (2016: 150) speaks of a "reciprocal bargain" when affirming this interdependence.

this thesis, I assume that receiving societies live up to their corollary duty of making the kind of integration they demand from immigrants available. But this thesis' discussion of justifications of integration naturally affects the extent to which immigrants can be requested to integrate. The existence of any such duties depends on whether states admit immigrants in the first place, as we shall see now.

C. Multicultural Diversity: Who Is a Migrant and When Is She Integrated?

If all borders were closed or all migration temporary, people would not settle outside their homeland and talking of integration would be idle. My thesis presupposes thus some (minimal) form of open borders through which people from different cultures can come and settle.[10] And those immigrants need to be diverse in a significant way. This is not a matter of geographical distance – a designer from New Zealand settling in the UK will have to integrate less than a Fleming professor leaving Dutch-speaking Leuven to Walloon Louvain-la-Neuve 30km south. While focusing on international migrants, my thesis ultimately applies to all people settling across cultural and linguistic borders.

This brings me to the question of what culture is and why it is valuable. To simplify things, this thesis works with Kymlicka's definition of a "societal culture" as a "context of choice" (Kymlicka, 1995: 82ff.) which I introduce in chapter 3. This is late, but not further troubling since the preceding chapters focus on language as a specific sub-aspect of culture, understood as laid out above. In doing so, I share Kymlicka's intuition about the importance of culture, but emphasise the family as the relevant unit of analysis. This dissertation will suggest the revision of some reasons on which Kymlicka grounds the territorial priority of national over immigrant cultures in chapters 3 and 4.

With these assumptions about borders and culture, I focus mainly on settled or "permanent resident" immigrants – those who have lived a significant part of their lives in the host society without the intention, obligation, or possibility to return or leave in the foreseeable future.[11] They are thus already candidates to citizenship under an inclusive understanding of the concept that mainly requires a certain time of residence (cf. Carens, 2005, 2013). The issue does not end with citizenship, however. For, a state could naturalise all immigrants with minimal prior requirements, but they might still suffer structural disadvantages – discrimination, stigma, or exclusion – that even apply to their children who grew up there. Citizenship then does not solve this underlying problem (cf. Carens, 2013: 158ff.). Now, structural injustices often also apply to nationals themselves. While the plight of disadvantaged nationals and immigrants should be addressed

[10] Even if all borders closed today, my thesis would still apply for the integration of immigrants currently present. As for the state of the art in the debate on open vs. closed borders, cf. Wellman (2015).

[11] I am thus not primarily looking into matters of *status* of, e.g., temporary (cf. Ottonelli & Torresi 2012, 2013) or undocumented migrants, though they might exacerbate some of the present considerations.

alike, there might be a necessary trade-off specially in language matters: to create enough opportunities in a job market for speakers of a language, for instance, its offers must be limited to that language – either the local or immigrant language must give.

This thesis does not question this trade-off *as such*. Nor do I claim that migrant groups should necessarily have the win. Instead, I critically address Kymlicka's and van Parijs' reasons in assessing it. This is not to say that there are no other reasons, e.g. the "political" right to self-governance and group association (cf. Bauböck, 2015). Contenting myself thus with a *partial* critique of the priority of national groups, I do not discuss the option that immigrants have no duty to integrate whatsoever. It is a scalar matter: the weightier the reasons for the priority of the national language, the more extensive is the duty on immigrant families to learn it. To illustrate this interpretation of how duties depend on favourable reasons, consider two paradigmatic kinds of integration:

a) *Thick* or *deep integration*: such a duty requires immigrants and especially their children to strive to adopt most of the cultural and linguistic traits of the dominant group – vocabulary, repertoire, popular literal heritage, or accent. They would need to be *proficient* in the local language, say, at a C1 level, according to the "Common European Framework of Reference for Languages", allowing them to "recognize implicit meaning", "express ideas fluently and spontaneously", or "produce clear, well-structured, detailed text on complex subjects."

b) *Thin integration*: such a duty requires immigrants to be able to understand basic information, e.g. on the basic traits of the law, and have *basic* to *intermediate* interaction with local authorities (e.g. police, tax office), health facilities, or media. They would have thus to speak the local language, say, at an A2 – B1 level without, however, being asked to understand, e.g., "implicit" meaning. This conception is more *accommodating* since it makes it easier for immigrants to maintain their own cultural and linguistic traits without forcing them into any level beyond what basic mutual understanding requires.

This deeper level of integration is often referred to as "assimilation". Assimilation tends to make minorities resemble the mainstream and hence become invisible by homogenising people even in matters irrelevant for justice, such as accent. It is often used in contrast to the desirable integration of granting them job opportunities or votes. Referring to this dichotomy would make things easier, since I reject the former and endorse the latter. Despite all this, I shall not use the term assimilation because I believe it leads to an unwarranted black and white dichotomy, while cultural and linguistic adaption can come in degrees. I want to stress the complexity of the issue, and rely on nuanced arguments rather than Manichean associations.

Integration comes in degrees. There are reasons for greater *social cohesion* pushing one way in the thick case and reasons for stronger *cultural allegiances* pushing the other in the thin case. The main reason, however, for a scalar interpretation is the assumption that languages crowd each other out – the more immigrants (are able to) maintain their mother tongue, the less they learn and use the local language. However, two languages can be *additive* rather than *subtractive* – or so I will contend in chapter 1.[12] Yet, critics of thin integration often start from a subtractive understanding (Barry, 2001; Pogge, 2003) – an inaccurate assumption that this thesis works with because it allows to engage more directly with the reasons prioritising one language over another as dealt with in chapters 3 and 4. *Even if* different languages were crowding each another out, how much weight should immigrants' mother tongues be given? Now, van Parijs' and Kymlicka's positions seem both compatible with either a thick or thin interpretation. I will take their indeterminacy as a starting point to show how a thin integration follows from integrating families and immigrants into their theories. Before proceeding, let me explain briefly how my approach differs from Kymlicka's.

A basic aspect of Kymlicka's theory is that history forms a collective identity from which individuals draw their sense of autonomy. That is, the past matters for how to live the future. But, the argument in this thesis will focus on the *future* – what language children have an interest in growing up with (chapter 1), what societies win by giving more weight to migrant tongues (chapter 2), how *need* is a more promising criteria than history to differentiate groups (chapter 3), and what conditions must obtain for individuals to *decide freely* whether to migrate (chapter 4). Such an onward-looking perspective still grants history a certain value – agents still make choices from somewhere. But it minimises risks of *essentialism*, i.e. the view that cultural traits have necessary and immutable character. For, *agents* need to be free to act responsibly within their given family and group identity – especially migrants' children raised in the local culture should not be excluded from becoming integrated members.[13] But such agency is independent of any supposed necessary history or path-dependant nature of culture.

In sum, this section has addressed the main debates this thesis engages with. Mother tongues are central and instrumental to the central functioning of families – an aspect which has not yet made headway in the literature on linguistic justice and its suggested integration policies. Let us now look into the methodological assumptions of this thesis.

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[12] The only case of clearly subtractive bilingualism occurs with young orphans who forget their initial language due to absent stimulative exchange in it with their new family who speaks another language.

[13] That is, I do not engage in or present an argument against a racial or otherwise permanently exclusive group identity due to unchosen personal or collective traits. I simply assume – as all contemporary political theories I am aware of – that such regimes are deeply troublesome and unjust.

II. METHODOLOGY: GLOBAL WELFARE, EQUAL OPPORTUNITIES

The focus of my work lies on immigrants' interests as their *welfare* in a broad sense. Now, if I was to look at *their* material, psychological, or status-related welfare in isolation, I would neglect what makes immigration controversial in the first place – its interdependence and contrast with established groups. For a more complete comparative picture of how to trade-off conflicting interests, the situation of all major stakeholders must be analysed separately. Van Parijs' and Kymlicka' theories might possibly already account for an optimal distribution of welfare between all involved parties. However, for their conclusion not to be a stroke of luck, *all things* need to be considered. This includes what this thesis wants to provide: an assessment of immigrants' stakes.

The method employed to pursue this goal is Rawls' "reflective equilibrium" and "overlapping consensus on reasonable doctrines" (Rawls, 1999: 32). This approach seeks to determinate what justice amounts to and is based on the intuition that individuals should have equal *access* to opportunities. That is, it is unjust and hence a concern to the state and society if immigrants have less opportunities to get a job, less access to leisure, or live a less healthy family life than non-migrants *due to* their origin.[14] In this thesis, I shall focus mainly on assessing immigrants' opportunities vis-à-vis nationals' in terms of language and less on concrete policies of how such injustices can be redressed. The "currency" employed here comes thus closest to what Gerald A. Cohen describes as "equal access to advantage" (Cohen, 1989) – not equal outcomes, but more than merely formal equal opportunity: *real* constraint-free access to advantage generating opportunities.

Now, addressing the topic of immigration only seems to make sense in a global framework. Analysing migration only makes sense from a global perspective. But the ideal of a closed and homogeneous society might be an equally reasonable theoretical starting point. This thesis, however, aims at not entering this debate or its variants as such. That is, I start from the global *reality* of migration while accepting that states are autonomous over their borders and policies concerning language or integration. What I am concerned with is whether these policies are reasonable, i.e. inclusive and guaranteeing basic liberties as equals. The point is not so much to discuss whether states have a duty to admit immigrants, but whether the extent to which they do is reasonable. The argument defended here is thus in principle *compatible* with a world of perfectly closed and autarchic societies that never have any negative impact on or trade with each other while

[14] Cf. Carens (2005: 43): "If immigrants and their descendants are not receiving a share of the social goods that a society produces proportional to their share of the population, that requires an explanation and a justification if it is to escape condemnation. Any appeal to the immigrants' own culture or preferences as the explanation and justification should be scrutinized with care."

also avoiding the exchange of inhabitants.[15] In such an idealised case there would be no immigrants, hence nobody to live up to the duty to integrate, and the state will be under no obligation to design and implement integration policies. The creation of such a world would probably involve significant welfare losses and it seems entirely unrealistic in our connected and globalised world. For better or worse, migration of goods and people is real and it is here to stay.

Given that the focus here falls onto the reality of global migration, I will draw on findings from sociolinguistics, social psychology, political science, as well as economics and law. The goal of doing so is, on the one hand, to gain a clearer picture of the status quo and its injustices and, on the other hand, to add considerations of feasibility about how compatible certain policies are with human nature and resource constraints. Yet, two caveats apply: first, feasibility considerations are highly context-dependent. And it may seem that that the current state of affairs has no alternatives because previous injustices appear so entrenched that they are impossible to change or rectify. In addition, empirical evidence regarding migration and culture acquisition is often fragmentary, heterogenous and plagued by methodological disputes. This makes it easy to cherry-pick data supporting one's theoretical conclusions. I do not claim to be immune against these caveats. Yet, I rely on a wide consensus in the respective fields and point out disagreement or unavailable data by couching statements in cautious language.

Lastly, let me add a note on terminology. The topic of immigration is prone to suggestive vocabulary depending on the respective underlying political ideology. I have already referred to “assimilation” and “integration”. But there is also “illegal immigrant” and “undocumented asylum-seeker”, “economic migrant” and “expat”. All can describe the same person, but they invoke different value judgements. This is an important and powerful matter. I have thus made a conscious effort of using terminology in a way that describes the nature of the argument best possibly while aiming for maximal neutrality and transparency.[16] This shall be especially relevant for those three terms: a) *mother tongue* – it stresses the fact that all children have a heritage language (just as they have a mother) in which their families function; b) *country of origin* – all people come from somewhere with their respective cultural and linguistic backpack, which they leave for manifold reasons; c) *receiving state* – immigrants can arrive as invited settlers, unexpected but welcome long term guests, or newcomers encountering indifference or even hostility; but they have been admitted either intentionally or by negligence.

[15] This would go against Rawls' conception of well-ordered peoples who have a duty to assist burdened societies independently of whether they had a causal influence on this outcome (Rawls, 1999: 106).

[16] Possibly the term “immigrant” in itself is already overloaded with (negative) meaning and we might better talk of “newcomers” or “denizens” in my case. The conviction behind sticking to “immigrants” here is to engage with contentious public discourse on its own terms to be heard *there*.

Having laid out the diverse methodological elements employed in this thesis, let me now outline why and how I focus on Kymlicka's and van Parijs' work specifically.

III. KEY THEORIES: LINGUISTIC JUSTICE AND MULTICULTURALISM

Neither van Parijs nor Kymlicka have written books *on* immigration. Van Parijs' approach focusses on the next future of the European Union – specially its capital, Brussels – and the chances and risks of English as global lingua franca. Kymlicka looks mainly into historically diverse societies – Canada in particular. And yet, they aspire to be *general* and have valid implications also for immigrants despite having other primary concerns – they project their elaborate mechanisms of language development and the formation of cultural identities onto immigrants. The empirical laws Kymlicka and van Parijs describe also apply to immigrants but it is not clear how they underlie the normative duty of integration. To be sure, their primary focus remains central where territorial or autochthonous minorities still suffer major injustices. However, this does not justify settling for a normative position regarding immigrants linguistic rights and duties that emerges as the unintended side effect of these author's discussions of other questions. This thesis is an attempt to line out some aspects of the integration of migration into van Parijs' or Kymlicka's accounts. In an ever more mobile world, such as our 21st century seems to be turning into, we need a more adequate tool to conceptualise, understand, and morally assess the political and social reality of migration.

Now, there are established theories on immigration proper.[17] My approach is in fact indebted to at least two of them: Joseph Carens' (2000: 8ff.) idea of even-handedness and Patten's (2003; 2014: 200ff.) pro-rated official multilingualism. For Carens, different groups' competing claims for recognition and support need to be balanced evenly. For Patten, all languages spoken in a community should in principle enjoy the same legal status. Now, both authors admit that context can qualify the implementation of normative considerations to a certain degree (Patten, 2014: 24 – 27). Here, I aim to overcome this contextual qualification by arguing that family has a (quasi-)universal character across different cultural contexts and that adding immigrant languages to official policies benefits rather than threatens speakers of local languages. The goal is to question certain premises employed when general theories of Kymlicka's and Van Parijs' kind and suggest that some alternatives are in fact feasible.

I have been referring to van Parijs and Kymlicka together, despite the fact that they disagree on certain issues. Let me now elaborate on the two most salient respective differ-

[17] Carens, for instance, pioneered the field some thirty years ago when directly questioning the legitimacy of borders (Carens, 1987). His latest book, *The Ethics of Immigration* (2013, OUP), in turn, addresses mainly controversial practises as the expatriation of undocumented yet settled immigrants.

ences: their emphasis on the national/global scope and their understanding of justice.

Regarding the first difference, van Parijs is considered a cosmopolitan and a *global egalitarian* (van Parijs, 2011) and Kymlicka an associationist and a *cultural nationalist* (Kymlicka, 2001) – the first focuses on the equal distribution of resources on the world, whereas the second is concerned with the flourishing of the culture of national groups. These different priorities will explain some nuances in their stances on immigration and some of their qualifications that we meet throughout this thesis. But their positions are nevertheless reconcilable: both are liberals, and both give weight to national and global considerations. The two authors will be mentioned in this thesis almost interchangeably to the extent that possible further differences are irrelevant for the point at hand.

Second, even though both theories focus on considerations of "justice",[18] they conceive of it as different things: van Parijs means "fundamental liberties" and Kymlicka "rights". For Kymlicka (1995: 6) "traditional human rights" needs to be supplemented with group-differentiated "minority rights."[19] And national rather than immigrant groups qualify for the full range of such rights. Van Parijs, in turn, works within a liberal-egalitarian approach (van Parijs, 2011: 231n3) that understands itself as

> "an attempt to provide an alternative in which rights (apart from those following from the liberty constraint) are not basic axioms but a heterogeneous set of consequences … of a coherent and defensible conception of justice" (van Parijs, 2011: 90).

Minorities and linguistic diversity *as such* have no inherent value in his theory and they require protection only if they are essential to individuals' free lives as equals. Kymlicka's normative commitment, in turn, involves rights as powerful "trumps" (cf. Dworkin, 1984) over other considerations. This difference is more substantive since it allows for important disagreements over what justice recommends under certain conditions. But this concern is not to be exaggerated, at least in the context of the relevant considerations in this work. As we shall see, they agree on most implications especially with regard to the legitimate protection of territorial groups.

I am drawing on what van Parijs' and Kymlicka's approaches have in common, and while potentially reaching different conclusions, they both ultimately trade-off and weigh individuals' interests. Since any such trade-off or weighing is supposed to be an all things considered judgement, an analysis as complete as possible of immigrants' stakes is required. And this is what I am pursuing here, an account of immigrants' *interests* as a prior analytical step to arrive at all-things-considered rights. I hence do not focus on their will or preference (cf. Weinar, 2015). While respecting immigrants as free

[18] Note that approaches of justice – i.e. what is the *right* thing to do? – exclude considerations of ethics or the *good* thing to do (cf. Peled, 2016).

[19] Patten (2014: 10-11) also works with the framework of non-derivative "strong cultural rights".

equals, I believe we should focus on what their fundamental interests are.

In sum, whenever my argument hinges on minor differences of this sort, I will point them out. Admittedly, my approach will be more akin to van Parijs' attempt to account for the distribution of "advantages and disadvantages" (Miller, 1999: 11). Yet, Kymlicka's rights-based theory is not only compatible with van Parijs' overall account – surely, with respect to immigrants – but complements and enriches the latter's conceptual analysis of immigration in several regards. In short, their combined arguments represent the most sophisticated account on why immigrants' interests clearly weigh less than those of the members of the receiving society in questions of integration. And this thesis attempts to qualify the "clearly" in this sentence.

IV. THESIS OUTLINE

The order of the four chapters of this thesis follows a narrative arch that starts from the common place that family matters and culminates in how international law does not conceptualise migrants' agency adequately. More concretely, the plan of each chapter is the following:

Chapter 1 spells out the implicit understanding of what children's linguistic interests amount to. Immigrants' children have a clear interest in learning the local language if they are going to spend their lives in the dominant society: it will increase their future autonomy such that, if unavoidable, the loss of their mother tongue can be accepted. However, this conclusion disregards that mother tongue use is central to the intimacy and stability of family and hence the healthy upbringing of minority's children. Children can master several languages to a sufficient degree and their interests are interconnected with those of their parents – their overall autonomy is not undermined by maintaining their mother tongue but potentially even enhanced, I shall argue.

Chapter 2 introduces the main principles of van Parijs' theory and explores the possibilities of introducing immigrant languages into the educational mainstream of receiving states. It will show how van Parijs' logic, which is based mainly on individual opportunities, eventually leads to a monolingual end-state. Yet, so I shall contend, multilingualism can have several benefits for the individual and society. This argument will allow me to introduce a trilemma where also mother tongues need to be taken into account in addition to van Parijs' framework of English and territorial languages. A linguistic regime that is informed by the reality of migration should not neglect mother tongues.

Chapter 3 presents Kymlicka's group typology and critically analyses their rights. According to him, recently arrived immigrant groups – in contrast to historic territorial

groups – do not enjoy rights of national self-determination because immigrants have neither been able nor willing to pursue the necessary "nation-building" process. This chapter argues that such empirical facts are insufficient for Kymlicka's normative conclusions. It explores how criteria for group rights other than history and territory avoid treating old and new minorities in an arbitrarily asymmetric manner.

Chapter 4, finally, addresses Kymlicka's second ground that justifies the priority of national groups: since immigrants left their homeland voluntarily, they have to integrate into the receiving state. In reference to Joseph Raz' (1986) work on autonomy, the chapter argues that immigrants only act voluntarily if they have sufficient alternatives. Current admission and integration policies of migration receiving states, however, precisely the contrary happens: the skilled and wealthy – the more voluntary – are all the more exempted from duties of integration while the rest face increasing demands. In view of this tension between theory and practice, the chapter explores ways to reconcile them. This thesis ends with some concise conclusions.

Chapter 1

Migrant Families' Interest in Their Mother Tongue

INTRODUCTION

Hearing children of deaf adults (CODAs) normally use sign language when interacting with their parents.[20] They often perform as mediators in connecting these "two polarized worlds" (Singleton & Tittle, 2000: 227ff.) and act in their parents' name and place when interacting with the speaking world – answering the phone, interpreting in legal matters, or engaging in popular misconceptions about deafness. This can foster CODAs' "maturity and independence", but since the content of these interactions is not always appropriate for children, it also comes at the cost of having "no childhood" (Collins, 1986) and increased "isolation from others" (Preston, 1994: 54).

Children of deaf adults who are *deaf* themselves do not have to face the expectations of navigating these two worlds. This does not lead well-intentioned parents of CODAs to raise their children only in "signing", however.[21] To the contrary, these parents often face pressure from their non-deaf peers to ensure that their children have sufficient input in spoken language even if it comes at the expense of their signing skills (Kanto et al., 2013: 257). For, it is the speaking world that determines children's interest in valuable future opportunities – there are more jobs, wider services, better schools, etc. in spoken language just as there is more exclusion, stigma, and prejudices attached to signing.

Deaf parents can engage with the speaking world through lip-reading or even rudimentary speech. They can thus partially live up to their external, or possibly self-imposed, pressure to guarantee that their children have enough input in the spoken language. Yet, they are likely to speak only in reduced quality and ungrammatical form. In addition, they will refer to strategies that mix spoken and signed language. The child will thus not only fail to learn proper signing but the relationship with the parents becomes "restric-

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[20] The WHO (2015) estimates that 360 million people, 5% of the world's population, have disabling hearing loss – who are *deaf* – due to genetic, pathologic, accidental, or age-related reasons. In the United States out of 18 million impaired individuals 2 million were profoundly deaf. However, 90% of the offspring of two deaf adults are estimated to be CODAs (cf. Collins, 1986).

[21] Which is the sign language. There is no world-wide standard sign language (for an analysis of such attempts, cf. Wilcox et al., 2012: 386ff.). Its region-specific idioms, however, do not overlap with their spoken counterparts – e.g. Australian and American Sign Language are not mutually intelligible.

ted and asymmetrical" (Singleton & Tittle, 2000: 226). Is it still in CODAs' *best* interest to learn only or mainly the spoken language rather than their "mother tongue"?[22]

Indeed, something is lost if children and parents cannot communicate properly. To spare CODAs this fate while still giving them access to the opportunities of spoken language, they have to become bilingual. For that purpose a minimally distinct and unmixed model of sign language is needed that allows children to learn it properly. Being a minority language, it also requires more input at home than its spoken counterpart which is already dominant outside of home (cf. Kanto et al., 2013: 255ff.). The effects on the proficiency of the spoken language do not have to be negative (id.) but depend on individual factors, support at home, public recognition, or educational set-up. The sum of these factors is not always favourable, however. Under such conditions, how to balance the child's interest in the local language and her interest in harmonious family life?

This is the question the present chapter sets out to answer. It first addresses each interest in isolation and then analyses them in combination. It claims that children have an interest in mastering their mother tongue, independently of how small the minority is by which it is spoken, as long as they have sufficient opportunities in the local language. This facilitates unmediated emotional bonding which is key to the creation of family goods, effective parenting, and hence a child's healthy upbringing. Bilingualism is not only feasible but parents as well as state institutions have a duty to preempt a trade-off between the mother tongue and the local language in the first place.

Starting this thesis on *immigration* by talking about *deaf families* allows us to isolate those normative elements which are relevant to establish the above claim. The analogy holds for three reasons. First, sign language is a natural language in its function and structure despite its visual rather than auditive form of transmitting information. Empirical findings on language apply to both – if children are not minimally versatile in the only language their parents master, mutual understanding is hampered (Kanto et al., 2013: 257). Second, recently immigrated linguistic groups experience a similar pressure on their mother tongues as stationary minorities to the extent that they are in contact with more dominant languages.[23] Children of neither group have chosen their mother tongue. If CODAs have an interest in sign language, so do migrant children in their spoken mother tongue. Third, the deaf community of those without hearing can reason-

[22] The attributes "majority", "local", or "dominant" respectively "minority", "heritage", or "family" will be used interchangeably where groups of the first kind have more speakers, institutions, and hence opportunities (education, media, jobs, etc.) than those of the second. I use "mother tongue", for lack for a better term to describe how innate a child's early language learning is, as the main language of parents.

[23] This chapter is thus not about dying languages per se (for this, cf. Nettle & Romaine 2000) but about a general argument on the effects of language loss on families and their normative bearing. Note that Kymlicka disagrees with the normative reading of this fact, as we shall see in chapter 3.

ably be considered a linguistic culture on a par with other cultural minorities whose membership is based on unchosen genetic or biographic factors.[24] Some might find this analogy too controversial since normatively distinct kinds of involuntariness are involved. While I will suggest a compatible reading of voluntariness in chapter 4, note that Kymlicka himself suggests this analogy.[25] In any case, these three reasons are independent and they would have to be refuted all together to invalidate the analogy.

The chapter proceeds as follows. The next section elaborates on the need and place of the present argument in the literature. Section II presents a schematic analysis of three kinds of interests involved in the debate: children's, parents', and their combined and interdependent interest. Section III shows how parents' need to use their mother tongue in order to comfortably interact with their children has to be weighed against children's future autonomy in a world dominated by a different language. Section IV offers a brief conclusion.

I. WHAT ABOUT THE MOTHER TONGUE?

Public reason requires that a political community functions in a common language to ensure coordinated communication among its members in order to be able to deliberate, to vote, or to take up office. This duty is compatible with tailored exceptions for those unable to master this language such as the deaf but not necessarily for their able-bodied children. The necessity and legitimacy of a dominant language is therefore not questioned. Yet, I do not engage with the question of which language this has to be (cf. Réaume & Pinto, 2012: 41ff.). My question is rather "What is then the place of children's non-dominant mother tongue?"

The normative literature on language has not centred on the family but rather on group-based considerations.[26] Its standard assumption is to grant parents the liberty to use a non-dominant language in private. And this is only conditioned by the centrality of (future) citizens' interest to master the common language. But empirically, it often leads to the loss of minorities' mother tongues across generations. Just as with sign language,

> "immigrant' mother tongue is often spoken at home, and passed on to the children, but by the third generation English has become the mother tongue [in an English-speaking country], and the original language is increasingly lost. … For the third generation, if

[24] Cf. Sparrow (2005). This raises issues I cannot discuss here such as funding of "cochlear implants" or allowing parents to select deaf genes in IVF treatments against the child's "interest" (cf. id.: 137n6).

[25] Cf. Kymlicka (1998: 91ff.). For a critical account of this analogy, see Lee (2006).

[26] E.g. Kymlicka & Patten (2003) or Van Parijs (2011). See Caldas (2012) for why family has been neglected in the literature on linguistic policies. Nickel (1994) and Archard (2002) have analysed diversity and multiculturalism from a family perspective but not with regard to language specifically.

> not sooner, learning the original mother tongue is not unlike learning a foreign language" (Kymlicka, 1995: 78-79).[27]

Such mother tongue loss is unavoidable in Kymlicka's view. This section looks into this conclusion from two aspects: first, how it has been justified and, second, whether it is really an unavoidable process. It rehearses the reactions in the literature to this observation which are mainly based on considerations of the local language. As such, it contrasts with a focus on a minority's languages as presented in the next section.

In asking how to manage mother tongue loss, we can distinguish between an *opportunity-driven* position and an *accommodationist* position. Pogge (2003) uses an analogous strategy but without these labels. Both focus on the benefits of the homogenization resulting from the three-generation-rule. The first is based on the observation that bilingually raised children are more likely to be segregated in school and to have lower levels of academic success (Barry, 2001; cf. also van Parijs, 2011: 148). Having a non-dominant mother tongue can thus decrease children's proficiency in the local language and their access to educational or professional opportunities. Depending on where the opportunities are most likely to be pursued, this circumstance may involve not learning one's mother tongue as a matter of an overriding interest (Barry, 2001: 215ff.). Children's future opportunities prioritise thus fluency in the receiving society's language – in the US, for instance, an early "English First" immersion ensures optimally "children's important long-term interest in being fully literate" (Pogge, 2003: 119).[28] And children tend to be more attached to the place where they themselves (rather than their parents) were socialised (Carens, 2005: 35ff.) –which are typically more affluent countries that attracted their parents in the first place.

The second *accommodationist* position grants more ground to minority's languages. Its defendants observe that an egalitarian stance towards languages is more effective for integration – linguistic minorities in Anglophone countries learn English best if it is "supplementing, rather than displacing, their mother tongue" (Kymlicka, 1995: 97). The difference to the first position is one of a broader scope: Kymlicka recognises that having a non-dominant mother tongue can give rise to inequalities that warrant specific state actions such as pro-active measures against discrimination and subsidies to learn the local language (cf. Patten, 2014: 284). This position has a more substantial and committed

[27] As to this three-generation-rule, cf. Tran (2010: 259-260) or Patten (2003: 361).

[28] Various "English Only initiatives" use this same reasoning (cf. Kymlicka & Patten, 2003: 8 – 9) to support their cause even though they are not coextensive with Pogge's position (Pogge, 2003: 121). Nettle & Romaine (2000: 194) speak of "a multimillion dollar lobby group with links to the immigration-restriction lobby" which disregards that a "majority [of ethnic minorities] want to maintain their ethnicity and language while also being American." This reasoning is more institutionalised in Europe where the second article of the French Constitution defines the language of the Republic as French since and due to the 1789 revolution's theme "*égalité"* (Schiffmann, 1996). Immigrants in France do not have to speak French at home, but opportunity-driven considerations on language are dominant.

view on the interdependent duties of the state on integration, as laid out in the introduction. While this position applies foremost to immigrants for reasons that become clear in chapter 3, note that such accommodation mainly accounts for adult immigrants. For their children, in turn, the ultimate consequences are not unlike those of the first position – maybe language loss is smoother, but the priority is clear nevertheless:

> "Children have the right to be raised as full participants in a societal culture which provides them with a diverse range of options, and parents cannot waive this right … we must strenuously work to ensure that the children integrate into the mainstream" (Kymlicka, 1995: 216n19).

In sum, both positions are based on empirical assumptions: whilst the *opportunity-driven* position identifies bilingualism with segregation and fewer opportunities, the *accommodationist* position accords mother tongues a (merely) instrumental value in mastering the local language, without granting any non-derivative value to it.[29] Both positions however, omit an important part of the picture. Parents, for a start, have an interest in being able to communicate with their children. Minority parents often "feel that they lost their children, even though those children are still alive" (Nickel, 1994: 639–640). This chapter aims for accounting for this loss in contrast to the gains of integration just described. Before doing that, let us look into whether mother tongue loss is unavoidable.

The case of sign language is instructive here. Historically, deaf people were stigmatised and incapacitated (Baker, 1999) and it was only once they claimed and achieved basic rights that they organised regionally and devised and invented their own sign languages. Languages are and can be created – no language has to be lost by necessity. Even when languages are deteriorating, this process can be reversed: the successful revitalization programs of Hebrew, Gaelic, or Maori are proof of this (Spolsky, 1999: 181) – whether languages die, survive, or resurrect is a matter also of political will and recognition. And these possibilities do not appear on van Parijs' opportunity-driven or Kymlicka's accommodationist radar. To reverse or slow down language losses and shifts as those described by Kymlicka is thus feasible *in principle*. What is clear is that family and intimate linguistic communities are crucial in this respect – it is the last bastion of a language before it has probably to surrender forever (cf. Fishman, 1991).

Even if mother tongue loss was unavoidable, this would not warrant speeding up the process against the interest of the concerned individual. The metaphor of *death* might be adequate here: that we are all going to die is no reason to be killed as soon as possible. Just as we have an interest in living a life as long as possible, so minority children have

[29] In a similar vein as Kymlicka, Carens (2005: 45) notes: "it is desirable, though I would not claim it is morally required, to provide public support for the languages of the immigrants (e.g., through supplementary heritage language programmes or other means)."

an interest in mastering their family language as long as required – the unavoidability of a certain language's death is no carte blanche to neglect its value. The next section takes up the challenge presented by Pogge (2003: 119) of offering a further “line of attack” which “appeal[s] to other interests of minority children (besides their interest to develop fluency in English).”

II. PARENTS' AND CHILDREN'S INTEREST IN THEIR MOTHER TONGUE

There are three views on the weight policy makers must give to parents' and children's linguistic interests. On one view, advocated by conservatives as well as some libertarians, the state needs to defer to parental decisions on a wide range of matters – from religious education to matters of life-style. This is partly because the parents have the right to transmit their culture, religion, and world view to their children, and partly because there are supposed to be the best interpreters of their children's interests. Reacting to this view, some give absolute weight to children's interest. They argue that whether some parents get to parent a child or not should depend on entirely whether this is in the child's best interest (Gheaus, 2016). Finally, Harry Brighouse and Adam Swift convincingly argue in their recent book *Family Values* (2014) that both of these extreme views are implausible, as both parents' and children's interest must count. And this is the moderate view I endorse here and apply it to the problem of language. Parents and children's interest are so intertwined and interdependent that it is not plausible to disregard the interest of either parents or children's to focus on either of them.

This section discusses those three views and starts with the view of children since it underlies the main accounts in the literature as we have seen in the previous section. It then proceeds to discussing parent's interest and their combined dual interest. Each part is made to coincide with learning only the local language, only the mother tongue, or both together. This mirrors the structure of the debate in the literature – parents against children, mother tongue against local language (e.g. Pogge, 2003: 118ff.).

A. Children's Interest In the Local Language

The main accounts in the literature justify mother tongue loss by reference to children's interest in opportunities in the local language. This section looks closer into such an interest and its limits in connection with the literature on family ethics more broadly. This will facilitate the focus on why and where parents also have a stake in the next section.

The need to master the common language through education as a way to prepare the

child for an autonomous and "responsible life in a free society" is enshrined in the 1990 UN Convention of the Rights of the Child (cf. article 29). And a society is free only if individuals can choose from a "diverse range of options" (Kymlicka, 1995: 216n19) what is best for them. The language of the dominant society offers a more diverse set of options than that of minorities to find an option that matches children's (later) preferences. They are better off by being socialised into the dominant culture such that

> "the handicap suffered by children whose mother tongue is different from the dominant one can easily be removed … by having children schooled from an early age using partly or exclusively a medium different from the home language" (van Parijs, 2011: 103).

Spelling out the structure of this argument helps distinguish the different elements that are implicit in this statement:

> if **(1)** the local language's wider range of options is in the child's best interest and
>
> if **(2)** speaking a non-dominant mother tongue at home is a "handicap" to (1),
>
> ——
>
> then **(3)** mother tongue loss is justified.

The present section A critically addresses the validity of premise (1), section B that of premise (2), and section C – consequently – conclusion (3). In this section, then, I show that the first premise is on the one hand based on a view that aims to maximise interests and, on the other, that it conflates options with interests. Let us turn to the first criticism.

Premise (1) links the number and kind of options with a child's interest in developing a sense of autonomy. Now, it is evident that the better a language is mastered the more opportunities it makes accessible[30] – becoming an administrator, journalist, lawyer, or linguist is only available with the relevant linguistic knowledge required for each profession. The link is that access to such additional options increases individual autonomy – children act *more* autonomously if they have a *higher* number of options. Children's *best* interest can be understood to be promoted only if they have maximal autonomy. Consequently, they will have to speak a language to an almost perfect degree that would allow them to become administrator, journalist, lawyer or linguist.

The problem is obviously that this is hardly feasible. Thought through to the end, such maximisation would require children to learn all languages of the world – a child's later preference might after all reside in any of the world's languages. Archard (2002: 156) uses an appropriate metaphor in this context: a child would need to know to play all

[30] Van Parijs (2011: 91ff.) calls language skills in this vein "economically relevant" and "productive".

possible music instruments in order to be able to freely decide which instrument she or he continues to play as an adult.[31] But playing all instruments or speaking all languages is impossible, be it for nothing else than scarcity of time. Moreover, individuals are still (and should be) free to pursue their conception of the good and create the according options in adult life. To be reasonably autonomous, a child need not have maximal number of options. Joseph Raz argues that individuals are the autonomous authors of their own lives if they have a range of valuable options (Raz, 1986: 370ff.) and not if others do not deliberately interfere in their actions (the so-called *negative* liberty). This range, which is required for individuals to have *positive* freedom or autonomy, must be "sufficient", "adequate", and hence above a threshold. Autonomy, Raz argues, is a satiable concept, and neither the number nor the quality of the alternatives needs to be maximised.

Brighouse & Swift's (2014: 86) also criticise the idea that only parents who have the right to parent a child are those who optimally serve his or her interest. Parents do not need to be perfect or the optimal transmitters of the local language. If this was the case, virtually all immigrants would be automatically disqualified as legitimate parents.

Let us focus now on a second and more conceptual problem of premise (1) which is that it unduly conflates interests with options. For agents can have interests which are independent of the specific set of options at hand – a basic interest is not to meet unfair conditions when choosing among options in the first place. Now, structural factors often limit minorities' choices. Consider, for instance, schools: while minority's children need between seven and ten years of special instruction to be able to compete with children of the majority, most schools impose standardised high-stake exams on all students after a couple of years only (Suárez-Orozco & Suárez-Orozco, 2013: 138; cf. also Polinsky & Kagan, 2007). But the structural disadvantage of immigrants' children goes beyond specific institutional make-ups. Discrimination undermines their basic interest to a degree that their parents have but one option to improve their offspring's situation when they

> "become aware of the difficulty of their full integration in societies that treat them and their cultures as second class. They thus stop the most natural practice of linguistic reproduction and quit speaking in their mother tongue to their children in the household to encourage them to learn the majority language, even when their own knowledge of it is precarious. They do this to spare their children from the stigma that they think they would otherwise encounter" (Rubio-Marín, 2003: 151–152).

But will abandonment of a mother tongue eliminate discrimination? It could, if it was only due to language. This is highly controversial, however, since discrimination is multidimensional and structurally correlated with other forms of disadvantage. Language

[31] This metaphor is particularly appropriate as language exposure has to be intensive in early years of infancy and childhood for the child to be native or native-like in those languages (e.g. Hakuta, 2001).

alone, without other social markers, does not suffice to create a disadvantage. If it did, then educated parents would not be so keen on their children's fluency in any language besides English. Unfortunately, fluency in another language is often accompanied by other markers associated with discrimination. For instance, only 20,8% of US households speak a language other than English, but they account for 42,9% of the low educated, 29,6% of those living below poverty level, and 38% without health insurance (Ryan, 2013). Moreover: speaking only the local language is no safe ticket out of these disadvantages. Bilingualism is thus neither necessary, nor sufficient for discrimination.

Overcoming discrimination-linked conditions is an interest children have which is prior to any increase in options. Children's options shrink in light of the disadvantage of their parents. Discrimination forces one to abandon one's language, with no guarantee of overcoming precariousness. Against such a conclusion, some authors argue that parents' poor local language skills feed into a self-perpetuating feedback mechanism where the "intra-community nature of family, neighbourhood, and religious ties" prevents geographical de-segregation, social mobility, and hence the acquisition of local language skills for their children (van Parijs, 2011: 266n45). Abandoning one's mother tongue is probably no definitive game changer, but, though insufficient, it is still a necessary step to overcome the bad effects of disadvantage, some argue.

My first response to this challenge is that eradicating discrimination as a cause of segregation still has to be the primary goal. But even if we assume that such discrimination was insurmountable and that we must assume realistic, non ideal conditions, the autonomy children gain in abandoning their stigmatized mother tongue would have to be traded off with their deteriorated relationship with their parents, as we shall see in the following section. It is true that bilinguals fare worse in certain respects compared to their monolingual peers: early confusion in literacy, less vocabulary in each language, generally slower responses to inputs, less semantic fluency, or regular difficulty to retrieve common words.[32] Speaking two or more languages affects thus the interest of children in having a smooth upbringing. However, these disadvantages in spoken language[33] are normally offset by the age of five (Bialystock, 2001: 232) or within five years of being immersed in the dominant society (Tran, 2010). The success of such bilingual upbringing is a function of the degree of stimulation and the adequacy of institutions.[34] The mother tongue, in turn, flourishes if it is used across different generations at

[32] Cf. Bialystock (2001), Costa & Sebastian-Gallés (2014). These authors attribute several cognitive benefits to bilingualism. I will address those benefits and their implications for schools in chapter 2.

[33] It is up to ten years with regard to writing skills but depending highly on context, e.g. parents' literacy, exposure in informal settings, or quality of instruction (cf. Suárez-Orozco & Suárez-Orozco, 2013).

[34] As to the environmental factors, cf. Tran (2010: 260–261), and as to institutions, cf. Bialystok (2001: 224): "bilingualism does not singularly depress the possibility that children will achieve at school, providing that the school program is designed to be responsive to the special needs of these children."

home (older siblings or grandparents) but also if it is taught at school or when linguistic enclaves are close by (Tran, 2010: 262–263). In any case, speaking a non-dominant mother tongue does not necessarily deteriorate skills in other languages.[35]

In short, do we have sufficient reasons to push mother tongues aside by appeal to the interest of children? I have argued that we have not, because children also gain considerably from the free tuition that their parents provide, and children's future opportunities and autonomy may in fact be better if they learn their mother's tongue. The strongest argument against my conclusion is the risk of discrimination, but failing to learn one's mother tongue is neither a necessary nor a sufficient factor in avoiding discrimination. It is problematic on a more fundamental level to deny minorities something on the grounds that they may be unfairly discriminated against by people with the wrong values and attitudes.

B. Parents' Interest In Their Native Language

The first naive question one may ask is "Why are immigrant parents not simply learning the local language themselves?" Unlike deaf parents, they can speak and take up their duty to integrate. The difference between immigrant and deaf parents is not so great however. First, deaf individuals can actually lip-read and produce speech. In addition, most have been interacting with the speaking world their whole lives. This is not generally true of immigrants, many of whom heard the language they must now learn for the first time as adults. Moreover, while the deaf may have had social help and plenty of time to learn, immigrants are often learning after a many hours of work. And the conditions in many countries of origin can also vary: an illiterate immigrant might face far greater difficulties than a well educated deaf person born in a developed society.

Adult immigrants always face limits to integration – they will quite probably have an accent during their life-time and an incomplete vocabulary. Research has shown that immigrants' proficiency in the local language is better if they are young, have gone through higher education, are not refugees, come from farther away, and had prior exposure to the local language (Chiswick & Miller, 2007: 28–29). Many immigrants do not satisfy this list and will hence feel more comfortable speaking in their mother tongue.[36] And this matters, first, for the fulfilment of their parental role and second, contrary to what premise (2) above suggests, for the enhancement of minority children's

[35] Bilingualism or multilingualism is still largely under-theorised and under-researched although globally there are more bilinguals than monolinguals (Bialystock, 2001: 248; Skutnabb-Kangas, 1988: 11).

[36] A perfect mastery of grammar is no guarantee to overcome discrimination either, cf. Bialystock (2001: 240): "Proficient speakers will obey the nonlinguistic rules of use, including turn-taking, deference rules, and formality restrictions, just as carefully as they will the structural rules of grammar."

autonomy.

Consider first the fulfilment of their parental role. Parents are the principal care-takers of their children.[37] Even if they belong to a minority community, they are entitled to use their language with their offspring (cf. article 30, 1990 UN Convention). They are also entitled to defend children's mandate before reaching legal age as long as no “physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation” is inflicted on them (article 19). Parents are in fact most suitable for this role since even well-intentioned institutions in affluent countries have performed poorly in child-upbringing (Brighouse & Swift, 2014: 13). In line with these permissions and restrictions, imagine some parents who want to perpetuate their native language either for the sake of the language itself – or its linguistic group – or as a way to include their children in their life plans.[38] They live in isolation from other cultures and their child is only able to communicate with its parents' small community. While maximising children's options is unwarranted, is it permissible if their parents minimise these options instead?

When discussing legitimate parental discretion, Thomas Hobbes' view is an instructive illustration since he grants parents absolute power over their children. For him, children are to parents what slaves are to servants: objects of subjection.[39] However, these liberties need to be in line with Hobbes' overarching contractual theory. But children, in contrast to slaves, acquire the capacity to consent only gradually while becoming adults. It is thus legitimate for parents to follow their own interests as long as they also serve the child's “best interest” (King, 1998: 82). In contrast to children's interest as elaborated on in the previous section, under such Hobbesian terms this interest clearly encompasses parents' legitimate authority over their children – being the most adequate custodians while children grow up, they have wide discretion. This is a matter of necessity but also of desirability. But it does not imply that this authority is absolute:

> “Even if the child needs to be enrolled into certain convictions, it does not follow that those convictions must be comprehensive in character. For example, parents might give their child a sense of identity, a sense of belonging to a particular societal culture, by imparting its language” (Clayton, 2006: 120).

By “comprehensive” Matthew Clayton is here referring to John Rawls' idea of a moral view which need not be shared by all reasonable agents. The question is then whether and to what extent the transmission of parents' native language is non-comprehensive.

[37] Im leaving aside the issue of whether parenthood has to be genetic or merely custodial.

[38] Archard (2002: 143ff.) elaborates on the first as a “group-strategy” attributing it to authors like Charles Taylor, and the second as a “parenting strategy” as defended by, e.g., John Locke or Robert Nozick. Archard favours a third “family-strategy”. This chapter applies his argument to language.

[39] Cf. King (1998) for a discussion of Hobbes' account of parental authority and filial obligation.

For sure, children are no objects to be moulded according to their parent's desires (Archard, 2002: 146–149); they have legitimate independent interests. Parents' discretion depends on circumstances and intentions – the case of a child being born into an isolated community is morally different from a case of the parents deciding to isolate him or her. Parents' reflections have to be traded-off with the child's interest in a sufficiently "open future" (Feinberg, 1980). And options are sufficient when parents could have reasonably been expected to provide their children with them.[40] While a child's interest does not have to fully overlap with his or her parents' (Rubio-Marín, 2003: 148), there is a deep interdependence.

Children can gain autonomy whilst satisfying their parents' interest in parenting in their own language. As in Kymlicka's *accommodationist* position, we have a reason to endorse the family as a legitimate place for children to acquire their first language: Cummins' (1979) "threshold thesis" shows that good mother tongue skills have a cumulative effect on learning further languages (cf. Hakuta, 2001: 194ff.). Moreover, natural language acquisition is uniform and resistant to variation in the environment until the age of six, decreases steadily during puberty, and becomes rare thereafter (ibid.). If these empirical facts are robust, premise (2) of the argument justifying mother tongue loss cannot be upheld – speaking a non-dominant language at home is no necessary "handicap" for learning further languages. And to learn the local language well enough is also a crucial function of sufficient input in the local language where peers might matter more than parents (cf. Miller, 2009: 101n34). Just as with the earlier point on discrimination, the problem here is missing interaction due to segregation and not that a minority language is spoken at home. If parents could afford to live elsewhere but chose to live isolated among their kind, they unduly limit their children's autonomy.

Parents can thus pursue their interest in raising their children so long as this is consistent with treating the children as more than just mere means. Speaking their native language does not undermine children's interest but potentially even enhances it. These considerations establish what is permissible for parents. In closing this section let us look into one aspect that undermines the authority, especially of immigrant parents. Just as pointed out in the introduction, migrant just as deaf parents (Singleton & Tittle, 2000: 230) depend on their children to interact with the majority society due their lack of skills in the dominant language. And this dependence undermines parental authority and hence parents' and children's interest. While school immerses migrant children into local culture, their parents are more

[40] Cf. Archard (2002: 156): "It seems more plausible to offer a satisficing interpretation of a child's open future. She should have *enough* autonomy to be able to make reasonable life choices."

"removed from these new cultural realities, particularly if, as many do, they work long hours in enclaves with other immigrants who tend to be of the same linguistic, ethnic, and national background … As a result, making a family U-turn, parents now find themselves asking their children for help and guidance on the linguistic and cultural nuances of the new society … If parents' authority is undermined, if their voices lose meaning, and if the children lose respect for them, the very foundation of safety and family coherence is compromised" (Suárez-Orozco & Suárez-Orozco, 2013: 148–149).

This "family U-turn" is stronger the less authority parents have over their children and the less we attend to their interest in parenting in the native language. Yet, it should not go against children's interest in a sufficiently open future. The goal must thus be to reconcile both interests and explore the feasibility, desirability, and limits of bilingualism.

C. Children's and Parents' Combined Interests In Bilingualism

A purely child-centred view risks to focus on maximal options, and a purely parent-centred view can degrade children to mere means. The framework of family – and its intimate, innate, and emotional nature of attachment – combines both interests while avoiding extremes. The special kind of interdependence between the child and her parents creates a good that otherwise would not obtain: well-intentioned parents desire to accompany their child, familiarise with its behaviour, regulate its instinctive reactions, and attend to its needs throughout childhood (Brighouse & Swift, 2014: 72ff.). Children need a smooth start in life and stable company in growing up and achieving autonomy.

Families "often strive to create and maintain shared enthusiasms, projects, and interests" (MacLeod, 2010: 143). And such commitments form an identity of "familial unity or solidarity" in children. This influence of parents creates a "normative warrant" of responsibility in "devoting special moral attention to their relationship with their children" (id.). Families' intrinsic interdependence of interests and duties is based on "familial unity or solidarity". Their development enhances a child's present and future autonomy in a society where all children are brought up in families and have internalised a sense of solidarity. And unchosen family is the most adequate and effective place for this to happen.[41] Were it chosen, it would lose its robust and immediate character of mutual solidarity and trust that enables children to "unselfconsciously" negotiate conflicts within their home and wider culture (Brighouse, 2002: 49). Growing up in a family makes children emotionally dependent; but it also provides an "anchor of self-identification" and the safety of an "effortless secure belonging" (Raz & Margalit, 1995: 86; cf. also Nickel, 1994).

[41] Cf. Archard (2002). Families have outperformed most conceivable alternatives as orphanages in equipping children with "the emotional resources to sustain healthy relationships" (Brighouse & Swift, 2014: 13). Even parents attending to children's interests insufficiently are the "best hope".

Using their mother tongue, the language parents feel comfortable in, is indispensable for building such a family identity through *effective parenting*. Children have to be able to feel proud of their parents, respect them, and listen to their advice. Being bad judges of what is best for them at a young age, they lack an interest in non-interference. This interest gradually transforms into one of guidance as adolescents since they are prone to hasty decisions driven by hormones or rebellious desires. Children are more likely to go astray, if social factors such as discrimination, poverty, but also missing linguistic skills undermine their parents' ability to effectively discharge their duties and pursue their parental interests. While in the past people would have employed strenuous physical activity or corporal punishments to keep children from going astray, nowadays a new, widespread, and preferable pedagogy is employed which relies almost exclusively on the spoken word, on argument and persuasion, and careful combination of emotional and factual description of the status quo. The main, if not the only educational tool parents have is thus their language. Parents who regulate the behaviour of their children in a foreign language are more likely to get words wrong or mispronounce them in a way that children will be aware of, might feel ashamed of, or even laugh at. Effective parenting requires parents to master the language in which they parent and to avoid seeing their authority undermined by mistakes which are too obvious to their children.

Raising a child requires constant and immediate parental oversight and control leaving no room for a mediating third party or dependence on external means.[42] Appraising or sanctioning a child's actions is least ambiguous and hence most effective when parents have full confidence and mastery over the uttered content – the channel of communication has to be unfiltered. The absence of such a channel creates a barrier not only to efficiency but also *authenticity* in the special relationship between children and parents. This is not merely a descriptive but a moral claim – parents should be able to bring their children up in the language which they are most competent in.

In the transmission of mother tongue, parents act as "teachers" – children acquire their first language through continuous and intimate exchange with their parents. Their interests and convictions matter and they should *in principle* be free to choose any language in raising their children as long as they learn the local language and have a functioning family. But my concern here resides with parents who are not confident enough to parent well in a language other than their native one – the argument is about working-

[42] Willoughby (2009) describes the case of of *deaf immigrant children* where different languages overlap: most migrant parents were told to use *only* the spoken language of the receiving society with their deaf children in order to minimise exposure to *different* spoken and signed languages. This proved, however, highly detrimental to family interaction because those deaf children were cut off from all family interaction which still and naturally took place in the mother tongue of those migrant families.

class low-skilled migrants, not so much multilingual expats. Effective parenting serves both the parents and the child's interests. But the family language can also produce other family goods for minority families. Imagine a family shopping clothes for going to school. They can freely discuss in their language which others are likely not to understand how to dress for different occasions, how to blend in, or how to counterbalance prejudices towards their minority. For minorities, being able to go out together in the wider society communicating in their language creates a feeling of intimacy, complicity, and security that they could not have if they had to speak the main language all the time.

The family goods that materialise through this sort of interaction are confidence, mutual respect, and pride, a safe-haven that feels familiar and comfortable, and an intimate place of solidarity and compassion – home. And these goods are brought about mainly by parents and their children, the *core* family. But prospering relationships with the *extended family* or friends can be of equal relevance for both parents and children.[43] Depending on the specific background, grandparents, for instance, can take an important role in creating such a place and its goods. Let us distinguish between passive and active language skills to illustrate how partial mother tongue loss can affect family goods.

A child can actively speak the institutional language while merely understanding its mother tongue. Parents who passively follow the local language could then still meet their custodial duty but family goods would flourish less. Interaction with those members of the extended family who do not master the dominant language at all would degrade even more: the child would understand its grand-parents, relatives, or its parents' friends without, however, being understood. And the extended family normally not only uses the parents' native language but it also forms the informal network for child care or household help, the primary community of a child's socialisation, and a source of emotional or material support. To the extent that the child spends a significant amount of time of his upbringing with the extended family, mastering the family language not only passively but actively is in the interest of parents and children. This would ensure more intimacy, trust and solidarity in the wider family.

III. BALANCING FAMILY LANGUAGE AND OTHER GOODS

The above section discusses children's and parents' interests in goods that arise from using the mother tongue in family interaction. It concludes, however, that both have a common interdependent and deep interest in those goods and hence family language.

[43] Cf. Brighouse & Swift (2014: 159–161). Carens (2013: 179–180) grants receiving states discretion over deciding how important such “secondary family ties” are to demands of family reunification. The following lines suggest that this statement has to be more qualified, at least on the basis of language.

Yet, this only settles part of the question since those interests have to be weighed against preserving a child's autonomy. But to do so by setting parents' and children's interest as competing with each other is somehow artificial. For, parents have an interest in their children doing well, and children have an interest in their parents being able to parent them effectively. Though Raz and others employ the term autonomy to refer to the availability of a sufficient range of valuable options, autonomy is also understood in terms of one's capacity for self-rule, or auto-control. And effective parenting is essential for children to become autonomous in this sense and eventually direct and manage their lives well in the absence of parental guidance, without falling into the heteronomy of drugs, gambling or sects. So this opposition in terms is somehow artificial. But if languages crowd each other out, particularly when there are more than two, the trade-off still remains. And some may respond to my claims about the importance of one's mother tongue in family life by limiting them to oral but not written language. Others may argue that setting mother tongues aside is no major loss given that being merely oral, they are only inoperative and limited languages, or "halves" of complete language skill sets.

My response would be to set these two criticisms against each other. Regarding the second, while I disagree that merely oral competence is valueless, I agree that in our world, literacy is of utmost importance. And so my response to the first criticism is that families function in a world where communication takes place increasingly in written form: writing e-mails, sending whats-app messages, replying to tweets, updating one's Facebook status – all those aspects have pervaded family interaction. And children illiterate in their mother tongue will face similar consequences in *those* aspects as children who only understand it passively but do not speak it: a limited scope of family interactions especially with members of the extended family and hence an increased strain on the creation of the goods of family. If children do not learn how to read or write their mother tongue, they may also be unable to understand simple grocery lists, newspaper articles on events in their family history, intimate family documents, but also written stories told by their grandparents – part of a heritage that creates a sense of belonging.

These are further aspects of children's interest in their mother tongue against which considerations in favour of the local language have to be balanced. This trade-off goes beyond questions of language, however. The time and effort spent on learning languages can interfere with other necessities of a child such as playing with others. Playing is extremely important for a child's physical development, but also to learn to navigate the social sphere and develop a sense of fairness. And this capacity is undermined if a child is basically busy discerning the contexts, reference persons, and norms that come along with all the languages he or she has to learn. The options and autonomy of a child do not depend on language only – such an exclusive focus crowds out other essential aspects of

child upbringing. The discussion should thus focus onthe question of the extent to which children should learn and master a language.

Children's interest in their mother tongue can be of scalar nature and it is basically a function of their parents' capacity and will to use other languages instead. This latter point has been made in the literature (Laitin & Reich, 2003: 97–98) without, however, elaborating on *why* parents should be granted the liberty to use their mother tongue. Other authors like van Parijs or Kymlicka, on the other hand, have reduced children's interest mainly to the local language. And while this chapter has been started as a criticism of those latter authors, it has in fact connected both considerations.

The result – children's interest in both family language and access to the options in the dominant language – is actually compatible with the overarching theories of van Parijs and Kymlicka if other strands of their theories are focussed on. For Kymlicka himself considers the unqualified transformation of all immigrant children into monolingual speaker of the local language a "deeply misguided" policy: it "unnecessarily" cuts minorities off from their family heritage, has proven "counter-productive" to promote integration, and even illustrates "an undercurrent of racism" that relates immigrant languages with "poverty, low achievement and disloyalty" (Kymlicka, 1995: 97; cf. also van Parijs, 2011: 196–198, 250n31). Their endorsement of mother tongue education is essential if we put emphasis on this aspect of their theories. Yet, even in this context there are further considerations which might lead to another adjustment of their theories – considerations which go beyond a strict family perspective and focus on the value of immigrants' languages for the receiving society. This is the discussed in the next chapter.

IV. CONCLUSION

Some believe that immigrant families who speak another language should abandon their mother tongue and raise their children in the national language exclusively. This attitude is unsurprising in conservatives with assimilationist tendencies, but it is also found in the left, among those who believe immigrants' mother tongue disadvantages children, who cannot then compete with children raised in the dominant national language.

In this chapter, I have addressed a number of normative and empirical arguments against this view. Employing empirical data, I have argued that monolingualism is neither necessary nor sufficient to avoid discrimination. Factors like race, poverty, location, and other social markers are more strongly associated with discrimination than linguistic competence is by itself. Rather than being an unavoidable source of disadvantage, bilingualism might have overall benefits for children which I discuss in the next chapter.

From a normative perspective, I have argued against giving lexical or exclusive priority to the interest of the child. Instead, I have endorsed Brighouse and Swift's dual interest account, that gives weight to the interests of both parents and children in virtue of their deep interdependence. Even if children have a clear interest in becoming an autonomous adult, autonomy requires an adequate range of acceptable options, not an optimal and maximal set. Moreover, failing to learn one's mother language may decrease, rather than increase one's autonomy. What can contribute further to a child's future autonomy, I have stressed additionally, are the various mother-tongue dependent family goods and effective parenting. I do not argue that a child's interest in his or her mother tongue is therefore more important than the interest in learning some local language, but it is sufficiently important not to disregard it. The former interest should be weighed against other interests, including the child's interest in learning an official language as well as, for instance, her or his interest in playing. Once we accept this framework, more specific aspects of different cases (such as the number of speakers of his mother tongue and the official language) may incline us towards one direction or another. Further arguments in favour of pursuing bilingualism are discussed in the next chapter.

Chapter 2

The Gift of Babel. Language Policies and Immigration

INTRODUCTION

New languages are learnt more efficiently if you are: first, surrounded by and interacting with native speakers; second, at a young age; and third, already bilingual. Some react to these sociolinguistic findings by questioning the point of learning several languages in the first place and argue that English as the common global language is more useful. Others endorse the benefits of multilingualism and rely on expensive classes and language stays abroad. Since not all can afford this, others again have suggested cheaper and more equally spread measures such as a ban on dubbing movies in foreign languages (van Parijs, 2011: 109ff.). However, few have thought of a more immediate and socially useful way to go about this goal: making children learn the mother tongue of one's allophone neighbours. And even fewer people would believe it to be a sensible general educational policy to teach all students the languages of linguistic minorities in a diverse society. This chapter explores its possibility, benefits, and limits nevertheless.

Having argued in the previous chapter that bilingualism in the *family* is feasible and desirable, this chapter explores the scope of this argument for *society* as a whole. It claims that multilingualism is beneficial individually and collectively, and that policies should also focus on mother tongues that are not territorial or as global as English. Integrating immigrants' languages into the school curricula might actually expand these benefits especially to children of monolingual nationals. It then discusses these claims against the background and in contrast to van Parijs' theoretical framework.

Now, a precondition of multilingualism is linguistic diversity which, as is widely acknowledged, is in drastic decline.[44] But the question is whether this is necessarily bad – a world with a single language would be not only a simpler but arguably also a better place – all problems, barriers, and avoidable necessities deriving from mutual unintelligibility would be gone. Indeed, the persistent unavailability of a common language painfully reminds us of Yahew's curse for building a tower of godlike aspirations in biblical Babel.[45] This story implies that it is “natural” to have only one language while per-

[44] Cf. Krauss (1992), May (2009), Nettle & Romaine (2000), or Patten (2003).
[45] See Coogan (2012: 52) for a plain English interpretation of the relevant passage in Genesis.

sisting multilingualism is anachronistic, burdening, and to be overcome.

Theories, in turn, that celebrate the reality of linguistic diversity are scarce or do so in contrast to a monolingual standard.[46] This paper aims at filling this gap by extending and complementing van Parijs' account where it is least elaborate: immigrants' languages. It proceeds as follows. Section I introduces his theory. Section II deals with its problems and shows how in its current formulation it does not provide enough arguments against monolingualism. Section III discusses the empirical benefits of multilingualism which warrant a further exploration of multilingual regimes beyond those suggested by van Parijs: section IV vindicates a regime that gives more weight to family languages and migration against his criticism. Section V offers concluding remarks.

I. VAN PARIJS' DIVERSITY: ENGLISH AND TERRITORIALITY

Van Parijs is unambiguous in his stance on linguistic diversity: the inhabitants of Babel – after Yahew's confusion of tongues – are "paradigmatic victims" of the "cacophony" or the "handicap" of linguistic diversity compared to the efficiency of a "shared language" (van Parijs, 2011: 263n28).[47] This section elaborates, first, on the three main values of his theory – efficiency, parity of esteem, and liberty – to explain how he arrives at this conclusion. It then elaborates on why van Parijs opts for a territorial regime.

A. Van Parijs' Values: Efficiency, Liberty, and Parity of Esteem

For van Parijs, efficiency is primary to achieve individual equality of opportunity.[48] Equality here applies to the access to basic resources to which language is key: the more jobs are available in a certain language, the higher the number of media or web contents individuals can access, and therefore the deeper the solidarity between people able to communicate with each other – the more they can multiply their opportunities. And these opportunities are maximal with a global common language, a *lingua franca*. For van Parijs, English (rather than, e.g., Esperanto) is the best candidate for this purpose because it is the most widespread additional language which is learnt in the world. English is spoken by a *maximum* number of people on the globe *sufficiently* well. It is thus the language in which individuals are most likely to communicate successfully. This circumstance explains the factual convergence towards English as the lingua franca. This

[46] Cf. Patten (2009: 103): "…the case for state monolingualism is widely accepted and fairly compelling." As to the history of this "modernist" monolingual norm, cf. Bauman & Briggs (2003).

[47] Cf. van Parijs (2011: 263n28). I shall use the term diversity as "alpha-" or "local diversity", i.e. the presence of different kinds within and not across a unit – a state, a city, or a neighbourhood (id.: 186).

[48] Van Parijs (2011: 50ff.) also discusses "fairness of cooperation" between *communities*, i.e. the contributive duties of native speakers towards non-native learners. I address this aspect in section III.C.

is why English *should* be learnt to maximise opportunities of individuals, including those that are among the least advantaged. Thus, van Parijs (2011: 13ff.) calls English the "maxi-min language" towards which the world is and should be *converging*.[49]

Now, languages stand in natural competition to each other. That is, if the "maxi-min dynamics" of the lingua franca was allowed to take its course, few other languages would survive over time. But language is not only instrumental as just described, but it also carries symbolic value of identity or dignity. Van Parijs (2011: 117ff.) gives this consideration the necessary weight with his notion of "parity of esteem" according to which

> "people must not be stigmatized, despised, disparaged, humiliated by virtue of their collective identity, that is of the social category to which they happen to belong in their own eyes and the eyes of others, for example … their linguistic community" (van Parijs, 2011: 119).

Speakers of other languages should not have to "bow" systematically and unilaterally towards the lingua franca or other dominant languages. In order to protect this "equal respect irreducible to the distribution of opportunities" (id.), van Parijs (2011: 133ff.) grants groups the right to impose their language as a "Queen" in media, education, and administration of their political and linguistic circumscription. The opportunity-based need to promote a global *lingua franca* is hence only conditioned by a complementary "territorial coercive regime".[50] Van Parijs thus defends a "hybrid" account of linguistic justice where weaker languages can be "asymmetrically" privileged in institutions to the degree that the maxi-min dynamics of any more dominant language exerts pressure.

Van Parijs "territorial language and English" model aspires to avoid "colonial attitudes" as violations of parity of esteem (van Parijs, 2011: 139ff.) and "kindness-driven agony" as an unconditional subjugation to the maxi-min dynamics (id.: 142ff.). To implement this regime, a democratic consultation (rather than, e.g., a linguistic census) has to be organised, which is "most favourable to the weaker language that is meant to be given territorial protection" (id.: 169).[51] But the resulting linguistic diversity is, "for the foreseeable future, a [mere] by-product of the pursuit of linguistic justice as parity of esteem" (id.: 206). Van Parijs therefore does not endorse linguistic diversity as such.

This leads us to the third value of his theory, next to efficiency and parity of esteem:

[49] Van Parijs (2015: 239n2) rejects a "normative" endorsement of the max-min dynamics. But since his *normative* embracement of English seems to fall or stand with its *empirical* maxi-min power, I shall assume it here nevertheless while recognising that it is not about English (rather than, e.g., Esperanto).

[50] A regime is "a set of rules" and no full-fledged theoretical principle (cf. van Parijs, 2011a: 54). It allows to "intervene in the spontaneous competition between languages" (van Parijs, 2011: 140).

[51] If some immigrants' languages qualify as such "weaker languages", van Parijs should have no problem with the following statement by Anne Stilz (2009: 284): "if a heavily Spanish-speaking school district in New York, for example, or a town council in a heavily Polish area of Iceland, votes to make Spanish or Polish the local language and to educate their children in it for part of the school day."

liberty of choice. Linguistic groups should be free to use their language as long as they are able and willing to pay its fair cost. There is thus no complaint in "fair resignation" to one's language becoming less common. As van Parijs puts it, the "vanishing of a language must be accepted. This may be sad, but not unjust" (id.: 172). Fairness applies when global wealth is distributed as to allow equal initial resources to pursue opportunities. Our current world is obviously far away from this goal. But the quicker we move towards it, "the more numerous the languages that will be territorially protected before it is too late" (id.: 174). Territorial protection might still not be equally affordable to all communities since van Parijs (2011: 88) rejects equality of outcome. And this brings us to the question of why this protection cannot be but *coercive* and *territorial*.

B. Unsuccessful Alternatives to a Territorial and Coercive Regime

This protection has to be *territorial* due to its interdependence with other relevant policy fields (e.g. mobility, education, employment) which van Parijs summarises recommending that groups "grab a territory!". This conclusion follows from the insufficiency of all alternatives which van Parijs (2011: 133ff.; cf. also Kymlicka, 2001: 73ff., 174) discusses. These alternatives are a more liberal "accommodating" regime with no "Queens" and a "categorical" regime where not territories but people's native languages mark the starting point. Let us address each in turn.

In an "accommodating regime" no group is granted any privilege and languages compete freely. It thus clashes with van Parijs' (2011: 246n10) territorial *coercive* regime. One reason in favour of such a non-coercive regime is that regimes imposing a language are not unlike regimes imposing a religion. Liberals should thus reject both (Hossein, 2016). One possible response would be to say that while the state can be secular and leave religion to individuals, it cannot "dis-establish" the la nguage in which it functions. In reality, however, states around the world have changed their official languages for political reasons (Mosterín, 1993). In addition, the state can chose or decide by referendum to have only one or more official languages in all or only parts of its territory just as it can accept English as a co-official language. Therefore, even if the state must function in a language the people understand, and even if establishing a language was not like establishing a religion (Kymlicka & Patten, 2003; Patten, 2003; cf. also van Parijs, 2011: 88–89), this does not mean that the state cannot be neutral in this respect.

The best approximation to state neutrality in linguistic matters might be not to intervene and "accommodate" the public language that best fits people's current linguistic preferences. The appeal of this regime is especially clear in the case of what *additional* languages individuals can learn next to whatever the public language is. Suppose for ex-

ample that in addition to the whole world speaking English as van Parijs proposes, people are allowed to choose the language they prefer. Some might choose their minority mother tongue, others "historic" or otherwise valuable "prestige" languages (Bialystok, 2001: 235), and others artificial languages such as Esperanto or Klingon.

The reason why van Parijs rejects such a "hands-off" regime is that he believes it would violate parity of esteem even in the presence of English as a public language and a "second-language-market". With equivalent standards of teaching (material, personnel, etc.), the languages spoken by few will be accessible at high prices due to economies of scale. Agents will try to maximise their opportunities and thus learn those languages with most speakers – Mandarin, English, Hindi, or Spanish. The number of available additional languages taught is thus likely to reduce and indirectly affect the availability of other choices (van Parijs, 2011: 133–134; cf. also Kymlicka, 1995: 51–52). This might eventually result in a world where only English and Mandarin are spoken – a massive violation of parity of esteem towards all speakers of other languages, in van Parijs' view.

This is why van Parijs (2011: 134) considers that a *territorial coercive regime* with one or very few "*official*" languages is the best alternative. Its coerciveness serves to protect parity of esteem and it applies in four dimensions: the *extensiveness* of the legally constrained freedoms, the *ambition* of how many languages are learnt and to what extent, the *generality* or permissibility of exceptions, and the *severity* of sanctions for infractions (id.: 134–135). A fully coercive regime would thus impose the usage of the territorial language even in the private sphere to a native-like level with no exceptions but harsh punishments for deviators. Van Parijs does not go that far.[52] Along each of the four dimensions liberty can be traded-off against coerciveness. This brings us to the second, equally coercive, regime which van Parijs rejects but will be important later-on.

A *categorical* regime would organise its policies in dependence of the personal mother tongue of citizens or the group into which one is born. Van Parijs rejects this option since it unduly intrudes into personal liberty of choice and leads to an "apartheid-like set up, with separate schools, associations, and media" where groups segregate along socio-economic and corresponding linguistic lines even in the presence of redistributive measures (id.: 148). Such "personal federalism" (id.), he argues, would thwart linguistic interaction between groups, the desirable spreading of English, and hence individual opportunities. Van Parijs' (2011: 135) rejection of a *categorical* regime involves that the

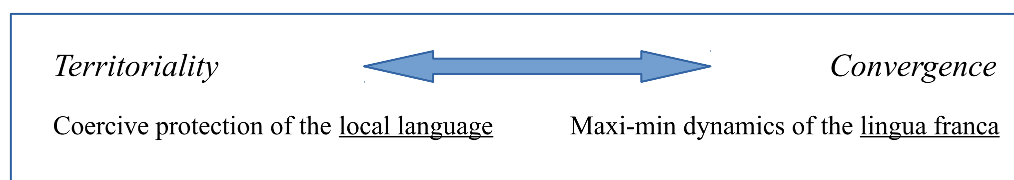
[52] The reason why I mention this extreme option is that the *public* discourse points in that direction. For instance, the CSU, the coalition party of Angela Merkel's current government, proposed in 2014 that immigrant families better speak German at home (cf. http://www.bbc.co.uk/news/world-europe-30380970, last access: 7/11/2015). In contrast: no *political* party that I am aware of has yet written a report on why local families should speak English at home.

territorial "Queen" therefore has thus a most immediate and "binding" effect on immigrants: public institutions have to be designed such that "allophone newcomers" can "reasonably be expected … to muster both the courage and humility to learn the local language" and to accept that their children are educated in this language (id.: 141). He wants to avoid that it is always the same speakers of territorial minority languages who do the linguistic "bowing".[53]

That immigrants have to bow nevertheless and that parity of esteem does not apply to them are justified for van Parijs on the basis of *reciprocity*. Immigrants should integrate to the same extent as nationals would were they to settle in immigrants' country of origin (id.: 149ff.). The next chapter engages with this argument in depth. What matters for now is that for van Parijs the territorial group has to facilitate institutions that allow immigrants to learn the local language (id.: 151). This is compatible with the idea of immigrants' language classes (id.: 196ff.) as long as they do not undermine learning the territorial language (id.: 266n42) and hence in line with argument from chapter 1.[54]

The combination of efficiency in opportunities, parity of esteem, and responsible liberty of choice leads van Parijs to celebrate the increasing global role of English. Beyond, there should be "space for the equal (pro tanto) recognition of all native languages present in a territory while asserting the legitimacy of constraints favouring the locally dominant language" (van Parijs, 2015: 236). This means that neither an "accommodating" nor a "categorical" alternative regime applies. However, a territorial majority might have good reasons not to impose its native language on a territory, as we shall see in the next section. In sum, van Parijs three values can be traded off against each other in various ways when considering the implementation of concrete policies and institutions, which leads to a range of options within a wide *spectrum* (van Parijs, 2011: 161ff.). The question is how to *efficiently* trade off territorial protection that ensues from *parity of esteem* and maxi-min convergence as implied by endorsing the value of *liberty*:

Figure 1: Van Parijs' spectrum of political and institutional possibilities



[53] He does not justify this consequence by reference to national sovereignty as we shall see in chapter 3.

[54] For van Parijs (2011: 196), mother tongue classes serve mainly parity of esteem unless they coincide with "valuable" "world languages" such as "Spanish, Arabic, Turkish, or Bengali." Some immigrants, however, meet structural difficulties: the Spanish-speaking community in the US, e.g., founds relatively fewer bilingual schools because its members have lower education and because of it less confidence in collaborating with authorities to obtain the necessary school permits (Fishman, 2001: 92).

II. A PROBLEM WITH VAN PARIJS' VIEW: BABEL IN REVERSE

This section argues that van Parijs' views may ultimately lead to a monolingual world. For, his principled abstention from endorsing multilingualism is due to his efficiency-driven sensitivity to cost. In a world where all people mastered English well enough – van Parijs' declared goal – learning any other territorial language is ultimately not cost-efficient, not required for equal opportunities, and not warranting personal liberty. Why should anybody, be it an immigrant or local, have to take up the opportunity cost of learning the "expensive" local language? Van Parijs is aware of the tension between the convergence towards English and the avoidable cost[55] which the right to a territorial regime involves. For him, it is possible that

> "only a few linguistic communities will be able or choose to exercise this right – at the limit none at all, which would give the lingua franca free rein" (van Parijs, 2011: 173).

However, van Parijs' logic does not only allow this outcome. Van Parijs is astrong advocate of the liberty to decide what a "good life" consists of (id.: 88). And individuals may see no reason against adopting exclusively the maxi-min language. While agents still have the right to pursue their actual preferences towards their territorial mother tongue, it has to be closely related to why it is good for the agent or at least not bad for others. And the bulk of van Parijs' positive reasoning is a defence of English as a global lingua franca. His elaboration on the coercive territorial regime, in turn, is less convincing since it does *not* engage in a discussion of its drawbacks, for examples, for immigrants. Little in van Parijs' account gives individuals positive reasons to uphold such a preference beyond their liberty to have such a preference. And it might be intentional: van Parijs (2011: 148) considers current nations – the relevant territorial basis for coercive regimes – not "sancrosanct" but constructs that have primarily to serve the pursuit of justice. While chapter 3 will return to this question, note that his scepticism towards nations does not dispel but rather supports his implicit endorsement of monolingualism.

Van Parijs (2011: 144) himself presents this issue as a prisoner's dilemma: either you *cooperate* using the minority mother tongue or you *defect* using the majoritarian lingua franca. And the coercive territorial regime levels out the playing field in view of maximin tendencies and parity of esteem. Now, rational and reasonable self-interested agents who have been convinced by van Parijs' analysis on the value of English might experience this dilemma in opposite terms: they want to *cooperate* to create and enjoy a global lingua franca but the coercive regime forces them to *defect* since the territorial language

[55] Generalised bilingualism often precedes the death of the weaker language (van Parijs, 2011: 261n17).

is a Queen that holds them hostage. A coercive regime might illegitimately hinder some nationals to switch deliberately and freely to the lingua Franca.

In sum, van Parijs' reasons in favour of English – its usefulness and necessity in supranational contexts – outweigh the reasons in favour of local Queens. Individuals can obviously require their mother tongue to be respected. But they are and should be free to pursue their individual opportunities as long as they respect parity of esteem towards *others*. Not discriminating and not being discriminated against is independent of individually and freely deciding to speak English instead of ones's mother tongue. And this is what van Parijs implies – the territorial regime seems ultimately a temporary fix in a world converging towards English where diversity has mere transitional value:

> "The reason why linguistic diversity must be preserved is not that it is intrinsically valuable, nor that a persuasive case has been made for its having, all things considered, beneficial consequences" (van Parijs, 2011: 206).

Van Parijs' hybrid account is not strong enough as not to imply an end-state where only English should be spoken. There seems to be no inherent endorsement of the spectrum as presented in *figure 1* but rather a view centred on the convergence towards the lingua franca. The next section takes up the challenge of building a case for linguistic diversity.

III. THE INDIVIDUAL AND SOCIAL BENEFITS OF MULTILINGUALISM

This section looks into a series of empirical *benefits* that follow from multilingualism.[56] I believe, but I am not yet arguing, that they are reasons for the state to provide these benefits or at least to take them into account when deciding where to place ourselves on the wide spectrum of options that van Parijs appeals to (cf. figure 1).

The first two following benefits focus on the individual while the third mainly on society as a whole. All three require an end-state of generalised multilingualism where otherwise monolingual individuals master further languages throughout their life-time. Ideally, they learn them as children but they might still forget them as adults and hence not be multilingual anymore. However, I do not argue that all adults have to speak actively at least one further language throughout their life-time. Instead, I focus on children raised multilingual and their education – they are more likely to enjoy these benefits.

[56] A further argument in favour of multilingualism, not delved into here, is based on the inherent value of linguistic diversity (cf. van Parijs, 2011: 175ff.; Patten, 2009: 101n2; May, 2009: 526ff.) It links linguistic with biological diversity: language is a tool to engage with and survive in the natural surroundings in which it is used. Every vanished language is a lost "library" (cf. Nettle & Romaine, 2000).

A. Intergroup Communication: The Additional Access Argument

An individual benefits from mastering further languages because it provides additional access to the respective linguistic communities and opportunities in that language in terms of jobs, friends, arts, or media.[57] This benefit goes beyond mere numbers of accessed people or opportunities and encompasses the *quality* of access – e.g. speaking the only language of one's partner's family. It depends on the costs of learning that language in terms of its simplicity but also the learner's age and talent. As such, it is context-sensitive – an English-speaking person would reap no or little benefit from learning Swedish if all family members of her Swedish partner mastered English well enough.

With increasing global knowledge of English, multilingualism has thus decreasing benefits for Anglophones.[58] And non-Anglophones reinforce this tendency since they have an increased interest in speaking English. However, their comparative advantage decreases since a growing number of competitors are also increasingly competent in English. In such a world, speaking a non-English language has a comparative advantage since it provides a *privileged* kind of access to a world inaccessible to the monolingual. In addition, knowledge of another language can signal respect and appreciation of the culture of their speakers and serve to establish a connection that the monolingual cannot gain.

Some may argue that these advantages exist only in a multilingual world, but would cease to exist if the whole world spoke English.[59] But the additional-access argument remains persuasive in the current state of affairs where a significant number of jobs or media are only available in languages other than English. But if we are to grant van Parijs' convergence towards a *lingua franca*, it is plausible only during the transitional period. This brings us to the next complementary and non-transitional benefit.

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[57] According to a 2010 Eurobarometer survey, 67% of companies considered knowing foreign languages important for employees and 48% of international firms considered it the most important future skill, cf. http://ec.europa.eu/public_opinion/flash/fl_304_en.pdf, last access: 30/06/2016.

[58] Anglophones have fewer opportunities to learn other languages. They are "condemned to monolingualism" while competing with the whole world who is about to speak English but without access to markets run in other languages (van Parijs, 2011: 113–116). For him, this is a "paradoxical corollary" which is still "a long way off" and should not influence the immediate goal of disseminating English.

[59] Van Parijs (2011: 264n33) speaks of a paradox when cultural freedom requires cultural diversity but the unconditionality of the liberty creates a "winners-take-all" force that undermines diversity. An accommodating regime could analogously imply a world speaking only English and Mandarin.

B. Smarter People: Multilingualism's Cognitive Benefits

As we have seen in the previous chapter, languages can be learnt "naturally" with significantly less effort until puberty (Hakuta, 2001).[60] Even if bilingually raised children face some costs which their monolingual peers do not, considering both languages they have an *overall* higher knowledge. Moreover, if bilinguals' "special needs" (Bialystok, 2001: 224) are well attended, the costs are normally offset by the following benefits:

- higher "metalinguistic awareness": bilinguals of all ages solve problems that test the ability to differentiate between form and meaning better (Bialystok et al., 2012);
- "phonetic advantage": young bilinguals "sound native-like" even if they are not proficient in their non-dominant mother tongue; they also *re*-learn that language more easily compared to previously unexposed people (Polinsky & Kagan, 2007: 378);[61]
- higher executive control: they have more "skills based on limited cognitive resources for such functions as inhibition, switching attention, and working memory" (ibid.);
- filtering "misleading information" (ibid.): "bilingual infants show a specific adaptation in the attentional system that enables them to perceive and track relevant information in two different systems" (Costa & Sebastian-Gallés, 2014: 338);
- higher brain activity: these measurements suggest "that bilinguals have more efficient and flexible auditory processing than monolinguals" (id.: 341);
- "cognitive reserve": due to their more demanding language monitoring system, active bilinguals get dementia 3-4 years later than monolinguals (Bialystok et al., 2012).

Bilinguals' brains work differently from monolinguals' suggesting an increased cognitive fitness and overall health.[62] To be fluently bilingual to a comparable degree as monolinguals in each of the languages, a "frequent, varied, and socially useful" input in *both* languages is needed (Costa & Sebastian-Gallés, 2014: 343). Creating such an environment for children might be costly – especially in monolingual contexts – but it must be traded off with the increased strenuousness of learning a language at an advanced age. To wit, learning another language as a child is not unlike receiving a *vac-*

[60] Bilingualism is the best researched form of multilingualism. But it is feasible to learn more than two languages and I focus on migrants' *multi*plying factor on linguistic diversity – hence, *multilingualism*.

[61] This phonetic advantage makes a bilingual upbringing necessary and not only sufficient to generalised multilingualism – adults who learn another language almost perfectly will most probably not "sound native-like". Note further that the following benefits apply across different language combinations.

[62] Recently, a methodological controversy has arisen about the reproducibility and validity of findings (cf. Yong, 2016). However, this controversy is still ongoing and has mainly ervolved around the question of executive control. It concerns thus only parts of the evidence mentioned in the list.

cination: the latter stimulates the immune system and the former the linguistic system at a certain cost in infancy which is clearly outweighed by the benefit in adulthood of not suffering a disease or not having to learn a second language.[63] Moreover, this linguistic vaccination makes learning further languages easier for early bilinguals than for monolinguals (Cenoz, 2013). Even initially bilingual adults who stopped using one language retain this advantage: the linguistic vaccine holds for life although every step away from a generalised and *operative* multilingualism might affect the extent of these benefits.

Bilinguals' higher metalinguistic awareness is also likely to be connected to other aspects. Knowledge of another language creates a greater grammatical awareness and better understanding of one's own language. Arguably, you do not even have a sense of your own particular way of talking (and thinking) if you have got nothing to compare it to. The monolingual is thus more likely to confuse the accidental peculiarities of his own language with necessary facts and is less aware of the possibility of seeing and doing things differently. For humans a language is an essential survival tool. And those who master more than one language can pick and chose, without depending on any particular one. They can possess the tool without being possessed or trapped by it.

Now, under van Parijs' model individuals seem eventually better off learning the global lingua franca *only* and spend the remaining time on acquiring (non-linguistic) skills which serve their opportunities better. But they have the right to be persuaded (or not) by the cognitive benefits described here and decide to raise their children bilingually. What is crucial, however, is that minorities speaking neither territorial languages nor English are marginalised in any case – and this matters for the whole society.

C. The Collective Argument: Status and Recognition of Minority Languages

More job opportunities and better cognitive health increase the welfare of multilingual individuals, but it cannot account for the *social* and community nature of language. Individuals must coordinate beyond their particular interests and create bonds to maintain a linguistic cooperative equilibrium. This identity-based intergenerational function underlies the social and symbolic nature of language and gives rise to territorial protection in van Parijs' *Linguistic Justice*. But what about territorially unprotected minorities?

Numbers of speakers don't seem decisive over which languages are viable and hence deserve protection – the 40,000 Romansh speakers in Switzerland (0.5% of the total population) as well as the 75,000 German speakers in Belgium (0.7% of the total population)

[63] I am indebted to Paula Casal for pointing out this analogy to me.

both enjoy a territorial regime as endorsed by van Parijs. Contrast this with 22.2% of the Swiss population in 2013 declaring a non-official language as their main one or 3% of the Belgian population indicating Arabic as their main tongue. Yet, it is immigrants who have to "bow" and learn "the weaker local languages" (van Parijs, 2011: 174) – an outcome which van Parijs justifies by reference to reciprocity, as we have seen.[64]

What matters now is that reciprocal relations are most fruitful if the terms of integration are inclusive. Empirical findings confirm that inclusive "multicultural" recognition enhances the integration of minorities (Levrau & Loobuyck, 2013) and that less inclusive national identities are more likely to show xenophobia and intolerance (Kymlicka, 2016: 3; Breton, 2015). Moreover, more contact between locals and newcomers within a society is correlated with less prejudice towards immigrants (Bello, 2015). One crucial condition is that groups are not spatially segregated otherwise; their co-existence is more likely to be perceived as a threat (Laurence, 2015). Segregation is not a natural factor resistant to change – policies can tackle it as I shall show in sections IV and V. For now, note that achieving the desirable goal of less prejudice, intolerance, and xenophobia is preconditioned by the existence of diversity. Homogenous units with little internal diversity can more easily be manipulated into the construction of a common opponent – think of the *Two Minutes Hate* in Orwell's 1984: the Party requires all its members to be equal to channel their anger towards what makes their enemy Goldstein different. This would be much less likely happen were several languages spoken in Orwell's society.

Language is admittedly only one factor of diverse identities next to class, gender, race, religion, or sexual orientation. But a plural and diverse society could also foster desirable inclusive attitudes towards these other aspects of an individual. Now, my argument goes not against the desirability of a common language; it centres around the benefits of *further* languages. For, in contrast to other forms of identity, languages can be learnt and mastered in any combination: one can be multilingual but not "multi-religious" or "multi-gendered" – I might be able to speak any of several languages upon request, but not be both Buddhist and Christian or a hermaphrodite and asexual upon request. The latter forms of identity require some continuity and exclusiveness; not so with language.

While the content of religion or gender-identity can be translated with a reasonable overlap, learning another language is entering an alien playing field: the knowledge of the implicit rules is necessarily incomplete, the struggle of being understood adequately is omnipresent, and the risk of exposing and embarrassing oneself is permanent. It is for

[64] Van Parijs' (2011: 142ff.) principal worry is to protect territorial groups from migrants' "invading" languages. However, this fear is over-stated: first, almost no current migrant groups display such a colonial attitude (Kymlicka, 2001: 160) or in numbers that would make it feasible; second, this "invasion" might be the unintentional effect of a max-min force which van Parijs is ultimately ready to accept.

this reason that people – or at least those with multilingual experience – tend to react with empathy when they are spoken to in a broken version of their mother tongue.

IV. THE LINGUISTIC TRILEMMA

A. Three Values: Efficiency, Liberty, and Parity of Esteem

I agree with van Parijs that people have an important interest in learning the global lingua franca to understand the rest of the world and to find a lot more information on their medical condition, learn about life in the remote places, enjoy the best films and novels, and have good materials for any academic degree – and all available for the blind, the deaf, the dyslexic and the slow learner. The convenience of learning a language imposed in a particularly territory is very different. It is convenient because failing to do so will be punished. Learning one's mother tongue is again of another kind: having a free native teacher available all day makes children acquire the language spontaneously as they learn about life. It produces numerous cognitive benefits, and it is very important for family cohesion and effective parenting. This inconveniently leaves us with a choice of three, rather than two languages an individual has an interest in knowing. The case for one's mother tongue is thus not so clearly weak that we can simply ignore the issue and revert to van Parijs simple two language world with English and territorial languages. This section considers reasons as to why this is the case: why mother tongue matters.

Van Parijs' discussion can be reconstructed as a trilemma involving liberty (e.g. to learn the lingua franca or one's mother tongue), efficiency (again favouring the lingua franca), and parity of esteem which he appeals to in favour of the territorial language. This oversimplifies the challenge. For one may also appeal to liberty, efficiency, and parity of esteem to advocate learning one's mother language: children learn it efficiently, for free, and indeed at no cost except when they are also forced to learn a territorial language to a level of proficiency that it interferes with their learning English and their mother tongue. Van Parijs may agree with my points about liberty and efficiency but obviously wants to argue that parity of esteem-based absence of “bowing” does not apply to immigrants but only territorial languages. As I have argued, his positive case for the coercive territorial language on the basis of parity of esteem is weak. And nobody suffers the constant “bowing” van Parijs describes like immigrants do. Their children have to study in a language that is not theirs and learn it to perfection, while theirs is pushed aside as if it was inferior to the local language. Immigrants often would want to learn English to see the best cinema or the like. But they *have to* learn the territorial language instead.

Van Parijs' theory endows the receiving state with the power to impose its language on newcomers and leaves immigrants with little agency. Let us now look into how the present trilemma applies to language combinations more specifically.

B. Three Languages: English, Territorial Language, and Mother Tongue

The case for van Parijs' model "English plus a coercive territorial language" needs to be reopened for other options are still on the table. Why not require everybody – including Anglophones who were going to be monolingual in van Parijs' world – to learn a second language, but combine it with the possibility to chose which one. Or why not allow "the mother tongue plus English"? Many people's mother tongue will coincide with the territorial language, in which case such a language will be voluntarily preserved. In other cases, it will be a different language. If so, diversity will again gain. Another option will be to combine only the mother tongue and the territorial language. A third option would be to lower the level of proficiency required so that people can learn all three, or to teach all children, even native English speakers, another language of their choice.

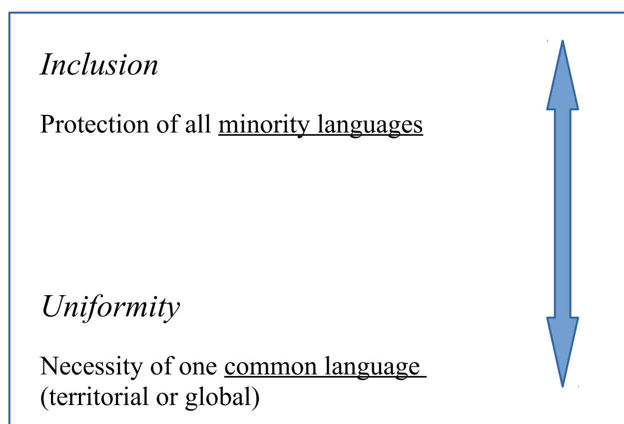
This is because some people already master English, the territorial language, and a different mother tongue. They live up to the European Commission's plan of "mother tongue plus two" (cf. van Parijs, 2011: 131ff.). Indeed, striving for such trilingualism seems desirable. However, three reasons speak against its *general* viability: first, van Parijs rightly points out that the maxi-min dynamics will undermine the viability of the weakest of the three. Second, learning three languages might just be too much for (some) children – recall chapter 1's discussion of maximising linguistic skills at the expense of family goods or playing time. Third, becoming a functional multilingual often depends on adequate institutions, properly trained teachers, or language travels – all of which are expensive and mainly accessible for the affluent. To be clear, we should work towards making multilingualism as feasible and as accessible as possible for all, but in the meantime we can safely assume that it is not the case for *most*. But let us consider an existing trilingual state.

While Luxembourg uses all its three official languages, Luxembourgish, German, and French, as languages of instruction, its students score below those of the OECD standard despite Luxembourg's very high GDP (van Parijs, 2010). Pupils in bilingual regions, in turn, seem to fare better than their monolingual counterparts in similar conditions (ibid.). This seems like *prima facie* support of the net benefits of multilingualism, understood as bilingualism, and the basic difficulty of trilingual schools. This challenge is multiplied for students with non-official mother tongues: Portuguese immigrants' chil-

dren represent 27% of all pupils in Luxembourg, but only 16.3% of them pass the selective exam for the prestigious classical branch in secondary school and 25.3% of them fail their German exams compared to 3.7% of Luxembourgish pupils (ibid.).

But even if it is true in general and on balance that it is safer and more realistic to assume bilingualism than trilingualism, there could be exceptions and the case remains open. We may still choose (a) English and whatever mother tongue one wants to speak, or (b) a territorial language and whatever other tongue (perhaps English, perhaps an immigrant's mother tongue) individuals want to speak.[65] The main axis of contrast when trading off the categorical regime on the side and, on the other side, the "accommodating" free-choice and van Parijs' coercive territorial regime is the degree of *uniformity* versus *inclusion* they imply. Figure 2 describes a second spectrum that grants more or less parity of esteem, in one extreme imposing absolute homogeneity and in the other protecting all mother tongues spoken on a territory, national and immigrant minorities alike:

Figure 2: An inclusive spectrum of political and institutional possibilities



C. *The "Hard" Categorical Regime: Degrees of Coercion and Interaction*

Let us here address van Parijs' two reasons for rejecting the categorical regime which make him opt for English and territorial languages. Recall that a *categorical* or *personal* regime organises linguistic policies depending on the native languages of people and van Parijs rejects this because, first, it curtails individuals' liberty of choice (since people are categorised according to their mother tongue) and second, it leads to segregated non-interacting communities. Let us link both with arguments in chapter 1: first,

[65] Van Parijs' (2011: 250n28) discussion of Romani, the language of a traditionally travelling and hence non-territorial people, is instructive since he mainly addressed it to the extent that they have *settled*.

families should not be forced to use their mother tongue. By giving some weight to inclusive categorical considerations such as optional mother tongue classes, we do not automatically exclude people from learning English or the territorial language – coercive measures can be more or less extensive, ambitious, general, and sanctioned.

Second, as chapter 1 explains, segregation is often due to discrimination and not to speaking another language. And missing interaction is not only a result but also often a cause of segregation – an “apartheid-like set up” (van Parijs, 2011: 148) often ensues from the majority which desires to reduce interaction with the minority. This is also why van Parijs (2011: 151) is against the majority preventing minorities or immigrants from having such interactions and learning the more dominant language. Yet, in both points, van Parijs does not engage with the interest majorities have in such interaction and its ensuing benefits of multilingualism.

Parents who only speak the territorial language will be worried whether their children have “frequent, varied, and socially useful” input in the second language (Costa & Sebastian-Gallés, 2014: 343) if they are to enjoy the fruits of multilingualism. For, non-dominant languages have so far only been adopted in those rare cases where the territorial and non-territorial communities had a

> “special link (typically, *vicinity*, but perhaps also *migration*) … through the mobilization of the compulsory school curriculum, the audio-visual media and sustained direct contact” (van Parijs, 2011: 132, my emphasis).

Now, what if this was the rule and not the exception? Concretely, the linguistic make-up of the population in a neighbourhood, school district, or municipality could determine the second languages of such an interactive regime involving for instance the following in a strictly coercive reading applied to schools: if Punjabi speakers represented 11% of non-dominant speakers in a school district, 11% of monolingual pupils and those who opted out of learning their mother tongue would learn Punjabi in public school.[66] This interactive regime is thus *categorically* or *personally* informed but in no necessary conflict with territorial criteria: school districts can but do not have to be geographical – they can be “zoned” differently and pupils transported to respective schools.[67] It goes beyond exclusive territorial “Queens” since different languages can be learnt at the *same* school and also form the means of instruction in different subjects.

Children learn their neighbours' language[68] and receive thus the relevant inputs also

[66] Schmidt (2000: 227ff.) already discussed a “two-way bilingual education” along these lines. Note that this policy can be amended with a “where-numbers-warrant” clause as to what languages are taught.
[67] As to the role of language competence centres in a multilingual society, cf. Extra & Yagmur (2004).
[68] Van Parijs (2011: 131) is actually pessimistic about such policies in the context of officially bilingual

from their native class-mates. This increases the likelihood of inter-group friendships and the regularity of extra-curricular (linguistic) exchange with the family and peers of the minority speakers (and vice-versa). It offers what most normal and teacher-centred language classes are unable to provide: socially significant, emotional, and relevant exchanges among peers where the utility of mastering a language is immediate and its learning effects lasting. It is thus a cost-efficient way to obtain the benefits of multilingualism, consolidate linguistic skills (compared to, e.g., language stays),[69] improve integration, and decrease discriminatory dispositions. This mutual adaption serves the interest of the territorial and the allophone pupils and their parents, and materialises mutual adaptation where immigrants are not seen as a threat (cf. Carens, 2005: 43).[70]

Van Parijs argues that obliging monolingual local pupils to learn immigrants' languages is "even more counter-productive than introducing it as an optional subject" even if convincing some parents of the interest of learning "Arabic, Turkish, Hindi, or Spanish would be a welcome achievement" (van Parijs, 2011: 266n42). Two reasons, I assume, underlie his conclusion: first, it competes with learning English; and second, it creates a backlash against immigrants.

As indicated, however, growing up bilingual often makes learning further languages easier (Cenoz, 2013): having a previous bilingual experience provides the (un-)conscious tools as to what strategy to adopt to learn a third language and how to rely on cross-linguistic similarities (Pavlenko, 2015).[71] Paradoxical as it sounds, the best way to learn English efficiently in the absence of sufficient input is to make sure to learn another language early on. This is especially important with the mainly passive form of acquiring the lingua franca which van Parijs (2011: 78ff., 109ff.) envisages: learning English by poaching the web and watching non-dubbed movies is most efficient to *speak* and *write* English if one has been previously bilingually "vaccinated".

Now, is there a necessary backlash on immigrants? To be sure: a fully coercive version of this regime is both inadvisable and unlikely to work. But this is also true of a full-blown coercive territorial regime. Considerations of feasibility or potential adverse consequences have to guide the implementation of conclusions of justice – but they should not premise them. We may design a just tax regime and then discover that tax evasion or black markets may emerge. In this case, people may avoid neighbourhoods depending

since "language acquisition and maintenance is mainly a matter of practice." This does not apply here.

[69] Language courses abroad use up to 30% of a middle-class family income (van Parijs, 2011: 235n35).

[70] As how to structurally balance and adequately promote diversity, cf. Schmidt (2014: 405).

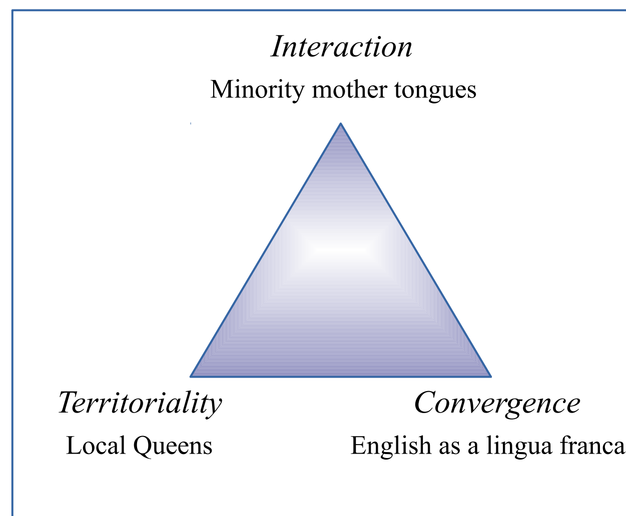
[71] The main inconvenience is that these languages are more likely to be mixed the closer they are to each other, i.e. Italian with Spanish or Russian with Polish (Pavlenko, 2015). Yet, this cost is situational and appears marginal in view of the overwhelming benefits as elaborated on in section III.

on the language residents speak, segregate, opt for private education, or vote for xenophobic parties. As with the tax example, however, none of this shows that the proposal was unfair in the first place. Moreover, van Parijs (2015: 239) himself admits that "a smart struggle for greater justice will help make feasible tomorrow what is not feasible today." And "smart" policies will aim to balance unreasonable "backlashing" behaviour with the incremental implementation of the benefits of multilingualism. Let us now consider the more realistic implementation of such a regime.

D. The "Soft" Version: Conceptual Appeal and Matters of Implementation

Van Parijs' *Linguistic Justice* – and normative political theory on languages in general – has discussed the range of institutional and conceptual possibilities as a dichotomy between an accommodating and territorial regime: from "hands-off" *melting pots* as the US to uniform French *raison d'état*. But this representation is incomplete and unduly excludes the diversity originating from non-territorial immigrants and other minorities. A better representation than a two-dimensional spectrum (*figure 1*) is a continuous triangle incorporating the considerations of inclusion from the previous *figure 2*:

Figure 3: The triangle of institutional and political possibilities



This triangle allows the possibility of accounting for the relative benefits and costs of policies. Those placed on any corner will *fully* satisfy its main stakeholders' probable preference – minorities, Anglophones, and territorial majorities – or those who identify with their respective goals – equal recognition, global language, territorial parity of esteem. But they will do so while completely forfeiting the other two and their relative benefits. Those placed on any of the three sides of the triangle represent the relevant tradeoffs of the trilemma as elaborated on above. Having elaborated on the benefits of inclus-

ive interaction in the previous section, we now have an account of what cost van Parijs' placement on this triangle comes at – less efficient language learning and interaction. The centre of the triangle represents the trilingual (or multilingual) ideal towards which institutions should strive but which is probably subject to feasibility constraints.

The appeal of such a representation resides, so I believe, in that it allows for nuances. If van Parijs had, contrary to what I have argued, conclusively established the case for English plus a territorial language, the range of policies under this model would include banning all other languages. But Van Parijs' endorsement of optional mother tongue classes for immigrants shows that he actually wants to place himself closer to the centre of the triangle, giving inclusiveness some weight. Other intermediate options would include diversity awareness classes or regular multicultural school activities.

I have focused on schools as the central institution for language learning. But obviously all other institutions function in one language or another too, and whether a language remains useful for *adults* depends on whether there are media, public institutions, or cultural activities in that language. Otherwise one's multilingual language skills and hence its benefits will disappear. In terms of successful and durable implementation, more ambitious interactive measures will thus only thrive if individuals have access to and keep on using offers in their neighbour's language – otherwise, converging maxi-min forces would drive these weaker languages out.

This could work if there is a *hinterland* that continues to produce cultural goods in the minority language.[72] This would increase the everyday usefulness and significance of this language in the receiving society. And the less institutional protection the territorial language has – or, if it directly coincides with the global lingua franca – the more interactive bilingualism will thrive. This is the case with Spanish-speaking immigrants to the US who are not (yet) a territorial group. In fact, Carens notes, they are so far "hard to locate on the map" (Carens, 2008) but have an active cultural life and enjoy all the cultural goods produced in their mother tongue. And the present considerations hopefully give them a place on the conceptual map of political philosophy. A place they deserve through the benefits they might bring to the receiving society – benefits which are preconditioned by the existence of (some) linguistic diversity. Not engaging with this fact is probably due to a neat yet artificial monolingual worldview which emerges from seeing a multilingual world not as a gift, but as a punishment for the sin of constructing the tower of Babel.

[72] I am grateful to Rainer Bauböck for pointing out this option and suggesting this terminology.

V. CONCLUSION

A world where only one language was spoken would be a simpler place: there would be no need for translations, no mutual unintelligibility, and there would be a common basis to discuss and solve global problems. Van Parijs sees the ongoing rise of English as a lingua franca as a tendency to be welcomed and complemented only by a coercive territorial regime. Such a coercive regime has the most immediate impact on immigrants. They are the ones expected to show "the courage and humility to learn the local language… and requiring that their children be educated in that language" (van Parijs, 2011: 141).

This chapter tried to reopen the case, questioning some of the arguments Van Parijs offers for this conclusion. In addition, it argues that van Parijs argument leans mainly towards monolingualism and highlights the multiple benefits of multilingualism for individuals and society as a whole. Rather than discussing the matter merely in terms of English versus the territorial language, we could see the matter in terms of a language imposed from above versus the mother language or as a trilemma involving all three options, none of which is entirely without merit. And when we are confronted with a trilemma, perhaps the best solution is not to pick just two of the values and entirely disregard the third, but to strive to balance all three in a more scalar and nuanced manner.

There are other arguments in favour of the territorial languages that I have not yet considered. The first concerns the history of those languages in a given territory, which is the topic of the next chapter, and the second, the claim that it is immigrants who have to "bow" because they arrive in their "host" societies voluntarily. This would be the topic of the fourth and final chapter.

Chapter 3

Space, Time, and Justice

INTRODUCTION

Imagine that the Chinese in Canada claimed the same rights as the Québécois. This would involve, among other things, a public administration, courts, and schools run in Chinese or a regional Chinese parliament with wide-ranging autonomies over a Chinese territory. For some, this scenario is simply idle – they will reply that the institutions needed to sustain Chinese culture in Canada have not been created or ever been in the making. Yet, they will probably admit that this fact is not sufficient to conclude that the Chinese *should* not have the same rights as the Québécois. To establish that “old” national minorities have more rights than “new” immigrant minorities, they might refer to the prior history the Québécois, and not the Chinese, have on Canadian territory.

Kymlicka holds such a view in this thought-experiment. Only “historical” national and indigenous groups have a right to political self-determination and “nation-building”. Immigrant groups, in turn, have neither been able nor willing to take up such a project:

> “The historical evidence is that the capacity and motivation to undertake such an ambitious nation-building project is only found in national minorities, rather than immigrant groups” (Kymlicka, 2001: 159).

Barring the Chinese from the more extensive rights that the Québécois enjoy is thus a *normative* argument which hinges on *empirical* premises: the historical arrival of groups on a territory and immigrants' preference not to oppose this fact. Since the Chinese cannot and do not pursue their own nation-building – Canadian territory and resources being scarce – they have to integrate into the receiving society. Considerations of time and space therefore matter to Kymlicka's conception of justice. The present chapter reconstructs and critically assesses the link between history and rights as one of Kymlicka's pillars distinguishing immigrant from national groups and their respective moral claims and duties. Chapter 4, in turn, addresses the second pillar: immigrants' voluntariness.

Concretely, I argue here that Kymlicka's empirical premises cannot be taken to support his normative conclusion: history and territory are morally contingent factors beyond individuals' control that privilege national groups unfairly over immigrants. Moreover, immigrants' preferences to endorse this privilege cannot be inferred from a context

shaped by national groups themselves. Kymlicka's goal of an inclusive coexistence between groups is better served without relying on facts of history and territory. Immigrants do not gain an automatic right to their own nation-building and their own institutions as a consequence, however. It is rather that national groups cannot claim such rights *against* immigrants on the grounds of their prior history on the territory. It is in this sense that Kymlicka cannot bar immigrants from their own "national-building".

The next section reconstructs the wider role of history and territory in Kymlicka's theory. Section II discusses five problems related with it. Section III reconstructs van Parijs' argument that reaches the same conclusion as Kymlicka but on the basis of considerations of reciprocity (van Parijs, 2011: 138, 246n10). Section IV discusses four problems related with that view. Section V, finally, argues that both Kymlicka's and van Parijs' theories could achieve similar goals by focussing on groups in *need* of protection instead of history and territory. Section IV contains some concluding remarks.

I. KYMLICKA'S MULTICULTURAL AGENDA

Immigrants have no right to nation-building as national minorities, but they are entitled to "polyethnic rights" in Kymlicka's account. These involve rights for public funding for cultural practises, exemptions from laws that disadvantage certain religions (e.g. wearing helmets for Sikhs), or bilingual education. They are rights of accommodation that serve "to promote [fairer] integration into larger society, not self-government" (Kymlicka, 1995: 31). National groups have a right to the full range of self-determination because their distinct cultural traits have developed in a continued history on the territory.[73] And this historical "societal culture" provides the members of groups "with meaningful ways of life across the full range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres" (id.: 76). Having a culture and its resulting "context of choice" is thus essential for an autonomous life. Without the background of a "territorially concentrated" (ibid.) historical culture, individuals would make their choices from "nowhere".

For such a societal culture to sustain itself, however, a certain "institutional completeness" is required.[74] Radio-stations, news-outlets, public administrations, or schools can-

[73] Kymlicka (2007: 226): "[L]liberal multiculturalism does attach importance to facts of history and territory." Also, cf. Kymlicka (1995: 19): "I am using 'a culture' as synonymous with 'a nation' or 'a people'—that is, as an intergenerational community, more or less institutionally complete, occupying a given territory or homeland, sharing a distinct language and history."

[74] Such completeness allows to sustain a group's cultural practises via its own media, charities, commerce, churches, or schools (cf. Breton 1964; for the nature and completeness of immigrants' institutions, cf. Choudhry, 2002; for an overview of the recent general literature, cf. Léger, 2014: 424–425).

not be run in an unlimited number of languages – coexisting and interacting "societal cultures" compete for scarce resources.[75] And to settle possible competition between immigrant and national groups, Kymlicka invokes the historical embedding of national cultures.[76] Non-historic immigrants cannot re-create their societal culture in the receiving society and are thus better off adapting to the "mainstream" culture in public life while keeping their polyethnic rights in private (id.: 96).

Along similar lines, Kymlicka grants all individuals universal and "generic" rights. These contrast with contextual, case-specific, and "targeted" rights originating from their group identity (e.g. Kymlicka, 2007: 199ff.). For instance, an adult woman might have to choose between improving her skills in either the native language of her tribe or the territorially dominant language that would increase her opportunities on the labour market. Even if the second proved objectively more useful for her, she can legitimately exercise her autonomy opting for the first.[77] This line of reasoning stands in the tradition of "politics of recognition" according to which people should be able to identify as members of a group (Taylor, 1995). And this identity deserves to be recognised and protected "generically". Depending on the specific "contextual" background, issues of fairness or distribution should be dealt with specifically (cf. Eisenberg, 2005, 2009). Similarly, Kymlicka's generic rights are rights of "external protection" from undue interventions – independently of what the majority or the state thinks, the woman could not be obliged to learn the territorial language rather than her native language. But this conception excludes anti-liberal "internal restrictions", i.e. the oppression or unequal treatment of an individual member in the name of the culture of her group.[78] In Kymlicka's liberal theory, individuals can choose the culture they belong to, demand change within or, as a last resort, actively opt out of it (Kymlicka, 1995: 33–45).[79]

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[75] Cf. Kymlicka (2011a). In chapter 2, I have suggested – contrary to Kymlicka's view – that interaction between linguistic groups can be mutually beneficial. But this chapter assumes, along with Kymlicka, that it is a zero-sum game and looks into the legitimacy of history and territory to prioritise a culture.

[76] Non-immigrant societal cultures which are similarly historic often conflict in a given territory, e.g. substate national minorities against state-wide majorities (Kymlicka, 2011b). While these cases are not central here, we will engage in some of their repercussions for immigrants in section II.C and D.

[77] This is inspired by Eisenberg's (2005: 52ff.) discussion of choices between following religious traditions and gender-equality: how to guarantee that a woman's choice, for instance, to wear a niqab is not the result of her being socialised into endorsing this oppressed role? Safe and feasible exit options are indeed primordial for taking *legitimate* choices. I address this question in chapter 4.

[78] Kymlicka (1995: 152): "[A] liberal view requires *freedom within* the minority group, and *equality between* the minority and majority groups … External protections are legitimate only in so far as they promote equality between groups, by rectifying disadvantages or vulnerabilities suffered by the members of a particular group." Immigrants seem hence to qualify for external protection from national groups on the basis of their specific vulnerabilities in family-life, as elaborated on in chapter 1.

[79] However, if an immigrant in Canada decides not be, e.g., Chinese anymore, she does not automatically become Canadian. Group-belonging is not only an individual choice but also a matter of collective recognition – deciding to be Canadian does not make one hold a Canadian passport.

Within these barriers cultures can change and compete with each another. Their territ-orial history is central since it frames and guides the decisions its members take; to neg-ate this role would be tantamount to rob individuals of the anchor of their identity, autonomy, and hence liberty. Immigrants do not stand in the territorial tradition of their receiving society. They have to adapt to the local societal culture – within the leeway of their polyethnic rights – because not all cultures can be granted official status. Not only Kymlicka but also, as we shall see in section III, van Parijs understand cultures as at-tached to territories (cf. Patten, 2014: 210ff., 294ff.).

II. FIVE PROBLEMS WITH KYMLICKA'S HISTORICAL ARGUMENT

This section discusses five problems that are related to Kymlicka's linking of history and territory to different group rights, namely, that it

i) involves substantial arbitrariness,
ii) can have perverse effects,
iii) mistakes silence with indifference,
iv) gives newcomers no choice, and
v) suffers from a status-quo bias.

A. Arbitrariness

Throughout evolution different subspecies of humans emigrated from Africa at different stages, spread through Asia, typically killing the descendants of earlier arrivals and then crossed through Bering to Alaska, to move southwards through the Americas. Humans migrated escaping from others or following game and often settled in territories that were previously occupied. This history of migration in subsequent waves continues to this date and will most probably continue in the future. While some plants and animals are endemic and highly adapted to local conditions, humans are able to migrate. There is no such a thing a truly native or autochthonous human populations (Diamond, 1993). On this view, the idea of granting entirely different rights to individuals merely because they arrived earlier or later – which is a matter of degree – seems rather arbitrary.

Earlier immigrants generally arrived in noisy herds that were sufficiently large to kill, enslave, or scare away other humans already settled in an area. Modern migrants, in turn, typically arrive quietly, in small numbers, and try not to annoy anyone. But these facts cannot be what determines different rights. The very same criteria could also be

employed to make the Québécois learn the language of native American tribes in the territory which, having arrived originally from China and Siberia, may even speak languages that relate to very old versions of Chinese. The Québécois, however, would rather continue to speak their mother tongue much like everybody else. When the Chinese arrive, however, they are requested to learn the inherited language of the French colonisers, when in fact some Chinese dialects may be closer to what was originally spoken on that land. Since all of this seems rather arbitrary, Kymlicka may want to emphasise other differences between groups when settling questions of rights.

B. Causing Perverse Effects

One clear difference between different language groups refers to how vocal and belligerent they happen to be in defence of their group rights. And indeed, one contrast between "new" immigrants and "old" minorities[80] in Kymlicka's theory is that most conflicts in the world coincide with the presence of the latter. Immigrants, in turn, are not as violent and organised as national minorities:

> "[T]he presence of migrant workers is rarely a source of civil war or ethnic insurgencies. Even when migrant workers are mistreated and exploited, as they are in much of the world, they rarely take up arms, or seek to overthrow the state" (Kymlicka, 2007: 175).

No recent immigrant group has voiced demands of self-determination. And the international community has pursued only "half-hearted" attempts in this direction (Kymlicka, 2007: 175).[81] National minorities, in turn, are clearly attached to the "societal culture" of their homeland, according to Kymlicka. But the normative value of attachment is limited – emotional claims of such kind tend to be made in absolute, non-comparative, and unworldly terms.[82] That national minorities are more inclined to use violence to defend their territory might at best *explain* – but as such not *justify* –why they have more rights. Yet, Kymlicka is ambiguous. He seems to base a normative conclusion on this fact:

> "The assumption that national minorities are the potential cause of, or pretext for, geopolitical conflict has been omnipresent in all of the international deliberations … As a result, discussions of national minority rights are heavily 'securitised', in a way that

[80] Cf. Kymlicka (2007, 2011a, 2011b). Cf. Parekh (1997: 62) for its limits: "[Kymlicka's] theory is unduly heavily mortgaged to his moral preferences. It would also seem that it is deeply embedded in and in part an articulation of the Canadian political reality. While this political context and the concomitant historical experiences give it a focus and vitality, they also limit its wider application."

[81] Such attempts are, e.g., the 1990 UN Convention for the Rights of Migrant Workers. More generally, there is a consensus in normative and legal theory that *a* set of rights for migrants exists – only few question, e.g., the right to family unification. But the concrete scope of these rights tends to be controversial, i.e. whether it extends to the core or wider family (Carens, 2013: 179ff.).

[82] Cf. Ypi (forthcoming: 2): "To provide a normatively defensible account of why sometimes agents who are attached to certain objects [or lands] might also have special claims over them, a more promising route is to ask whether agents making such claims suffer from structural injustice in the present."

> precludes recognition of, or even discussion of, the 'common normative considerations' that connect indigenous peoples and national minorities" (Kymlicka, 2011a: 202).

If spill-over effects of national minorities' reputation on the "normative" claims of other groups are the concern here, why does Kymlicka stop short of immigrants? Immigrants, after all, are not categorically less vulnerable than other minorities. Their culture is also under threat – recall the three-generation-rule of mother tongue loss from chapter 1 – precisely because they do not dwell on their homeland. But the main motivation of his multicultural theory seems to be the *general* preservation of minority cultures and their protection from undue pressure by majorities. If this is the case, facts of violence simply do not add to the normative discussion of the claims of different groups.

Moreover, under ideal conditions of mutual fairness and respect among reasonable stakeholders – the playing field Kymlicka (1995: 99) has chosen – violence is not legitimate. To shape a theory of group rights around a threat is tantamount to respond to blackmail. We might buy more peace (van Parijs, 2011: 152–154) but at the price of an unsatisfactory ideal theory and the exclusion of non-violent immigrant groups. Violent riots by "ethnic" immigrants, for instance, have shaken various European suburbs throughout the last fifteen years (Miller, 2016: 130ff.). But it seems absurd to grant them more rights *because* of these incidents. And yet, Kymlicka's logic paves the way for legitimising violence as a bargaining tool.

Justifying Kymlicka's *normative* distribution of rights on the basis of national groups' tendency for violence is flawed. Now, Kymlicka might argue – against his above statement – that this concession is still most efficient under *non-ideal* conditions where not all agents comply with their duties of non-violence. Unfortunately, he provides no analysis as to how such efficiency obtains, whether it serves justice, and how it counteracts the argument of cynical incentives. Analysing linguistic rights under non-ideal conditions is perfectly legitimate, but immigrants' interests should not be discussed depending on whether they rattle their sabres. This may be an accurate description of how some minorities have achieved greater rights than others, but it should not be given normative weight. "To each according to its threat advantage" is not a sound principle of distributive justice.

C. Misinterpreting Immigrants' Silence

Kymlicka refers not only to the fact that immigrants are refraining from violence but also to the fact that they do not even ask for the same rights as other groups. Immigrants' approve of polyethnic rights because they do claim more rights (Kymlicka, 2001: 52):

The Chinese in Canada have "different aspirations, and a different sense of legitimate expectations" than the Québécois and this is "widely accepted by both groups."

Yet, this concerns the internal functioning rather than the relative position between groups – whether the Pakistani children in Scotland learn Urdu is a function of how important this is to their community, just as their participation in the Scottish independence movement is a function of how Scottish society as a whole works (cf. Kymlicka, 2011b). Yet, their rights of "external protection" depend on how other groups live up to theirs – cultures do not live in a vacuum and individuals will probably be drawn towards stronger, more embedded, and better protected groups (recall van Parijs' maxi-min dynamics). Consider our earlier example, the indigenous woman who learns her native language. The opportunity cost of her doing so is higher, the more embedded or enforced the territorial language is in the mainstream. The issue here is thus how different groups stand to each other and less so what their respective rights are. And chapter 1 has discussed the cost of neglecting mutual influences for minority families.

Now, that historic cultures *are* more dominant than non-historic ones is normal. But it should not warrant the conclusion that the status quo is how it necessarily *ought* to be. In fact, it would be possible – and indeed more liberal – to leave it to immigrants to choose between integration and political self-determination and to weigh the costs and benefits of either option. However, Kymlicka is unequivocal on this possibility: "immigrant groups are not 'nations', and do not occupy homelands" (Kymlicka, 1995: 14).[83] "And they never will…" I am tempted to add. Even if immigrants have voiced no demands of self-determination, they should neither explicitly nor through unintentional institutional design be barred from pursuing their sense of identity peacefully on the grounds of history. Not doing so is to mistake an "is" for an "ought" – an inverted normative logic (Choudhry, 2002: 67ff.). Moreover, it goes against Kymlicka's own goal of empowering minorities and ensuring a "fairer integration" of immigrants in the receiving society (Kymlicka, 2001: 162ff.).

One argument, however, might trump all previous considerations. What if immigrants genuinely preferred to integrate into the culture of the receiving society? In the UK, for instance, immigrants generally feel quite "British" (Kymlicka, 2011b: 284). Indeed, immigrants might *voluntarily* accept to integrate into the society of arrival.[84] While I will

[83] More generally, this possibility would clash with Kymlicka's distinction between "contextual" and "generic" analysis: "Any attempt to articulate liberal multiculturalism as if it were purely a matter of generic minority rights is doomed to failure. The logic of multiculturalism cannot be captured in the form … 'all persons belonging to minorities have a right to X'" (Kymlicka, 2007: 79).

[84] Cf. Kymlicka (1995: 62). Immigrants' *voluntary* actions are crucial to reject any demand for rectification or recognition. Within "luck egalitarianism" – the philosophical tradition of Kymlicka's theory – only imposed and un-chosen aspects of life, "bad luck", are subject to measures of redistribution.

analyse the conditions and reality of immigrant's voluntary agency across the whole process of migration in the next chapter, let us now address the force of this preference given its context. More concretely: Let us look into the degree to which it is an artefact.

An example of an artefact is when immigrants identify with the dominant group to achieve another goal as, for instance, to overcome socio-economic disadvantage. However, feeling, e.g., “British” is no remedy against being poor or wage discrimination. Their expressed preferences to integrate might thus not be “manifestations of the natural phenomenon under investigation” (Hilpinen, 2011) which is their *genuine* will to integrate. The declared self-perception as “British” is an artefact of the dominant social arrangement just as “a path through a forest … can be an unintended product of people's habit of following the same route when they walk through the forest” (ibid.). It is what they erroneously associate with as the successful strategy to overcome disadvantage simply because it is what everybody does or everybody says they must do.[85] But there might be paths to overcome disadvantage other than identifying with the majority.

The relevance of social context to the formation of individual preferences has been widely acknowledged in the literature. Debra Satz and John Ferejohn (1994: 72) argue that “‘preferences’ are derived on the basis of an agents' location in a social structure.” Moreover, preferences are more predictable the more they are subject to such structural constraints, i.e. where choice is limited. And this “irony” (ibid.) applies perfectly to the present case: having no other choice – since this is the only societal culture that is available – it must be true by definition that immigrants “prefer” to integrate. But individuals need to be able to make decisions free of constraints and limitations.[86] And Kymlicka's options are unnecessarily limited (cf. Young, 1997). His account might account for immigrants' *revealed* artifactual preference but not for their genuine consent to integrate.

Immigrants' apparent preferences to integrate are ultimately circular in Kymlicka's reasoning. Their silence cannot be taken as an explicit approval of the conditions they meet. To the contrary, the fact that they do not dare to ask for much and do not expect to receive much might rather indicate that they need and would benefit from more rights – women in the past also voiced no claim for more voting rights and this was no approval for having less rights than men but rather a sign of oppression.

[85] Analogously, and in line with van Parijs actual rejection of linguistic diversity (cf. chapter 2, section II), people possibly uphold their native and territorial languages over English as artefacts.

[86] Asking why other immigrant groups have not managed to re-create their culture to the same degree as the Cubans in Miami, Rubio-Marín (2003: 172) concludes: “From this it does not follow that they would not do so, were they given the option and were they to find the right environment.”

D. Reducing Immigrants' Choices

In Kymlicka's view, settled immigrants should take part in "negotiating" (or rejecting) the aspirations of the their receiving society (cf. Norman, 2006). For instance, for the Scottish independence project to be legitimate, Pakistani immigrants should voice their conditions (Kymlicka, 2011b). Any citizenship idea, in favour or against the independence of substate national minorities, has to include immigrants, Kymlicka argues.

However, this inclusiveness is limited. While keeping their "polyethnic" rights, immigrants can adapt to the respective culture of two groups: either the substate minority, "Scottish", or the majority nation-state, "British" (Kymlicka, 2011a; cf. also Young, 1997). Kymlicka leaves a restricted and "monolithic" space for multiple identities:

> "By making the concept of a societal culture (with monolingual speakers on a mononational territory) as the empirical and normative starting point, Kymlicka tends to homogenize cultures through a rather dubious and biased bottle-neck" (De Schutter, 2005: 30).

Immigrants' original identity or mixed cultures do not pass this bottle-neck. Because if they were possible – if a territory could realistically belong to multiple and more "liquid" societal cultures[87] – one could not "stop at polyethnic rights, and not proceed to self-government [for ethnic immigrants]" (Choudhry, 2002: 62; cf. also Quong, 2006). Moreover, if polyethnic rights protect distinct cultures from undue external influence, why should immigrants still be expected to integrate into *a* given mainstream culture? Kymlicka could reply in two ways, claiming either that integration is desirable, or that alternatives are unfeasible.

In practical terms, a common culture among members of a society is indeed *desirable*. But this view is compatible with immigrants having no less rights than national minorities – having, e.g, *a* common language is what matters.[88] To decide this question on the basis of history and territory systematically handicaps immigrants, it holds their missing history permanently against them. Immigrants are insufficiently protected from such exclusion if polyethnic rights have to remain "consistent" with integration into the mainstream and limited to "the private sphere—at home and in voluntary association" without "the establishment of distinct and institutionally complete societal cultures" (Kymlicka, 1995: 78). Under such a restrictive reading, it is not evident what precisely polyethnic rights accommodate that the liberal principle of non-interference in private matters could not. That is, they do no conceptual work anymore in his liberal theory.

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[87] A society approximating the second chapter's interactive regime would illustrate such a case.

[88] But it does not have to be *one's* but merely *a* culture (cf. Patten, 2014: 6). This has been made mainly against immigrants' and in favour of the local culture, but I take it to apply in the opposite sense, too.

Alternatively, implementing a right to linguistic self-determination for immigrants might simply be *unfeasible.* It would be too costly and imply changing the official language, the adaptation of curricula, and require nationals to learn a new language. Such costs of transition, however, are a poor normative benchmark if used in isolation – they risk to perpetuate deeply entrenched injustices (Carens, 2000). Moreover, history and territory understood in this sense "unduly limit our sense of the possible" (Choudhry, 2002: 67). Feasibility constraints can still have a bearing on how we see the world, but they should not prematurely condition our vision on how a just society would look like.

E. Status-Quo-Bias

Chapter 2 has presented an exercise in considering an alternative possibility of what a just world would look like: it has addressed the question of how schools can be made multilingual over and beyond Kymlicka's monolithic and hence monolingual conception of identity and cultural institutions. Making children of nationals learn immigrants languages (and vice-versa) would be costly in transition – and hence more or less feasible in this limited sense – but it might eventually involve overall benefits.

Such open-ended theorising is crucial because normative approaches based on history are prone to a *status quo bias* (Bostrom & Ord, 2006).[89] A historical approach necessarily favours what already exists over what might come. And a bias obtains if *not* introducing a certain change has negative effects. Depriving children of multilingual benefits is a negative consequence of *not* introducing a multilingual regime. It is thus up to opponents of such change to argue why it will not be successful (ibid.). The same burden lies on Kymlicka. More generally, he needs to account for why the group-related claims of individuals, especially children, depend on who their ancestors were or what they did – factors beyond their control and hence their liability, blame, or praise.

III. VAN PARIJS' RECIPROCITY ARGUMENT

Despite rejecting a "right of the soil" for the linguistic group who arrived first on a territory, van Parijs is ready to grant a "privilege to the 'sons of the soil'" which entails "in most cases" different group-rights as drawn by Kymlicka:

> "[T]he linguistic claims of 'national minorities' that have been living in the territory for a long time need to be treated differently from those of 'ethnic minorities' the presence

[89] This reference and line of reasoning is from a debate in bioethics on the permissibility of medical enhancement. For a similar argument in the context of cosmopolitanism, cf. Axelson (2013).

of which derives from recent immigration" (van Parijs, 2011: 138).

Van Parijs thus explicitly shares Kymlicka's conclusion as discussed in section I, but insists on providing an argument that is "crucially different" (ibid.). This section analyses this by looking into what both authors have in common and what separates them.

Van Parijs shares some aspects of Kymlicka's argument. In line with Kymlicka's observation, he admits that "sons of the soil" have a higher inclination towards violence. Yet, to grant them more rights on this basis clashes with van Parijs' other point, namely, that under fair conditions, minorities might have to accept the disappearance of their language (Van Parijs, 2011: 172). For, a language should only be endowed the necessary institutions to survive if it is not imposing unreasonable costs on others, not because its speakers need to be pacified.[90] In addition, van Parijs supports his claims with rhetorical catchphrases: "sons of the soil" have to "grab a territory"(van Parijs, 2009) in order to defend themselves from "traitors" and "invading" allophone newcomers (van Parijs, 2011: 152). Even if he makes an effort of couching these terms in cautious language, they play into the hands of those using violence not only against speakers of more dominant languages but, in fact, especially immigrants.

Yet, as we have seen in the introduction, van Parijs is a global egalitarian and not a cultural nationalist like Kymlicka. For this reason he pursues another argument to reach Kymlicka's conclusion. He justifies the priority of national groups on grounds of his "parity of esteem" principle[91] as well as reciprocity (van Parijs, 2011: 149–151). Roughly stated, the argument is this. Immigrants should learn the local language, because if locals were to migrate to the countries of origin of those immigrants, they would have to learn to speak and write the local language. Spelling out the legitimate conditions of this counterfactual is not straightforward – would it involve equally small territories for all languages spoken on the globe or a chunk of the world's land in relation to the numbers of speakers of each language? To avoid these problems, van Parijs suggests that for each language there must be *a* place where

> "native speakers of those languages can be expected not to be treated as if they were colonized, where they can hope to secure the survival of their language and where they can legitimately give their language the top public function" (van Parijs, 2011: 150).

On this account, it is fair to demand immigrants to integrate into the local culture as long as their original culture can be sustained in their respective homeland. Immigrant

[90] Van Parijs (2011: 154) seems to be ready to drop the argument of violence in his theory: "Justice, one may hope, generally contributes to a durable peace… [Yet,] [i]t is linguistic justice as parity of esteem, not linguistic pacification, that provides the arguments I am offering with their normative foundation."

[91] The principle, introduced in chapter 2, states people should not be "stigmatized, despised, disparaged, or humiliated" but treated with "equal respect" on the basis of their language (van Parijs, 2011: 119).

languages can still be valued and encouraged in receiving societies. But their preservation is only successful if the coercive measures in favour of the local language are weak, and vice-versa (van Parijs, 2011: 250n31, 194ff.). And the degree of coercion along its four dimensions – extensiveness, ambition, generality, and severity of sanctions – depends on the threat the territorial language faces. In any case, the monopoly of deciding the extent of these measures resides necessarily with national groups who form the (historic) majorities in a territory when deciding to implement a just regime.

Van Parijs' argument of a reciprocal duty to integrate is, he admits, counterfactual – it holds even if the "sons of the soil" have never set foot outside their territory. Reciprocity, however, has only moral (and empirical) force if it is based on multiple *actual* encounters with controllable outcomes[92] – otherwise, it rather seems a pretext for the more dominant party to demand cooperation without ever having to hold their end of the bargain. That is, reciprocity between two parties only applies if it is based on equal terms.

IV. FOUR PROBLEMS WITH VAN PARIJS' RECIPROCITY ARGUMENT

Van Parijs' reciprocity argument, in contrast to Kymlicka, aspires to be independent from empirical facts of space and time but still lead to a conclusion where the interests of territorial groups weigh more than those of immigrants. Yet, even his argument can be contested in at least four ways. It can be said to

(i) be based on a background equality,
(ii) favour groups with a colonial past or that speak English,
(iii) disregard the fact that equal liberty has not the same worth to all, and
(iv) excludes alternative instantiations of reciprocity.

A. Background Inequality

First, as van Parijs (e.g., 2011: 25) himself recognises, due to global wealth inequalities several groups will not be able to afford protecting their language. The initial presumed equality on which the reciprocity argument tries to rest is thus invalid. We could of course claim that being born into a linguistic group that is poor is not purely a matter of brute luck. But this is most implausible (cf. De Schutter & Ypi, 2012) and it does not follow that a brute luck disadvantage does not count when discussing reciprocity. Even if somebody had become blind from entirely natural causes and purely as a matter of

[92] This is well studied in experimental game-theory between two parties: "tit-for-tat" suggests as the rational strategy to start cooperating in the first encounter and then to imitate the other party.

brute luck, his condition must be taken into account when deciding how to distribute the benefits of social cooperation, what level of performance to expect from this person at work, and indeed what to demand on grounds of reciprocity. This is van Parijs view of distributive justice as defended, for example, in his *Real Freedom for All* (1998). His reciprocity argument might not ground immigrants' duty to integrate. But equality does not obtain solely in economic terms but also in terms of status, as we shall see now.

B. The Colonial Past and the Future of English

The wealthiest countries in the world tend to be former colonial powers or those run by former colonisers. One persistent advantage of having dominated some parts of the globe is that their territorial languages have become “world languages”. As a consequence, their native citizens can still move to any of the ex-colonies (or elsewhere) without having to learn a word in the local language. Moreover, van Parijs endorses English as the global lingua franca which means that Anglophones will be much less likely to do any “bowing” since the rest of the world should be sufficiently competent in that language. Now, van Parijs is aware of this and therefore grants territorial groups the right to impose their language as a Queen even on Anglophones. Yet, its success will be limited precisely due to the maxi-min force of English. In addition, locals will and do already take advantage of native speakers to practise their English skills – something that applies much less with immigrants speaking other languages. Again, the equality that underlies the reciprocity argument is not warranted.

C. Equal Worth of Liberty

To be successful, van Parijs' argument must not only be independent of the relative status of different languages and their native speakers, but also of the relative worth of the reciprocated good to the involved parties – something which is not the case with van Parijs. The *structure* of the reciprocity argument, as it stands, is analogous to an argument saying that the rich and poor are both equally (and reciprocally) forbidden from sleeping under bridges. However, the liberty to sleep under a British bridge without having to learn English has value to a poor Senegalese, but the liberty to sleep under a Senegalese bridge without learning Wolof (the main Senegalese lingua franca) has no value to a wealthy Brit. To reciprocate learning each other's language depends on what an agent achieves through it. The goods accessed through such counterfactual reciprocity might be much more important to one party than the other. Van Parijs' reciprocal argument may appear convincing at first, but on closer scrutiny it is not sound under such unequal conditions. Moreover, as we shall see now, it can be conceived differently.

D. *Alternative Instantiations of Reciprocity*

My final objection is that there are different ways of instantiating reciprocity than van Parijs coercive territorial regime suggests. We could also have a reciprocal arrangement where immigrants, wherever they go, can continue to bring their children up in their language without fear of disadvantaging them. This would be the case if the national requirement was less ambitious than a B2 language level or if English was a co-official language. Wolof speaking immigrants to France, for example, who do not master French to a B2 level would be able to speak to their doctor or local politician in English instead.

Van Parijs, just as Kymlicka, in fact welcomes such accommodation of mother tongues. But he does so because it serves integration into the dominant language. Mother tongues thus have a mainly instrumental basis.[93] It is unclear whether emigrating nationals would expect this *kind* of reciprocal accommodation ultimately involving mother tongue loss. It is not clear whether they would feel appreciated or disrespected.[94] An instrumental understanding does thus not, "on its own, provide a secure and robust basis for defending policies of cultural accommodation and recognition" (Patten, 2014: 17).[95]

In sum, if conclusions based on space and time – be it van Parijs' reciprocity or Kymlicka's historical argument – are too problematic, we can still look for alternative criteria to set the necessary question of which language to prioritise. And the next section explores this question.

V. BEYOND HISTORY AND TERRITORY: THE ALTERNATIVE OF NEED

Identity, culture, and membership of a group matter for individuals – but they should not lead to unjustified privileges (cf. Carens, 1987). Hence, there should be objective criteria to meaningfully differentiate groups, their cultures, their rights, and institutions. Kymlicka and van Parijs insist on facts of history and territory for that reason – but their *exclusive* or *principal* interpretation excludes immigrants. This section explores in a first step some alternative criteria to illustrate the potential of a plurality of considerations. In fact, so the second part argues, Kymlicka's and van Parijs' main goal of protecting cul-

[93] Van Parijs (2011: 266n42), Kymlicka (1995: 78): "this commitment to 'multiculturalism' or 'polyethnicity' is a shift in *how* immigrants integrate into the dominant culture, not whether they integrate."

[94] To avoid the latter I have suggested in the previous chapter accommodation as *interaction*, where migration-induced linguistic diversity is seen not as a mere means but also an end in itself.

[95] Agents might still reciprocate the priority of the territorial culture. But it would be justified not because of their history and territory but for weaker and more contingent reasons such as costs of transitions or the necessity of deciding on one (or few) official language(s) (cf. Patten, 2014: 288ff.).

tures in need is independent from a strict normative reading of history.

A. *Some Alternatives: Deserved Merit and Interactive Participation*

Merit or participation represent alternative criteria on the basis of which groups could be granted more rights. Several states, for instance, naturalise foreigners who serve in their armed forces.[96] The idea is that an individual can *deserve* to become a national. Although this case is about individuals entering a collective – and not about the rights of collectives themselves – its underlying logic is instructive: recognition is conditional of contributions to a public good, e.g., improving the balance of the social security system, excelling in construction, mediating of conflicts, or filling gaps of the internal labour market such as nursing or elderly care. These are all potential considerations on the basis of which individuals of certain groups deserve (more) rights.[97] Alternatively, members of an immigrant group could serve the public good by getting involved in community councils, civil rights movements, sports or cultural associations, NGOs or the like. Such *participation* depends on sacrificing personal time in a common project where different tasks are available, e.g. administration, public relations, or education.

Both accounts are clearly less prone to the arbitrariness of considerations of history and territory – immigrants can actively improve their situation despite having no territorial history. However, not all immigrants might qualify as soldiers, nurses, engineers, mediators, politicians, activists, or teachers. Not all will have the necessary talent. And considerations based on talent are ultimately as unchosen and contingent as reference to history and territory. And yet, considerations of merit or participation are *less* exclusive as some immigrants will have the necessary talents. For instance, the Chinese workers who have constructed, often under critical conditions, the Canadian railways throughout the last two centuries (the "coolies") would have deserved, under this logic, to be naturalised and granted cultural or even political self-determination depending on the sacrifice or risk of their contribution. The list could be supplemented with more contemporary examples (e.g. health care, defence). What matters is that these objective criteria give agency to immigrants – they can improve their situation if they wish to do so.

In legal theory, there are two well-known principles about the acquisition of citizenship, mainly for newborns: *ius sanguinis* and *ius soli*. The first is historical (citizenship is inherited from one's parents) and the second is territorial (citizenship comes from the state

[96] The French Foreign Legion is well known. Eligibility to French citizenship follows after three years of service or after being wounded in combat. Other states, e.g. the US or Spain, know similar rules.

[97] Kymlicka (2016) suggests that polyethnic rights were granted to immigrants in Canada as a recognition of their efforts for the nation. The concept of Canadian citizenship changed to accommodate and endorse that new "hyphenated" forms of being, e.g., Italian-, Ukrainian-, or Polish-Canadian.

where one is born). A third principle is increasingly discussed in the literature as to how immigrants can acquire a new nationality: the "genuine, effective link" of integration[98] – candidates for naturalisation need to prove a link with the local society and culture based on participation and integration.[99] This legal principle is instructive since it goes beyond considerations of history and territory. It is controversial, however, because immigrants have to bring an *additional* effort to achieve the rights of locals while non-participative nationals still enjoy the privileged rights of their group. Moreover, group-participation is a double-edged sword: those members of the immigrant group who do participate are reduced to those who do not (but not vice-versa) or only the individual effort is rewarded with more rights or naturalisation. This might lead to a dilemma: either participative people are forced to leave other members of their group behind or they renounce to a better status. If the criterion of participation is too easily manipulated and not sensitive to these problems, then we are well-advised to look for a better criterion.

B. Need: Kymlicka's and van Parijs' Hidden Candidate

Historical considerations matter to explain incurred harm or structural disadvantage. People who suffer such conditions due to no fault of their own can be justified to demand reparation or assistance. And such "corrective" recognition can apply to members of a group satisfying this condition collectively.[100] Need is actually a promising candidate for granting rights because it is based on *negative* contingent outcomes, rather than *positive* arbitrary privileges. This criterion is independent of migration since the members of national minorities can have a significant and systematic need, too. Even if some immigrants are clearly in no such need – oligarchs or affluent expats – an over-proportional share of (other) immigrants is disadvantaged as a matter of fact.[101] They are in need across several dimensions: economically, as they take low-paying jobs; socially, as they tend to cluster in problematic neighbourhoods; health-wise, as they engage in risky professions; and psychologically, as they experience acculturation and alienation.

A right to political self-determination is no guarantee to alleviate their situation. The point of this chapter, however, is not the *actual* implementation but rather the pursuit of adequate justifications for immigrants' categorical exclusion from such rights. Recog-

[98] Cf. Adjami & Harrington (2008). The origin of this concept, as well as the specific terminology used here, are found in the so-called "Nottebohm-case" from 1955: Lichtenstein vs. Guatemala (ICJ).

[99] In practical terms, this clause usually also requires legal residence of a minimum duration within the receiving state. It is thus not a perfectly independent alternative to history and territory.

[100] The normative issue is more complex. The non-needy are not necessarily causally responsible for the situation of the needy. However, these net contributors are not necessarily entitled to any privilege or luck of not being in need either – or, only to the extent that it benefits the worst off (Rawls, 1971).

[101] Cf. OECD / European Union (2015: 21): "Measured against most indicators, immigrants enjoy worse socio-economic outcomes than the native born on average."

nising that history and territory do not do the job might actually address some of the causes that lead to immigrants' need in the first place, such as discrimination. Reasonable members of national groups might *see* the contingency of their privilege and have further reasons to reduce the need, for it is inclusive across cultural barriers, e.g. a national banker and foreign fruit-picker are entitled to unemployment benefits in virtue of being in need but independently of their origin. Need can also account for the claims of national minorities towards the majority: if they can prove to have been discriminated and marginalised due to their diversity, they can appeal to the need of self-government as a remedy for the wrong-doing. Appealing to history and territoriality (alone) at best explains their attachment, but it does not determine their ultimate claims or rights against other groups which might be in higher need.

In fact, van Parijs' and Kymlicka's concern goes in the same direction: van Parijs' theory orbits around the reasonable conditions under which "weaker languages" can be protected. He takes this protection to be territorial for reasons that have to do with how languages are transmitted efficiently. But it can be amended with mother tongue oriented considerations as shown in chapter 2. Kymlicka, in turn, focuses on the viability and need of societal cultures whose "context of choice" has been shaped by history. But upon closer inspection, it is about the protection of minority cultures from the majority. Even if Kymlicka focuses on national minorities and takes territorial history as a criterion of their priority, the underlying preoccupation resides with groups in need. What ultimately matters is that all people have a fair chance to live up to their culture. Brushing all immigrants with one stroke independently of their specific need is not warranted. Need can be at least *as important* as history and territory for the entitlements of groups. If this is true, we have *less* reason to grant immigrants fewer rights.

Now, two caveats apply. First, national groups' culture might still be prioritised on other grounds (cf. Patten, 2014; Bauböck, 2015). My argument rejects the sole use of prior history and territory as such criteria. I am thus merely suggesting a readjustment of multiculturalism's justificatory basis. Second, history and territory still matter. Access to *a* culture is still required but it has not to be a national one – one's family identity is equally if not more important. Such heritage is obviously unchosen and it does not take place in a vacuum of wider society, but it should nevertheless be given the space necessary for the creation of family values and effective parenting, as I argue in chapter 1.

These thoughts stand largely in line with Patten's (2014: 38ff.) "social lineage account" that upholds the concept of culture while avoiding its monolithic pitfalls. The reasons we have to allow (some) hybridization of the national culture in order to maintain the goods of family are more tangible and concrete than reference to national territorial his-

tory against further accommodation. To wit, the family stories that grandparents tell their grandchildren matter far more for their healthy upbringing than any reference to national legends or myths. Obviously, some will tell *national* historical accounts they witnessed themselves – and nothing in my argument is supposed to question their normative importance. But they gain this centrality in virtue of being told by members of the (extended) family in a language that all members are sufficiently proficient in. They have much less normative weight, however, in the abstract and emotional void of "national history" as such. Immigrants' stories are not worth less than those of nationals.

VI. CONCLUSION

Kymlicka presents us with a thought-experiment according to which it is theoretically possible for "an immigrant group within the United States or Canada — say, the Chinese — … to become a national minority, if they settle together and acquire self-governing powers" (Kymlicka, 2001: 160).[102] But, so he observes, the status quo in the US and Canada and quite much anywhere on the globe is such that none of this has happened and no Chinese public institutions have been created so far. Since immigrants have neither been able and nor willing to take up a nation-building project as for instance the Québécois, he concludes, they only require rights of accommodation and not of political self-determination like current national minorities. For him, the prior history on a territory matters normatively for which group has more rights there.

This chapter has critically addressed this first pillar in Kymlicka's group typology. It has argued that the state of affairs should result from our normative ideals but not vice-versa. I have discussed five problems with Kymlicka's appeal to history and territory: (i) it is arbitrary, (ii) it can generate perverse effects, (iii) it misinterprets immigrant's licence, (iv) it gives immigrants insufficient choice, and (v) it is not safe from a status-quo-bias. I have also discussed van Parijs reciprocity' argument for giving national languages priority over others and offered four arguments against this view: (i) it appeals to parity in a situation of very unequal background conditions, (i) it magnifies the unfair advantage of a colonial past, (iii) it disregards inequalities in the value of liberty, and (iv) it is not the only way to instantiate reciprocity.

Alternatively, the chapter suggests, the Chinese in Canada might *deserve* more rights if they share characteristics of *need* that qualify for more inclusion. Allowing for addi-

[102] In fact, he expands that immigrants would need to behave just as the English, Spanish, or French colonisers did in the New World to achieve this goal. This analogy of his is unfortunate as it endorses my earlier point on incentivising violence. It also illustrates the arbitrariness of drawing a line of *whose* history guarantees more rights on *what* territory and *when* it does not.

tional criteria adds to a plurality of considerations while granting agents more control over outcomes. Historical arbitrariness is central only in its negative form – the harm groups have incurred matters more than their ongoing inherited privileges. In fact, such an account would come at little cost to Kymlicka's (or van Parijs') theory because it already orbits mainly around the protection groups and their cultures need.

Chapter 4

Voluntariness in Migration and Duties of Integration

INTRODUCTION

A contract is binding if capable and informed parties accept to exchange goods. In this line of reasoning, immigrants receive permission to settle on a territory in exchange for adapting to the local cultural, legal, and economic conditions. The link between admission and integration is often justified on the basis of such an agreement between locals and newcomers (Coulmas, 2010). Yet any valid contract requires the absence of *duress* – parties should not be coerced into accepting the contract. This is why refugees who *have to* leave their home due to war or persecution qualify for unconditional admission to a safe state.[103] Non-refugees or economic migrants, in turn, have *chosen* to leave.[104] They are capable of entering a valid contract with the receiving society. Migrants' capacity to choose without coercion – their voluntariness – warrants their duty to integrate.

Such a contractual logic underlies accounts that uphold a principled distinction between national groups and immigrants and their rights – it is national groups that can legitimately determine the conditions of such contracts and immigrants can voluntarily decide to accept them or not. While the previous chapter has discussed and rejected the view that reasons of history and territory can provide moral grounding for such different rights, we can now address Kymlicka's second pillar for this distinction: immigrants who "uproot" themselves from their native society have no claim to maintain their original culture in their new place of dwelling (Kymlicka, 1995: 20).[105] "National minorities", in turn, have legitimately resisted such integration into the majority group – being immobile, they did not enter any contract in the first place (Kymlicka, 1995: 63, 79). This chapter reconstructs Kymlicka's argument linking *voluntariness* in moving *and* duties of *integration*. I will then suggest an alternative view, defend it against a series of

[103] All signatory states of the UN Convention and Protocol Relating to the Status of Refugees are legally bound to this. But the admission of refugees and their potential integration are conceptually independent while, in reality, refugees are too often unable to return. Questions of *their* integration matter, too.

[104] According to the UN 1951 Refugee Convention, refugees ultimately "have to move if they are to save their lives or preserve their freedom" while "economic migrants … choose to move in order to improve the future prospects of themselves and their families." This summary is from the UNHCR: cf. http://www.unhcr.org/pages/49c3646c125.html, last access: 23/03/2016.

[105] He frames his theory in terms of choice of membership. The contractual reading has already been invoked by other commentators and theorists (cf. Patten, 2014: 279ff.). Van Parijs (2011: 141) endorses such a reading when stating that receiving states must publicly communicate that people settling in a territory "will need to acquire the capacity to communicate in the local language" and that their children will be required to be "educated in that language".

objections, and look into its bearing on political reality. My analysis is limited to migrants' situation but aspires to provide normative criteria for any kind of cultural adaption, e.g. switching from a minority language to a more dominant lingua franca.[106] This approach stands in the tradition of a critical reading of the grounds and extent to which Kymlicka distinguishes groups and their entitlements (cf. Patten, 2014: 275ff.).

The chapter proceeds thus. Section I explains the four most relevant features of Kymlicka's view. Section II argues that an agent acts voluntarily if she has sufficient alternatives which improve in quality and number with increasing material endowment. Section III defends this conception of voluntariness against objections. Section IV shows that those who arrive more voluntarily are in *practise* exempted from having to integrate, and discusses possible justifications for this double standard. Section V, finally, brings the discussion back to where this thesis has started: while high-value individuals are all the more exempted, *families* face increasing demands in terms of admission and integration. They are more prone to act under duress in a context that neglects their agency.

I. KYMLICKA'S VOLUNTARINESS-INTEGRATION LINK

The four features of Kymlicka's voluntariness-integration link relevant to the later discussion concern questions of whether a) it is an argument of ideal or non-ideal theory, b) voluntariness is the sole ground for duties of integration, c) it is dichotomous or scalar in nature, and d) it accounts for the whole migration process ranging from departure until settlement. These clarifications of Kymlicka's account will allow for clearer contrast with the alternative conceptualisation of the link in section II.

A. Ideal and Non-Ideal Theory

The first point to make is that the precise role of immigrants' voluntariness in Kymlicka's categorisation is not evident. He himself admits the difficulty:

> "[t]he line between involuntary refugees and voluntary immigrants is difficult to draw, especially in a world with massive injustice in the international distribution of resources, and with different levels of respect for human rights" (Kymlicka, 1995: 99).

In view of this difficulty, he favours an account which is limited to "'ideal theory' … in a just world" (Kymlicka, 1995: 99). There, resources would be distributed fairly and immigrants would have no claim of justice to resist integration since they would have

[106] E.g. van Parijs (2011). For a critical view, cf. May (2003: 150–151): "… the degree to which *voluntary* [language] shift actually occurs is extremely problematic … it is at best a 'forced choice', propelled by wider forces of social, political, economic, and *linguistic* inequality and discrimination."

moved voluntarily by definition, i.e. in the absence of background injustices. This relegation to ideal theory might be motivated by the assumption that most human beings are "inclined to stay where they are unless their life is very difficult there" (Walzer, 1983: 38).[107] Under ideal conditions, thus, all migration would be necessarily voluntary. However, discussing voluntariness in migration under such conditions does not add anything to our further moral understanding – it is a *non-starter* to discuss duties of integration.[108]

Furthermore, Kymlicka's overall theory draws heavily on non-ideal conditions: it orbits around issues of exclusion, discrimination, or oppression of national and indigenous minorities. Yet, the same injustices could and actually do also affect migrant groups. Why discard them by reference to ideal theory in an overarching non-ideal framework? Kymlicka needs an additional argument that justifies the priority of national over migrant groups. His contractual "voluntariness-integration" link is supposed to provide such an argument. For it to take-off, however, it must apply – or so I contend – under non-ideal conditions. That is, I shall not question Kymlicka's "voluntariness-integration" link per se but rather explore its strength under non-ideal conditions.

B. Voluntariness's Unclear Role

The second point I need to stress is that voluntariness may not necessarily be the decisive concept here (cf. Kukathas, 2003: 580). For, involuntary refugees who are unable to return to their homeland do not enjoy the same rights as "national minorities" in Kymlicka's theory. Settling refugees might have an *independent* duty to integrate even if they left their homeland involuntarily and if they cannot return. So voluntariness may not be a necessary condition for requiring integration and involuntariness may not be sufficient to exempt a group or individuals from this duty. A further complication is posed by the fact that refugees are not concentrated and numerous enough to sustain their culture. And even if they were, receiving states would have less incentives to take them up if they come in sufficiently large groups.[109] In some cases, integration may be the only option for independent or pragmatic reasons. To point out this possibility is no mere exercise in conceptual completeness – it is a real trade-off along which van Parijs and Kymlicka might disagree as we shall see in section IV. Until then, I will work with the assumption that voluntariness determines the duty of integration.

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[107] Cf. Kymlicka (1995: 86): "… leaving one's culture, while possible, is best seen as renouncing something to which one is reasonably entitled. This is a claim, not about the limits of human possibility, but about reasonable expectations."

[108] Rawls (1999: 9, his bold print): "The problem of immigration is eliminated … in a realistic **Utopia**."

[109] Cf. Kymlicka (1995: 99ff.). On the same pages he also mentions that a different status in the receiving country for the few refugees would contribute very little to the improvement of the situation for the many who have stayed in the homeland. The injustices *there* are the source of the problem, he argues.

C. *Voluntariness as a Matter of Degree*

The third point I have to make concerns Kymlicka's assumptions about the voluntariness of national and immigrant groups. Now, historically, all groups have migrated to their actual territory at one point – the difference between the Québécois and the Chinese in Canada is that the former are early and the latter late settlers. And Kymlicka's asymmetric treatment of the two assumes that early settlers came involuntarily while later settlers arrived voluntarily. Now, it is not clear whether the majority of colonisers of the New World would have qualified as refugees just as it not clear whether all Chinese came fully voluntarily, as Kymlicka himself admits. In any case, to clearly attribute (in-)voluntariness to all members of a group is only possible in very few cases since it will depend on the specific individual context. Rather than being a clear-cut black and white scheme, voluntariness seems to be essentially a matter of degree. Thus, I propose to conceptualise migrants' voluntariness in scalar terms, analogous to those of a "multicultural continuum" (Young, 1997).[110] Actions are thus not either voluntary or involuntary but their voluntariness is a matter of degree and something that is highly dependent on the context in which the different choices take place. Any reference to a dichotomy, as used in international law to define refugees (or as used by Kymlicka to distinguish immigrants and nationals), lacks descriptive accuracy and has only a conditional normative character. For instance, whether someone qualifies as a refugee might depend on how many people other states are ready to take up unconditionally; and whether national minorities have been involuntarily "incorporated" into larger states (Kymlicka, 1995: 10ff.) depends on the degree of coercion that was exerted on them.

D. *Migration Happens in Stages*

My fourth point concerns the way Kymlicka's links voluntariness in *departure* with duties in *settlement*. This picture is incomplete, I argue, for migration happens in stages and in each the question of voluntariness can arise independently. There are at least two further intermediary stages – *transit* and *admission* – which influence the nature and weight of the link. This order of the stages is necessary for a full migration process but it does not have to be uni-directional or complete – e.g. people might leave for good after several previous attempts, people never reach their final destination, or people be permanently on the move as transnational citizens. These stages may or may not occur within close temporal distance, proceed in lawful or irregular paths, and be more or less safe and costly. We should thus consider the role of voluntariness and its corresponding duties in each stage: (i) departure, (ii) transit, (iii) admission, and (iv) settlement.

[110] Kymlicka has been criticised for being "unnecessarily dichotomous" (Young, 1997: 50) in distinguishing national from migrant groups. For a (partial) defence of Kymlicka, cf. Patten (2014: 275ff.).

(i) *Departure*: multiple motivations lead people to leave their home. In migration theory they are usually categorised along two kinds of factors, "push" and "pull".[111] "Push" factors concern the conditions at home, e.g. the absence of opportunities, and "pull" factors apply to the destination, e.g. more political or religious freedoms. The more a migrant is "pushed", the less it matters where she or he emigrates to as long as the destination fares better in the sum of pushing factors. And those factors can vary qualitatively, e.g. fleeing war is not the same as leaving due to meteorological preferences. The quantity and quality of pushing factors affects the voluntariness of leaving.

A poll conducted in 2008 gives a preliminary idea of how strong the combined push and pull factors are: more than 40% of the population of the poorest quarter of all countries indicated that they would emigrate should they have the means to do so.[112] The case of the Caribbean island of Puerto Rico, in turn, offers a rough approximation of the additional gain people are ready to forgo by not migrating: even though Puerto Ricans can migrate freely to the US mainland and thereby increase their average salary by more than 50%, most remain on the island.[113] Both numbers – without being conclusive – illustrate some dimensions of the economic and personal cost that "push" or "pull" emigrants. And Kymlicka probably has these facts in mind when admitting that "massive injustice in the international distribution of resources" (Kymlicka, 1995: 99) make it difficult to assess whether and to what extent people leave their homeland voluntarily.

But for Kymlicka there is no *general* right to free movement. No concern of justice arises if an individual cannot leave for geographical, economical, legal, or other reasons as long as the conditions in the homeland are reasonable, i.e. based on tolerance, inclusion, and freedom (Kymlicka, 1995: 93; 2001; 2011b). This gives a state no right to withhold its citizens from leaving either,[114] but rather negates any individual claim to *unconditional* admission elsewhere.[115] Moreover, conditions are unreasonable if they are materially insufficient. In that case, other states have a duty for a fair redistribution

[111] The classic reference here is Everett (1966). His "voluntarist" understanding is not uncontroversial since it relies heavily on individual autonomy. But it might also be dominated by structures of "centre and periphery" (Block, 2006: 8ff.). Even though I use a "voluntarist" terminology, the present perspective shall account for contextual constraints and addresses thus Block's critique.

[112] Data is from Torres & Pelham (2008). Respondents who have received remittances (estimated globally at $300 billion per year) are twice as probable to wish to emigrate. This appears like a pull-factor.

[113] "Two-thirds of Puerto Ricans live on the island where production workers earned an average $22,600 in 2012, compared to $34,500 on the US mainland … [suggesting] that personal migration costs must be very high" (cf. https://migration.ucdavis.edu/mn/more.php?id=3946, last access: 13/04/2016.

[114] Stilz' (2016) "Is There an Unqualified Right to Leave?" discusses precisely this question.

[115] In this line of non-ideal reasoning, cf. Rawls (1999: 39n48): "… a people has at least a qualified right to limit immigration … [also] to protect a people's political culture and its constitutional principles." At the same time, however, they have to respect the right to emigrate of people from hierarchical yet decent societies. Yet, "the right of emigration lacks a point without the right to be accepted somewhere as an immigrant. But many rights are without point in this sense: to give a few examples, the right to marry, to invite people into one's house, or even to make a promise" (id.: 74n15).

either by direct payments or indirectly by opening their borders and facilitating immigrants' access to those resources (Kymlicka, 2001a: 271). Open borders are useless for the poorest, however, if they "cannot afford a ticket" to get to wealthier countries (id.).

(ii) *Transit*: migrants' voluntariness is thus affected by the unavailability or expensiveness of safe options of transportation. Geographical, institutional, or economic *bottlenecks* affect the agency of migrants and their moral situation: traffickers, employment agents, or relatives who have exclusive power to facilitate transit between the origin and destination cause a dependence which bears on whether movement is voluntary. Moreover, the poorest often do not even have the necessary means to migrate in the first place – a minimal "starting" capital might be needed to cover the expenses of travel. Moreover, this capital might get lost "en route": a migrant might get to the destination or have to return home – or even stay in the "transit" country – heavily indebted, physically handicapped, or traumatised. Their life does not continue on the same terms as when they left.

Now, what if people consciously and freely *choose* the risk of going through some bottleneck? I will get back to the moral implications of such choice later in this section. For the time being, note that bottlenecks often exist because of achievable yet missing investments, indirect consequences of institutional set-up, or deliberate measures to dis- discourage immigration: the Mediterranean, Rio Grande, or Torres Strait might serve as examples. Unequal distribution of global resources hence do not matter only in countries of origin but also countries of transit. Migrants' voluntariness upon arriving in the destination, against Kymlicka's implication, also depends on the conditions in the intermediary stages.[116] Let us look now at the destination country.

(iii) *Admission*: immigrants who leave and travel under reasonable conditions might enter another state without the intention or permission to stay there permanently. Such *temporariness* is compatible with the contractual reading as outlined at the outset of this paper. Demands of integration should adopt accordingly with the underlying temporariness: it would be futile and impermissible to demand tourists to assimilate culturally or to fully exclude long-term foreign workers from legal and social protection. The leeway of setting up a contract of mutual agreement can be constrained, however. No migrant might waive the right to "toleration and accommodation" and the eventual possibility to become part of the societal culture in the destination country (Patten, 2014: 296).

[116] Children whose parents *might* move on with them have nevertheless a standing interest in learning the local language and acquire the citizenship of where they are settled (cf. Carens, 2005: 36).

States' right to regulate who enters or leaves their territory can come along with a duty to admit asylum-seekers fleeing war or persecution. But this is independent of immigrants' (or states') duties to (provide) integration. Individuals might after all have *chosen* a temporary migration project as "a worthwhile, albeit sometimes painful, part of their life-plans" (Ottonelli & Torresi, 2012: 202). The risk here resides in contractual conditions abusing of migrants' dependence or weak bargaining power in negotiating wages or demanding improvement in working conditions, for instance. Assuming that these were not problematic, note that the initial voluntariness of engaging in a temporary – and hence conditional – form of migration might change. A guest-worker might found a family, find professional fulfilment, or have another reasonable interest to *continue* her life-plans in the destination country. Rather than being a temporary migrant, she or he might become a permanent resident where settlement is the last stage of the migration process. This, again, is independent of how voluntary a migrant leaves her homeland.

(iv) *Settlement*: the contract underlying a migrant's arrival can include the possibility of permanent settlement. Contractual or de facto long-term residence, is incompatible with social, economic, or cultural exclusion. And inclusion can happen through *citizenship* which gives access to the same rights as locals (e.g. voting). This is Kymlicka's argument. Yet, the right to citizenship after a sufficiently long previous residence depends on the conditions of leaving, transit, and admission. A forcefully uprooted refugee unable to return home just as a hyper-mobile skilled expat should be allowed to learn the local language if they settle there. This right to inclusion is related with immigrants' corresponding duty to integrate. A duty which can be more or less demanding and extensive:

> "On a thinner view immigrants are expected to learn how to use the common language in public life; on a thicker view, it is also important to speak the language in a particular way (e.g., without an accent) or to revere the language as a sacred inheritance, or to give up using one's mother tongue even in private life" (Kymlicka, 2001: 273n19).

Requiring some integration is legitimate since it serves both, the equality of opportunity of immigrants themselves as well as parity of esteem towards the members of the local society, as discussed in chapter 2. This is also Kymlicka's and this thesis' assumption. The question is what role immigrants' voluntariness plays to justify the kind and extent of the required integration. Even if settled migrants are ultimately better-off by integrating, their four-staged voluntariness presents a differentiated *moral* duty to do so.

And moral differences in motivation and circumstances matter for demands of integration. They can range from complete "thick" assimilation to specific "thin" integration measures (e.g. into the labour market). The understanding of voluntariness we adopt should reflect this fact. Now, this should not be explored in view of excluding immigrants stealthily – e.g., by raising expectations in the local language for migrants such as

to make it impossible for them to access the local labour market or their children to speak their mother tongue. The underlying contract should not be made under duress. This depends on the concept of voluntariness we adopt. A question to which I now turn.

II. THE NATURE AND NORMATIVE FORCE OF VOLUNTARINESS

That immigrants' voluntariness is scalar can be defended from different perspectives. In the previous section, I have emphasised the fact that migration is a process of multiple steps, some of which might have been taken more voluntarily than others. Kymlicka oversimplifies matters when discussing migration as if it involved a single voluntary or involuntary step. I shall now add another dimension to the discussion and focus more closely on what *voluntariness* involves and how it can be a matter of degree.

An important article by Valeria Ottonelli and Tiziana Torresi entitled "When is Migration Voluntary?" (2013) offers a first comprehensive conceptual analysis of what voluntary migration involves. On their view, a capable agent makes a voluntary choice if the following four conditions apply:

1) *Non-coercion*: the choice is taken under no physical or psychological force.[117]
2) *Sufficiency*: the quality and structure of the choice options must be good enough.
3) *Information*: agents are adequately informed about the implications of all options.[118]
4) *Exit options*: they have "viable alternatives" to remaining in the chosen condition.[119]

This account already suggests voluntariness is going to be scalar, for in some cases only some, but not all conditions may be present. In addition, each of these four conditions can obtain in different degrees, e.g., there may be more or less coercion or information, just as options can vary in number and quality. But let me first motivate further the claim that alternatives, which are also scalar in nature, have an impact on voluntariness.

A. Alternatives Matter

When discussing in chapter 1 the idea that immigrants should not teach their children their mother tongue in order to increase their autonomy, I have argued, inter alia, against

[117] Trafficking is not to be mistaken for smuggling since migrants can voluntarily consent to be illegally smuggled into a certain territory as a part of their life plans (Ottonelli & Torresi, 2013: 797).

[118] Forces of self-deception make more information not necessarily "more adequate" information (id.: 812ff.). In the context, "receiving states should find ways to make their cultural and linguistic rights and practises as explicit as possible to potential immigrants" (Patten, 2014: 297).

[119] Cf. Ottonelli & Torresi (2013: 801); Patten (2014: 275): "…there must be at least two viable options".

a maximalist conception of autonomy. With regard to language, this would involve that they learn the maximum number of languages, or speak absolutely impeccable Mandarin or English. I have appealed to the work of Joseph Raz and his idea that autonomy is something satiable, like thirst or hunger, which does not require an infinite supply. I now draw on another aspect of Raz's conception in *The Morality of Freedom*, which concerns his emphasis on individuals having an adequate range of acceptable alternatives, so that an agent can be said to be the "author of his own life" (Raz 1986: 372ff.).

There is no inconsistency between autonomy being satiable like hunger or thirst and having a scalar range of options. Starvation and being slightly peckish are very different things with various intermediary degrees of hunger. But there is a point of saturation where one is not even slightly peckish anymore. I think that a child which has grown up in a well-functioning and loving family where she or he was effectively parented and well-equipped to leave an autonomous life could actually lead and autonomous life even if her or his English is imperfect. For, as Raz puts it, "all that has to be accepted is that to be autonomous a person must not only be given a choice but he must be given an adequate range of choices" (Raz, 1986: 373). Perhaps, had I not been brought up in Serbo-Croatian and German, my English would be more elegant. But it would be absurd to say I am not an autonomous person, merely because of my infelicitous prose.

This threshold view is consistent with the view that one could lack autonomy to different degrees which depend on the availability of acceptable options.[120] In this spirit, three reasons speak for a specific focus on immigrants' "viable alternatives": first, unlike in the wider debate of political and legal theory exit options are "often neglected in the literature" on migration (Ottonelli & Torresi, 2013: 801). Second, the integration process stretches over a considerable period of time. And to remain voluntary the *continuous* availability of exit options has to be ensured. Third, a return to the homeland is often considered immigrants' implicit exit option. However, as we have seen in section I above, even those who left "voluntarily" might have no such exit anymore.[121]

Exit or fallback options ensure that an individual is not unreasonably bound to the conditions of a contract – the consequences of exiting such a contract should not be unbearable. Consider, for instance, soldiers who go through drill. The fact that they can quit makes drill, just as any other abasing and morally questionable practise, at least toler-

[120] For a summary, cf. Casal (2013: 8–11). Kymlicka (1995: 216n19) echoes Raz when arguing that we have to work strenuously to integrate immigrant children into the receiving society. For, it is only their societal culture, and not the parents', which offers a "diverse" and hence adequate range of options.

[121] Cf. Ottonelli & Torresi (2013: 802): "… while they are away, migrants have been uprooted from their culture, lost connection with the sending society, or have lost the capacity to procure for themselves the means for a decent life once back home."

able.[122] And immigrants find themselves in a structurally similar position. Unlike established nationals they are asked to learn a new language, adapt to new customs and values, and behave like members of a different society. That requires extraordinary motivation. Some immigrants might find it in the appreciation for the local culture or because better jobs become available just as some soldiers might join the defence forces because of patriotism or the prospect of prestige. Whatever the specific reason, demands of integration involve little moral controversy if immigrants can quit. Just as non-apt soldiers, immigrants should be able to go home instead, too. But the warning bells of any liberal should ring, at the latest, when an individual joins the defence forces or emigrates to another country because it is the *only* manner to stay out of precariousness.

This relates to the question of when alternatives are good enough. Genuine alternatives require the absence of basic deficiencies in terms of integrity, nutrition, shelter, or economic security. This is thus an "objective" standard of acceptability – voluntary choices do not involve that "one's basic needs go unmet" (Olsaretti, 2004: 140). Now, it is unproblematic if an agent can *only* stay in her homeland under reasonable and sufficient conditions. She can still take meaningful choices despite having no alternative country to go to. This is probably also Kymlicka's position. However, from an *external* and public perspective, we are on the safe side by ensuring at least two sufficient options:

> "The existence of two acceptable options, in other words, is a necessary condition for us to *know* that a choice is voluntary" (Olsaretti, 2004: 156).

I shall return to the question of how many options are needed for a choice to be voluntary in section II.C. Whatever the specific answer, it should not deviate our attention from what the options below and above that threshold imply. Otherwise we risk falling into Kymlicka's dichotomy instead of a *continuum* of options with different qualities.

B. Quality of Options and Scalar Voluntariness

An option's quality is contextual. So, in absolute terms, we need more money in an affluent than in a poor country to cover basic expenses in each place. And the same applies to voluntariness. Consider the imaginary case of Victor. He lives under insufficient conditions in *Poorland* and cannot improve his situation in another way than taking the one job he is offered in *Richstate*. Imagine three variants of his case that illustrate the qualitative difference in options and its moral relevance:

[122] Coercion is not always impermissible. Draft, for instance, is legitimate if it is indispensable to win a war against an unjust aggressor. Possibly a similar argument can be made that obliges immigrants to integrate. But, as already pointed out above, this would make discussing voluntariness less urgent.

1. *Victor(-)*: in the first variant, the job is informal and comes at a wage which is *below* subsistence level. The choice of Victor(-) to take the job is involuntary even if the salary was more than enough in Poorland. Generalising statements of the kind "you cannot complain: you earn much more here than you could back home" are thus not warranted.

2. *Victor(=)*: in the second variant, Victor earns *precisely* what is enough to meet his basic needs, e.g., the legal minimal salary. Other things being equal, this is obviously better than getting a lower wage. But Victor(=)'s acceptance of the job still does not qualify as voluntary, from an external perspective, since there is no alternative.

3. *Victor(+)*: in the third variant, his wage is *more* than what he needs. However, it remains involuntary since the contract involves a clause that he will be deported to Poorland upon quitting the job.[123] Yet, once in Richstate, Victor(=) can use that part of his wage which is above the threshold of acceptability to access other goods. In this respect, he can access further options within the given restraint of having left involuntarily.

Let us assume, for the sake of the argument, Victor(+)'s involuntariness persists because he, e.g., lacks the relevant documents to leave Richstate. This delimitation might lose, maintain, or gain importance throughout his life – he might, for instance, become rich in Richstate but yet suffer (or not) from being unable to return to Poorland. *Objectively* speaking, however, Victor(+) fares better than Victor(-) and Victor(=) despite sharing the same constraint of being unable to return. This is obviously insufficient to account for the full moral complexity of Victor's situation – whether he wants to leave is equally necessary to his voluntariness. But to guarantee an adequate choice-context – and this is what I focus on here – is essential from an objective and external perspective.

This focus also applies to Kymlicka's account: existing global inequalities are external circumstances which complicate the conclusive assessment of migrants' voluntariness. And the severity and quality of so constrained options vary substantively on either side of Kymlicka's refugee-migrant dichotomy. Some well-off refugees, for instance, might fare better than Victor (-) despite having left their homeland less voluntarily than he did. Conceptualising voluntariness in such scalar terms is not new (e.g., cf. Feinberg, 1986); it has only not yet made headway into the analysis of immigrants' agency. What matters here is that material endowment – or whatever gives access to material endowment: money, scarce skills, or contacts – normally involves and creates further options. Victor (+) can access more options and hence, in sum, act *more* voluntarily than Victor (-). Let us focus on the implication of prior material conditions on voluntariness.

[123] The legal notions of "informal" work or "minimal" wage merely serve to compare qualities of options.

C. *Material Endowment and Access to Options*

Immediately after recognising the difficulty of differentiating between refugees and other migrants, Kymlicka mentions that a middle-class American moving voluntarily to Sweden has no claim to free English-language services there. In contrast, an Ethiopian peasant who avoids abject poverty and wants to ensure “a minimally decent life” for herself and her family emigrates voluntarily “in a very limited sense”:

> “Indeed, her plight may have been as dire as that of some political refugees. (This is reflected in the rise of the term ‘economic refugees’.)” (Kymlicka, 1995: 99).

Under such conditions, he goes on, the assumption of a voluntary “uprooting” might have to be re-assessed because poverty should be no reason to leave one's homeland and abandon its culture. Unfortunately, however, his discussion ends here. But it is compatible with the scalar nature of voluntariness: persecution is clearly more urgent (“political refugees”) than declining supplies due to environmental changes (“climate refugees”)[124] which can be less urgent than emigrating to overcome poverty (“economic refugees”). This order is not conclusive, but there is one and it goes beyond a simple dichotomy. And if immigrants' voluntariness makes the admission or integration contract legitimate, its concise nature should affect the kind and extent of its rights and duties.

Consider the case of Irina, a scientist from *Autocratistan* with an impeccable international reputation and regular offers for tenure abroad. Imagine she gets into serious trouble with her government over the issue of freedom of expression. Even though she would have stayed, she is forced to leave her homeland. Her departure is clearly involuntary and her application for asylum in any other safe country would be successful. Moreover, several universities offer her positions, thus providing her with ample options as to how and where to emigrate to and get settled. Irina can access more options and is hence, *on the whole*, more likely to make voluntary migration choices. Victor, in contrast, is very unlikely to be accepted as a refugee according to current international law even though he is less likely to migrate voluntarily: he has never had alternatives in either transit (assuming the employment agent organised the transport), admission (the offer being conditional on taking that *one* job), settlement (integration is discarded in the contract), or even return (lacking travel documents). Material endowment or factors giving access to such endowment – such as Irina's education and skills – alleviate the relative involuntariness in each stage to the extent that they give access to further options.

[124] The Norwegian and Swiss led Nansen-initiative aims at introducing a new migrant category, “disaster displaced persons”, in domestic and international law along those lines. Still, even for UN officials there is “no such thing as an ‘environmental refugee’ or an ‘economic refugee’” (Lubbers, 2014). The concern behind this scepticism towards an expansion of the term “refugee” is, I suspect, that receiving states would have less of an incentive to fulfil their duties towards normal political refugees.

Now, assume that Victor – contrary to Irina – wanted to leave anyway. Imagine he *says* that he would do so even if the situation in Poorland was not so dire. Indeed, "a choice is voluntary if and only if it is not made *because* there is no acceptable alternative to it" (Olsaretti, 2004: 139). People's motivations and intentions are ultimately decisive as to whether their decisions are voluntary or not. This is important, since immigrants'

> "very choice to migrate and the kind of life plan that comprises such a choice can be valued by the migrants themselves as an exercise of their agency, and if we look at migration only from the end-state perspective of what migrants lack or have at home, we overlook what might be the point of migration in many instances and therefore a central fact for assessing when migration is voluntary or non-voluntary" (Ottonelli & Torresi, 2013: 795).

Their motivations and intentions indeed matter. However, this internal perspective should be secondary to the *receiving state's* assessment of the immigrants' voluntariness.

The next section explains the prudential reasons for this position which are related to the capacities and expectations towards state administrators. It does so by responding to two objections that usually arise when addressing immigrants' voluntariness: (i) the irrelevance of options for voluntariness, (ii) the importance of options being reduced through deliberate inference by *others* (i.e. receiving states have to admit and integrate Irina, not Victor, because *her state* makes her leave).

The first objection is motivated by the only context in which the term "voluntariness" arises explicitly in concrete migration policies: "assisted voluntary return and reintegration" programmes facilitate and incentivise – usually in the form of cash grants (IOM, 2012: 20) – the return of "irregular migrants, unsuccessful asylum seekers, refugees, and others wishing to return from the host country … [as well as] migrants stranded en route" to their country of origin (IOM, 2011: 2). They are generally considered the more "humane" and "cost-effective" alternative to forced deportation (IOM, 2012). From the external perspective, this is not voluntary, however, since forced deportation is not an adequate option.[125] While these programmes only look at the voluntariness of return, international refugee law implicitly accounts for migrants' (in)voluntariness in departure. In the relevant UN treaties, only people persecuted by their own state, i.e. by *someone*, count as refugees. This circumstance underlies the second objection.

[125] However, those programmes are not implemented more successfully because eligible candidates "often do not wish to return to their country of origin" (Thiel & Gillan, 2010: iii).

III. OBJECTIONS TO THE PREFERRED CONCEPT OF VOLUNTARINESS

Serena Olsaretti's (2004) distinguishes between an *external* and an *internal* concept of voluntariness. The first focuses on the existence of options and is thus external to the agent's mind, desires or intentions. It is possible for external observers to ascertain whether the agent had options. An internal account, in turn, focuses on what went on in agents mind at the time the decision was made. This chapter advocates an external account. This account is compatible with granting importance to the life plans of immigrants: they still have agency when taking choices which are externally involuntary because there are insufficient alternatives. But it is a limited agency that cannot reasonably be seen as voluntary from a public perspective.

A. The Irrelevance of Options Objection

An agent who lacks alternatives does not have to act involuntarily. Perhaps the only alternative she in fact had happens to be her first choice or what she truly desired. The first challenge to the above perspective is that alternatives may be sufficient, but they are not necessary to voluntariness. This might be best explained by reference to the relationship between voluntariness and freedom: "freedom is about the options we face, whereas voluntariness is about the choices we make" (Olsaretti, 2014: 140).[126] One needs to be free to do *x* to voluntarily choose *x*, but such freedom is insufficient for voluntariness –having only one option you are unfree, but if this is the option you would have taken anyway, you can still choose this one option *voluntarily*. To call Victor's eventual choice involuntary undermines the possibility of going through such a decision-finding-process (cf. Appelbaum et al., 2009: 33; Wertheimer, 2012: 243). Ottonelli & Torresi's emphasis on migrants' life plans resides on the same assumption: Victor might consciously choose to take that one offer he has as a part of his wider life plans.

However, I contend that alternatives are also necessary. This is more demanding as it avoids a too lax and insufficient assessment of the effective conditions under which people act and migrate. For it is normal humans that are supposed to assess immigrants' voluntariness in the name of the state – members of the immigration police, case handlers of asylum demands, or staff in the foreign nationals' office. These state administrators can only legitimately assume that actions are voluntary if provided with evidence that migrants have had exit options. Public institutions should employ observable and verifiable criteria, rather than attempt to engage in mind reading. Moreover, as we have

[126] According to Cohen (2001: 2), "lack of money, poverty, carries with it lack of freedom". Since "money structures freedom" (id.: 12), it also has impact on the set of available options and hence on freedom even in the absence of interference. This echoes the materiality condition of section II.C.

seen in chapter 3, the intricate nature of migration makes it difficult to assess whether immigrants genuinely prefer to migrate and integrate or whether this is an artificial or artifactual choice. Victor might be unable to imagine a counterfactual wealthy Poorland since he has lived his whole life in poverty and been led to believe that emigration is the only manner to avoid it. No matter how the situation is presented to him, he would always think he would have preferred to leave anyway. This relates to Ottonelli & Torresi's third criterion of adequate information: being deceived either by current structures or own (unreasonable) hopes undermines voluntary action. Agents' valid voluntariness does not arise from explicit statements but their prior freedom of not pursuing an action without suffering unacceptable consequences.

And the assessment is analogous once immigrants arrive and settle in the receiving society. If immigrants perceive, e.g., being British as the only way of overcoming exclusion, they will choose to integrate without the *freedom* of being able to envisage maintaining their original identity. And a state which does not allow immigrants to "reproduce their original society" (Kymlicka, 1995: 15) cannot claim to fully satisfy the relevant counterfactual which allows to infer that immigrants choose voluntarily to integrate. This is not to say that immigrants should not be free to become British or that they should behave like colonists in the UK. Rather, we cannot infer their voluntariness from an external, public, and thus "objective" perspective.[127] While the internal focus is prone to issues of self-deception or manipulation, the external focus avoids the mere attribution of voluntariness. What the individual *wants* is not unimportant but it hinges on the available choice set which ground the moral force of voluntary action and its duties.

B. The Deliberate Interference Objection

Suppose we are in a house that can only be left by a road and a tree falls on the road, trapping us there. Some people argue that this situation is only relevant if somebody chopped the tree and pushed it on the road deliberately. If the fall was accidental, it does not qualify. This is the "deliberate interference objection". Applied to Victor's case, imagine he goes to court and alleges that his contract was signed under duress. Since nobody has exerted pressure on him, his claim will not qualify for *legal* redress:

> "a decision is presumed to be voluntary if no evidence exists that someone else has unduly influenced it or coerced the person deciding … situational constraints may set the stage for intentional efforts to influence decisions" (Appelbaum et al., 2009: 32-33).

Victor's poverty is such a situational constraint. Yet, to the extent that no-one made Victor poor, his choice is not involuntary, even if such a situational constraint creates vul-

[127] Cf. Williams (1998) for a thorough discussion of the criterion of publicity.

nerabilities which, if abused, are difficult to detect.[128] This conclusion can be contested in at least two ways. First, authors like Thomas Pogge (2002) would reply that poverty is caused by the functioning of current economic institutions which in turn are determined by international and national legislation, multinational corporations, and coercive global structures. While I will get back to this point in section IV, let me explore the second, more ambitious, strategy: authorship of constraints is irrelevant to the external voluntariness of actions.[129] Of course, states require clear *legal* conditions to attribute responsibility when a perpetrator unduly limits a plaintiff's options. But the relative greater involuntariness of Victor (-) over Irina shows that intentionally constrained choices do not have to be *morally* less burdensome than those that are not. And morality precedes legality – we can have responsibilities even when "nobody" caused the misfortune. For example, we are obligated to administer first aid to somebody hit by lightning.

We normally find it problematic to allow people who are poor and hence without acceptable alternatives to engage in organ sales, remunerated research participation, or prostitution. Now, this is not to say that the state has a duty to provide acceptable alternatives to *all* its citizens at *all* time.[130] Sometimes there is simply no other choice, for instance when a terminally ill patient engages in experimental therapy. But this is just a regrettable feature of very bad situations and no justification for the state not to care about the external availability of alternatives. It has to *minimise* sources of potential involuntariness (e.g. illness or poverty) or justify why coercion is desirable (e.g. taxes).

As Andrew Williams (1998: 246) memorably puts it "justice must be seen in order to be done". Whatever their philosophical merits, we cannot make our immigration policies depend on views of voluntariness that would require officials to have telepathic powers. Knowing what really happens in the mind of people at different points in their past, assessing whether their options were deliberately taken by another person, or judging the intentions an organisation had in organising the trip of a person is impossible. Focussing on accessible data regarding conditions of war, prosecution, climate change, poverty or other objective criteria that limit options as guidelines that officials can rely on is a more prudential alternative without invoking magic and necessarily inconclusive powers.

[128] For Appelbaum et al. (2009), A's choice is involuntary if the constraints: (a) are externally imposed, (b) deliberately influenced by someone other than A, (c) serve no other superior legitimate goal of "generally accepted norms", and (d) make a causal difference in A's action, i.e. A would not have done it anyway. "Situational constraints – such as poverty … – may have a profound influence on subject choice, but … [except for] extraordinary cases, they do not make the choice involuntary" (id.: 33).

[129] For Miller (2016: 76ff.; 167) the source of a threat in a country (e.g. a war or an earthquake) does not matter for another state's duty of assistance of ensuring basic human rights there. It involves creating safe zones inside the borders and, only as a second option, admitting them as international refugees.

[130] Appelbaum et al. (2009: 34) actually mention voluntariness which is alternative-based and constraint-free calling it "authentic voluntarism" (drawing on the work of Roberts, 2002). Even though it "does not reflect the law of informed consent", moral ideals apparently still matter to guide theorising.

IV. VOLUNTARINESS: FACTS AND REACTIONS

A. The Facts: How the Skilled and Wealthy Are Exempted from Integration

The previous sections have discussed the view that since immigrants arrive voluntarily they can be expected to integrate. This section explains that whatever the merits of this argument, it cannot be the real justification of how immigrants are treated unequally in function of their skills or wealth. As Arthur Schlesinger (1998: 127) has already noted:[131]

> "[w]e have shifted the basis of admission three times this century—from national origins in 1924 to family reunification in 1965 to needed skills in 1990."

To the extent that being skilled or wealthy gives access to more options as where to emigrate to, the skilled and wealthy migrate more voluntarily. And to the extent that integration can also happen to thin or thick degrees, it should be the more voluntary who should integrate more according to the logic of Kymlicka's voluntariness-integration link. Yet, reality is just the opposite: the skilled and wealthy are all the more exempted from demands of integration, while the non-skilled and non-affluent have to integrate all the more. This is illustrated by raising trend of "integration exams" testing the "effective link" with the receiving society of candidates to permanent residence or naturalisation.[132]

Such exams are controversial for various reasons.[133] They have two built-in selection mechanisms: first, its written format is mainly for literate candidates with sufficient previous education and second, these exams at times need to be paid for by the candidates themselves.[134] In addition, these exams often involve explicit differential exceptions. For example, the Dutch exam has led to a significant reduction of immigration from the two main communities of foreigners in the Netherlands (Morocco and Turkey, HRW,

[131] Both Kymlicka (2001: 154) and van Parijs (2011: 253) actually quote Schlesinger on this topic without, however, granting his description of how differential policies came about their full bearing. Note, that Schlesinger himself defends a critical stance towards immigrants accommodation.

[132] Cf. chapter 3, Joppke (2007) and Goodman (2010: 16). A basic version of the Dutch integration exam, the first of its kind, must already be taken at the respective Dutch embassies for people who apply for permanent residence or working permits. This holds even for family members of Dutch nationals – i.e. parents (as long as they are less than 65 years old), spouses or children (if they are older than 18 years). It is, thus, a hurdle to family reunification (HRW, 2008).

[133] Citizenship tests might be illiberal and unnecessary (cf. Bauböck & Joppke, 2010; Mason, 2014).

[134] In the Dutch case, each exam costs €350 and preparatory courses might have to be taken, too.

2008),[135] but nationals of the global north[136] and "foreign residents holding certain diplomas or certificates" (id.: 6) are exempted from the test.

While the UN has called this procedure discriminatory (Maas, 2014: 271) the global competition for the "talented" continues (Shachar, 2006), in particular in the IT sector. Migrants with the right kind of diploma have thus more options and choose more voluntary where to go.[137] Some states do not enact differential integration requirements because of the global status of their national language (e.g. Australia, Canada, the US) or regional dominance (e.g. Germany), but it incentivises other states to gain competitiveness by relieving the skilled from the "burden" of learning the local language.

The second kind of immigration policy takes the same line but targets another immigrant group: investors. Foreigners who invest at least half a million Euros in Portugal or Spain (e.g. real estate), for example, can receive a residence permit there.[138] Similar policies are in place elsewhere since many states compete for such "golden" migrants (cf. Stilz, 2016; Shachar, 2016). Rich investors can choose from the resulting offer – they can decide more voluntarily where to take residence. Analogously to the skilled, candidates to such schemes not only gain residence upon making an investment but they are often exempted from integration requirements to gain citizenship. Moreover, some states outrightly sell their citizenship without requiring candidates to ever set foot on their soil – the latest offer being a passport from St. Kitts & Nevis for $250.000.[139]

Whether residence should be a commodity is an important question.[140] But the issue

[135] Due to its accession to the EU, Turkish nationals are now also exempted, cf. http://www.government.nl/issues/new-in-the-netherlands/integration-of-newcomers, last access: 29/05/2016.

[136] I.e. Australia, Canada, Japan, Monaco, New Zealand, South Korea, Switzerland, the United States, and Vatican City, and member states of the EU/EEA (cf. Joppke, 2007; Maas, 2014).

[137] Cf. Dommernik et al. (2009: 3): "…the interplay of larger economic trends, educational systems, research funding, recognition of professional qualifications" also influence their eventual choices. The skilled are, however, often subject to "discrimination, the failure to recognize foreign credentials, and therefore, unmet expectations" (Lenard, 2014: 3). Yet, despite this relevant limitations, they still have more agency than the non-skilled: Indian IT specialists, for instance, responded more to the US than the German green card program because residence in Germany was limited to five years only (id.: 9).

[138] Since the introduction of this policy in late 2012, €817 million have been invested in Portugal (Gratwohl, 2014). In Spain, since October 2013 the investments taken under this "Entrepreneur Act" are estimated to have reached €3 billion until now. The creation of 12.585 direct and indirect jobs is attributed to this scheme. Data on Spain is from: http://www.elconfidencialdigital.com/dinero/millonarios-conseguido-residencia-Espana-millones_0_2486751315.html, last access: 27/05/2015.

[139] Malta considered granting a similar regime but retroceded after an intervention by the EU. Candidates now have to reside in Malta for at least 12 months before becoming citizens (Carrera, 2014). Austria, Belgium, Bulgaria, Cyprus, Portugal, and Romania have some form of special conditions prior to naturalisation for "stockholder" candidates (Džankić, 2015). Non-EU countries following these practises are mainly found in the Carribean (Noack, 2014). On a global level, such activities of "passport portfolio diversification" are estimated to create an annual turnover of $2 billion (Gittleson, 2014).

[140] "Residence planning" is the new response to the global tendency towards fiscal transparency (Gratwohl, 2014). Whereas the rich used to move their assets off-shore to save taxes, they now change their

goes further: incentive-sensitive differential policies that exempt revenue-generating immigrants go hand-in-hand with more demanding requirements for the non-skilled and non-wealthy. This is not merely an isolated empirical observation. It is systematic. European countries, e.g., have increased the demands for applying for citizenship in terms of prior residence, ranging from three to twelve years (Goodman, 2010: 6ff.), as well as mastering the local language. Candidates in Croatia, e.g., need to speak the local language at a B2 level where C2 would be a proficient speaker. "Normal" requirements from which foreign investors' are often alleviated together with exemptions as to maintaining other nationalities (Džankić, 2012: 11; Džankić, 2015: 8ff.).[141] Measures of integration increasingly tend to "exclude" normal migrants "while ingathering expatriates and persons of co-ethnic ancestry" (Goodman, 2010: 15). Cutting right down to the chase of the matter, Christian Joppke observes that migration and *non*-migration policies come together:

> "European [and other destination] states are everywhere crafting sharply dualistic immigration policies, in which for highly skilled [and rich] immigrants a red carpet of relaxed entry and residence requirements is laid out … while low-skilled [and poor] family migrants are meant to be fended off" (Joppke, 2007: 8, my comments in brackets).[142]

B. The Reactions: With or Without Voluntariness?

Now, confronted with these facts, one may react in a number of ways. Some may conclude that insisting on voluntariness as a justification for Kymlicka's asymmetric treatment is inapplicable. They may then abandon voluntariness as a valuable criterion. Others might reply that it is in the discretion of receiving states to decide whether and for whom they make exemptions concerning integration as a matter of their contractual freedom. What matters is that the "terms of the agreement" are reasonable.[143] Others again may want to hold on to migrants' voluntariness but suggest that the evidence has brought to light new considerations of normative importance: competing for talent might create the necessary incentives for potential migrants to educate themselves and thereby receive a "passport out" (Collier, 2013: 158) as long as more capital trickles down to help to unburden their states of origin (Wellman, 2011: 153). Van Parijs seems to invoke such a logic when granting the concession that we can have

residence. This is why such policies often incentivise tax evasion (Abrahamian, 2014). Specialised private consulting agencies usually assess the credibility of candidates (e.g. "opera divas, billionaires, or oligarchs") and eventually "sell" the citizenships in the name of the states (Zotter, 2013).

[141] In Malta, "the restrictive system for all other foreigners seeking naturalisation" stays in place whereas foreign investors are exempted from additional requirements (Debono, 2013).

[142] This is an empirical remark. In normative terms of justice this is not the case: differential selection criteria of skills or wealth should not be congruent with criteria of exclusion – those who are not selected are no simple mirror of the excluded (Carens, 2013: 173ff.; cf. also Meilaender, 2001: 182).

[143] Actually, these terms involve, on the whole, high benefits for immigrants (cf. Patten, 2014: 279).

> “duly circumscribed ‘linguistically free zones’ in which the constraints of the territorial linguistic regime are lifted … The highly skilled and their families who settle in these zones, typically selected because of their high-tech vocation, would be relieved of the heavy ‘tax’ of having to learn the local language” (van Parijs, 2011: 163).[144]

All these possible reactions have in common that they allow exemptions from duties of integration for those who stand a greater chance of fulfilling them. This is not uncontroversial. Some commentators share the unease with this concession (e.g., de Schutter, 2011: 22n1), because not all immigrants are treated as equals in function of their ability.

Many trust their institutions because the rich and the poor, the skilled and the less skilled are all equal before the law. And there is no reason not to extend such equality to settled immigrants – actual or likely future citizens (Carens, 2005: 32). Now, the Indian cook will see that his compatriot who is an IT-engineer was admitted without paying van Parijs' language “tax”. And it will alienate him and, legitimately so, shake his trust in the foundations of the receiving society. Similarly to established nationals,[145] he will observe this unequal treatment and this might feed into reduced tolerance with bad experiences of unequal treatment, easier frustration, and a probably less cooperative attitude. If immigrants see that not all have to integrate *equally*, they will likely consider integration not only as unnecessary – since apparently not all have to integrate – but also unjust. This differential imposition can cause alienation or even outright rejection.

Not only would such differential policies go against van Parijs' own principles of liberty and equality of opportunity, it seems hard to reconcile with global scope of his argument: such an argument inverts the voluntariness criteria purely on the basis of national self-interest. The justice of incentive payments has already been subjected to much criticism from John Stuart Mill (1859) to G.A. Cohen (2009). Actually, it is not possible to invoke against such criticisms arguments about Pareto efficiency or the benefits for the worst off that Rawlsians, for example, may appeal to. For the talent hunt here is being conducted globally but not for the benefit of the world. In fact, the talent hunt might speed up brain-drain, which may leave poor countries even more desperate than before with its nationals becoming even more willing to emigrate than before.[146]

Kymlicka, in turn, not only condemns “massive injustice in the international distribution of resources” (Kymlicka, 1995: 99) but may want to rescue the voluntariness criteria. He seems favourable of equal demands of integration for all immigrants: even the “most

[144] The quote is made in the context of Brussels, the capital of the EU which attracts many English-speaking administrators and related industries (cf. van Parijs, 2011b: 65).

[145] The unequal treatment of newcomers might *spill over* to how established citizens are categorised: the rich and skilled – and the rest. In fact, raising demands towards migrants are often accompanied by “welfare chauvinism”, i.e. the conviction that the needy in general deserve less support.

[146] On the brain-drain vs. -gain debate, cf. Miller (2016: 94ff.), Oberman (2013), or Stilz (2016).

highly skilled pharmacist" immigrating to Canada will receive no working permit if she does not speak the local language (Kymlicka, 2001: 263). In line with Kymlicka's quote, we are left with one position: to denounce the current practise as discriminatory, as employing socially disruptive double standards and as undermining stability abroad with the systematic selection of the most useful immigrants. Only then can we hope to appeal to voluntariness as a sound criterion for integration demands. As Patten puts it:

> "Receiving states can legitimately impose greater burdens on immigrants the more that those immigrants have decent alternatives to migration. Prosperous liberal democracies thus have … to end their complicity in the challenges facing societies burdened by poverty, social conflict, and authoritarian institutions, and to assist those societies in establishing just institutions" (Patten, 2014: 296–297).

Developed societies do not only have "a duty to assist burdened societies" (Rawls, 1999: 106) but also not to pillage their talented people. But what public criterion are we to offer when combining the voluntariness criterion with practical considerations?

C. Rescuing Kymlicka's Voluntariness Criterion

A possible solution that incorporates voluntariness into a comprehensive immigration plan could rely on Carens' (2005) threefold obligations of legal requirements, informal expectations, and desirable aspirations. Under such an understanding, all immigrants would have an unconditional duty for "thin" integration and voluntariness that kicks in when assessing how much receiving societies can *expect* or *desire* from newcomers in terms of "thick" integration (cf. Kymlicka, 2001: 273n19). Minimal "thin" integration would require knowledge of the local language enough to communicate in everyday interaction and access some job opportunities. "Thick" expectations might involve, amongst others, knowledge of central pieces of the local culture as, e.g., *Don Quixote* upon settling in Spain.[147] One can obviously get along well in Spanish society without integrating to that degree. But if mainly voluntariness determines the degree of integration and both are scalar, first and foremost the wealthy and skilled should be expected (and the others hoped) to know about the *Ingenious Hidalgo's* adventures.[148]

This is a way to rescue Kymlicka's voluntariness-integration link. But it requires substantive changes in how countries organise their immigration policies. Amongst them is Canada, the country around which Kymlicka has constructed his multicultural theory and which he often takes to be an example of how to manage diversity (cf. Kymlicka,

[147] Candidates to Spanish citizenship were denied their demand because they did not know its author, cf. http://www.elmundo.es/elmundo/2013/05/02/andalucia/1367513275.html, last access: 10/06/2016.

[148] Cf. May (2003: 131): "State-mandated language proscription" was rarely in history applied "with communities of wealth and privilege, but frequently among the dispossessed and disempowered."

2016). He would have to address the issues raised against Canada's broad-scale differential admission policies for the skilled and investors (Debono, 2013) unless he thinks, against the above arguments, that voluntariness it not the main criterion here. That is of course a possibility. But it would also involve jettisoning his second pillar of distinguishing immigrants and national groups. The price might be too high, not because its leaves Kymlicka without the criterion to justify different linguistic policies for earlier and later settlers in a territory (since we have seen that such attempt failed), but because the general idea of attaching greater liability to voluntary choices is very plausible.

V. CONCLUSION

Kymlicka imposes different linguistic policies for early and later settlers in a territory. He justifies this on the grounds that the latter can be seen as having immigrated voluntarily. I have criticised this justification of the asymmetric treatment by, inter alia, defending an *external* understanding of immigrants' voluntariness according to which an agent can be seen to act voluntarily only if she has sufficient alternatives. I doing so, I do not disagree with Kymlicka's general idea that voluntary actions carry with them greater liabilities than involuntary actions. However, the current practice is exactly the opposite of what Kymlicka's criteria recommends. Many migration receiving states apply differential admission and integration policies which favour the skilled and the rich, which effectively exempt the more voluntary migrants from the requirement to integrate. Against this background, this chapter has looked into whether such differential policies can be defended by reference to their incentives. I have argued that these should be rejected because they are based on socially disruptive double-standards that might undermine social cohesion and cannot be justified from a global justice perspective. And Kymlicka would, in any case, have to revise his theory's scope of legitimate demands of integration as well as its dependence on an agents' voluntariness. To uphold his link, he would also have to campaign against differential policies and give due weight to the deep interest of migrant families in goods like effective parenting.

Conclusion

Werner Herzog's movie *Where the Green Ants Dream* contains a striking scene where an Australian aborigine argues passionately before a judge who cannot understand any of the words the aborigine expresses so emphatically. The judge then demands the court's interpreter to translate. But he is told that all the members of the man's tribe are dead and so nobody can understand, let alone translate what the desperate man is saying. This scene exemplifies one extreme of the spectrum of situations this thesis discusses. Had the parents of this man also ensured he learned English, they would have surely enhanced his autonomy. Bringing him up exclusively in a language nobody can understand is perhaps comparable to making him mute, deaf, or in some other way unable to communicate with the rest of mankind. Had he also learnt English, he may have been better off than monolingual Australians because of the benefits of bilingualism and because he would no doubt had found an anthropologist or a linguist delighted to record and compile the vocabulary of that unique language so that it was not irreversibly lost.

The fact that the human brain thrives with two languages is unsurprising, because it might have been what evolution shapes us into: given the small size of human tribes and the importance of avoiding in-breeding, mixing with other tribes with different languages became normal and possibly with it the capacity to learn two languages during childhood. We have thus developed a brain adapted to bilingualism, which is arguably our natural condition. We have also evolved to learn our mother tongue as we learn best by mimicking our mother at a very young age. But the picture is further complicated by the arrival of an artefact: the territorial coercive state which imposes itself over mother tongues and global lingua francas. It is in this context that we encounter immigrant children whose parents cannot speak to them in their own mother tongues because this gives them an accent and a social disadvantage and because the child is already overwhelmed with endless list of words the school forces them to learn. So, for example, Luxembourg requires its students to master three languages at school. They have to learn them in addition to each of any further language their parents might speak. Eventually, something has to give. This thesis argues against rushing to the conclusion that it is the state who should take over, and that it is the mother tongue that must disappear so the child's brain can be more comfortably occupied by the languages of humanity and a given state.

I. SUMMARY: FAMILY, LANGUAGE POLICY, AND JUSTICE

This thesis has focussed on the justifications and public reasons on the basis of which receiving states require immigrants to learn the local language. It has argued that “thin” rather than “thick” integration is warranted: immigrants can reasonably be expected to master the local language to a basic level without making them unduly lose their mother tongue or give up on their original identity. This thesis has proceeded in inverse order of what its title suggests, starting with the family, so that the motivation of the subsequent critique is clear from the start, and then moving on to language policies and finishing with assessing three arguments: historical entitlements, reciprocity, and voluntariness. Linguistic policies should be concerned with families, and yet a focus on migrant families is strangely lacking. More specifically, each chapter has argued the following.

Chapter 1 discusses children's linguistic interests. It does so in contrast to views such as Kymlicka's that focus mainly on the dominant language and accept mother tongue loss. While he insists on a territorial societal culture as a frame of reference for individual decision-making, I have stressed the family as primary provider of this frame of reference. Children living between two cultures often experience difficulties in navigating these two worlds and this affects not only their competence in the dominant language but also their family life. As a consequence, so I argue, speaking a language parents master is important for effective parenting and for the creation of family goods such as trust, intimacy, or a sense of belonging. Parents should not be mocked and see their authority undermined to a point at which they cannot parent effectively anymore.

This family focus is sometimes contested by those who argue that it is not families but children's interests that should have lexical priority or even that only the interests of children matter, so that even the right to parent a particular child should depend on what is in the child's best interest (Gheaus, 2016). I have rejected this view and instead advocated the “dual interest account” developed by Harry Brighouse and Adam Swift (2014) which gives weight to both the interests of parents and the interests of children. This view gives parents' interest in parenting in their mother tongue independent weight.

I have, moreover, stressed the interdependent nature of parents and children's interests: children themselves are interested in effective parenting and in being told off eloquently and convincingly and parents are interested in the future personal and professional success of their children. Indeed parents' interests qua parents' and children's interest qua children are so interdependent that it is somewhat contrived and artificial to keep them

apart and to focus only on the children. Even if we did so, however, and insisted on children's future autonomy as the only value we must take into account, we continue to lack arguments against their mother tongue. First, as I have argued drawing on Joseph Raz, autonomy requires an adequate range of acceptable options, rather than the maximization of options. Second, a child's autonomy is not merely a linguistic matter, and effective parenting may contribute to autonomy more than any particular language. Finally, learning from one's parents is like having a native teacher who knows us extremely well and teaches us for entire days for free. This efficient and intensive training produces numerous cognitive benefits which could also enhance one`s autonomy. These benefits have been spelled out in chapter 2.

Chapter 2 introduces the main aspects of van Parijs' account of linguistic justice. He focuses on the convenience of English as a lingua franca and tries to balance it against the interest of territorial groups to maintain their respective languages, and concludes that we should teach the respective territorial language as well as English to our children: the first because it respects the language which the majority on a territory already speaks and the second because it is a global language and opens up many opportunities.

I have tried to highlight what is lost in the simplified model van Parijs presents, and argued that a third element needs to be introduced: the mother tongue of immigrant groups that stands in competition to English and the territorial language. I have presented the challenge in the form of a trilemma based on van Parijs three central values, efficiency, liberty, and parity of esteem. Van Parijs values efficiency, which favours the promotion of the global lingua franca. But, as I explained earlier, learning a mother tongue is also efficient in other respects, and primes the brain for more efficient learning later. State imposed languages, by contrast, require a major infrastructure and are only useful later because of a political decision to make it the “Queen” on the territory. Van Parijs greatly values liberty as well, of course, and real freedom for all. And he himself admits that if you do not lay down a coercive law, people will want to speak English and their mother tongue. So far, thus, my candidate is not without merit. This leaves us with the third, broadly egalitarian horn of the trilemma, for which van Parijs invokes the term “parity of esteem”: it refers to some social groups having to “bow” and accept the imposition of another language and sometimes even the disappearance of their own. In response, I have argued that those who have to engage in constant “bowing” and feel in their day to day interactions their language and culture treated as unworthy and second rate is more the immigrant communities than big territorially established groups. In immigrant communities one can sometimes see this being interiorised, causing, as I note in chapter 1, problems with integration and upbringing.

I make two additional points. First, is that I suspect Van Parijs arguments and solutions are insufficient to counteract the strong tendency towards monolingualism he himself describes. The wealthy English speaking countries will be monolingual in Van Parijs' world, as will be the poor countries who cannot afford protectionist measures. We are thus left with the Chinese, the French, the Germans and a few more wealthy, non English speaking countries in the world. I think there are alternatives to this fate, and I have explored the possibilities and interest of introducing immigrant languages into the educational mainstream of receiving states. In view of all the cognitive benefits of multilingualism I describe in this chapter, we have reason to explore options other than van Parijs', such as ensuring every child speak something in addition to English, whether it is their mother tongue, their neighbours' mother tongue, or something else. If states can make learning a language worthwhile by organising activities that are conducted in it, they can do so, at least to some extent, for languages other than the state's language. My final point regarding van Parijs' model concerns my critique of the reciprocity argument van Parijs employs to support a coercive territorial regime. This is discussed in the following chapter which also deals with an argument employed by Kymlicka to support a territorial regime.

Chapter 3 starts with the thought-experiment of the Chinese claiming the same rights as the Québécois in Canada. I argue that empirical facts about the status quo are inconclusive. History and territory may explain the particular attachment of some groups to a portion of the world, but they do not justify language rights and duties of integration. I present five arguments against Kymlicka's attempt to justify an asymmetric treatment of native groups (or early settlers) and immigrant groups (or more recent settlers). To wit, I have argued that: (i) they involve substantial arbitrariness in the treatment of what are, in effect, earlier and later settlers in a continuum of migration and invasion that characterises the history of humanity – the alien conquerors of the past are the natives of today; (ii) Kymlicka's arguments can have perverse effects by siding towards not the fairest but the most vociferous and aggressive demands; (iii) he seems to mistake silence for indifference, when we know that, as it happened with women in the past, groups may make no demands precisely because their degree of oppression is such that they have interiorised it, and cannot even picture a society which granted them equal rights; (iv) Kymlicka gives early settlers ample rights and newcomers no choice, even when gradual and trauma-free integration was more feasible and beneficial for early settlers than for those more recently arrived; and (v), finally, Kymlicka's arguments are not safe from a general status-quo bias.

Having broadly accepted Kymlicka's outlook, van Parijs defends his proposal with a reciprocity argument, which claims that it is not unfair to force an African immigrant to

learn French, since a Frenchman would also have to learn Wolof, for example, if he emigrated to Senegal. Against this argument I have argued that (i) van Parijs grants that the African may be too poor to impose protectionist policies and invest in protecting their languages. So the reciprocity argument is based on assuming a quid-pro-quo which will not take place. African's hope of preserving their culture is through the natural channel as all humans have passed on their culture through history: by passing their knowledge to their children. Van Parijs' new state plans, rather than reciprocal and egalitarians, seems to be disadvantageous for the poor; (ii) since the world will speak English, all those English speaking wealthy individuals will be able to function in Africa, and certainly in all the territories that the British colonised without any reciprocal "bowing"; (iii) van Parijs arguments resembles the claim that a ban from sleeping under bridges applies to rich and poor alike. It may apply to both, but it does not equally affect both. For the liberty to sleep under a British bridge without having to learn English has more value to the Senegalese than the value to have shelter under a Senegalese bridge without speaking Wolof has for the Brit; (iv) finally, van Parijs proposal is not the only way to instantiate reciprocity, for many other reciprocal arrangements are possible.

Having criticised Kymlicka's and van Parijs's arguments, critically analysing the role of history and territory, this chapter has explored the possibility of alternative objective criteria. It suggests that *need* might be a better criterion for both Kymlicka and van Parijs to adopt, in view of their respective philosophies. The framework for meaningful choice that a protected culture can give is (i) also provided by families and (ii) not equally needed by all. Kymlicka invokes a promising argument to justify the unequal treatment of earlier and later settlers which appeals to voluntariness. This is discussed in the final chapter at length.

Chapter 4. Kymlicka' s second argument is more promising because its seems plausible that a voluntary action involves greater liability than one in which the agent had no choice. As in chapter 1, I have drawn on the work of Joseph Raz, who argues that to deem somebody the author of his life, this person must have an adequate range of acceptable options. In addition, the chapter stresses the importance of focusing on the existence of alternatives on the grounds that public institutions should employ an external and verifiable account of voluntariness, that avoids speculations about what might have happened in the mind of agents. We should employ observable and objective criteria rather than conceptions that require mind-reading abilities. I have also argued that, like autonomy, voluntariness is a satiable concept, there are degrees of involuntariness.

Equipped with this conception I have first criticised Kymlicka's assumption that late settlers arrive voluntarily, whilst earlier settlers have not. In addition, I have noted that, as

a matter of fact, it is the more voluntary immigrants that are given the greatest liberties, whilst the least voluntary are forced to integrate. A salient group of late arrivals involves refugees, which are definitely involuntary migrants, and who are also denied the linguistic rights granted to more established groups. The conclusion of the chapter, however, is not to drop the voluntariness criteria, but to apply it coherently, demanding more from those who have the best and most numerous migration alternatives.

All chapters have thus some implications as to how receiving states can justify demands of integration. In this vein, Carens (2005) distinguishes between actions or omissions in thinking about integration that are a) legal requirements, b) informal expectations, and c) desirable aspirations. While he used this categorisation from the viewpoint of immigrants, let me use it to summarise the implications of the four chapters for receiving societies and their integration policies: 1) receiving states should be required and hence legally bound not to interfere with immigrant parents speaking their mother tongue with their children, 2) it should be a desirable but not required aspiration of receiving states to bring immigrant languages into their educational institutions, 3) receiving states should be expected not to favour national over immigrant groups' culture on the grounds of prior history on the territory, and 4) states should be expected to assess immigrants' voluntariness based on the constraints on their freedom and not their preferences.

II. FUTURE RESEARCH

The thesis, and the final chapter in particular, emphasises the mismatch between the argumentative role given to voluntariness and the current practice worldwide. There is another mismatch between an argument employed to justify some immigration practices I would like to highlight: the way arguments regarding the importance of family values are employed, and current practice regarding family unification. Immigration authorities appear to invoke the importance of families at their convenience. For example, appealing to the importance of keeping families together, Spain regularly deports unaccompanied minors back to Morocco arguing it is in the "best interest of the child" to be with their family (Empez Vidal, 2011).[149] This is just the opposite of the argument discussed in chapter 1, according to which it is in the best interest of children from settled immigrants to fully integrate. The authorities disregard the fact that the parents have sacrificed their own interest in transmitting their language and values for the sake of the child, and sent him to Spain to fully integrate, because they deem this to be in the child's best interest. In addition, the importance of family union is is not granted so much importance

[149] The US is taking similar action in view of the presence of 11 million irregular immigrants, many with families (cf. Carens, 2010) and the more recent influx of unaccompanied minors. Cf. http://www.reuters.com/article/us-usa-immigration-deportation-exclusive-idUSKCN0Y32J1, last access: 12/06/2016.

when settled immigrants file family reunification petitions. Moreover, the worse off immigrants are the ones that need to rely on their families most, and the ones that more often see their family reunification petitions denied (Ruhs & Martin, 2008: 251). The highly skilled, by contrast, are not only more likely to be exempted from having to take an "integration exam"[150] but also have their family reunification petitions granted.

Another field of further research concerns those arguments which I have explicitly omitted during this thesis but which have a bearing on the stance taken here. One such argument is the one of political self-government (cf. Bauböck, 2015). A different debate underlies demands of integration that are justified by reference to it. The scope, conditions, and limits of more pragmatic arguments in favour of linguistic integration of immigrants need to be further analysed, e.g., that political communities require one (or very few) languages or that costs of change matter for just transitions (cf. Patten, 2014: 288ff.). But there is a third line of future research that extends the considerations, mechanisms, and arguments of this thesis to the field of intra-linguistic justice.

I am interested in the way a language varies "internally": it can vary from speaker to speaker in accent, vocabulary, or register. Within a language, such differences can signal differences of status. This aspect is unchartered land in the literature on inequality of status (gender, race, class, etc.). Yet, as a source of structural injustice, language might be at least as important as other aspects. Some findings actually suggest that accent trumps race in social preferences (Kinzler et al., 2009). Whereas my thesis has been mainly about mother tongues other than that of the receiving society's majority, delving into inequalities within a language group in connection to implicit bias or epistemic justice appears like a promising avenue of further research.

[150] Demands are also raised financially: in 2012, the UK government decided to introduce an income threshold of an annual £18,600 to sponsor spousal immigration from non-EEA countries and £3,800 for the first and £2,400 for each following child. Since its introduction, 33,000 couples and 15,000 children have been unable to join their spouses and families (Elgot, 2015; Wray et al., 2015).

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