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Linguistic diversity in the UK and Ireland – does the meaning of equality get lost in translation?

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LINGUISTIC DIVERSITY IN THE UK AND IRELAND – DOES THE MEANING OF EQUALITY GET LOST IN TRANSLATION?

Luke McDonagh

INTRODUCTION

This chapter examines the law in the area of linguistic diversity in the UK and Ireland, with particular focus on the provision of language services such as interpretation and translationⁱ. While English remains the dominant language, there are a vast number of minority languages spoken within both states (Barbour, 2000, p.43). However, as noted over the course of this chapter, while there is a diverse range of minority languages, the legal status of each language is not equal in either the UK or Ireland (McCleod, 1998, p.1, Sutherland 2000, p.200, Dunbar, 2006, p.198). In fact, there are two distinct legal frameworks. The legal framework to be used depends upon the category the language falls into. One model covers the category of 'indigenous' or 'regional' minority languagesⁱⁱ, such as the Celtic languages of Welsh, Scots-Gaelic and Irishⁱⁱⁱ. The other framework generally covers the languages of immigrants, and for the purpose of this chapter these languages are described as 'immigrant' languages. However, to some extent it is arguable that the terms 'indigenous' and 'immigrant' are unsatisfactory. For instance, Barbour has noted that it is unclear how long a language must be present in a territory before it is described as 'indigenous' (2000, p.21). Hence, the terms 'indigenous' and 'immigrant' are used with some trepidation in this chapter and these terms are used purely for the purposes of offering a critique on whether such a distinction is necessary and justifiable. This chapter also assesses the relevant European and international jurisprudence on language rights, which includes issues of minority rights as well as cultural heritage measures. For instance, the significance of minority language rights in Europe is examined, with particular reference to the provisions of the Charter for Regional and Minority Languages, which was enacted by the Council of Europe in 1992. It has been argued that the distinction between categories of language, as identified above, is mirrored to some extent at the European level (Hogan-Brun and Wolff, 2003, p.14).

However, it is further arguable that from a minority rights perspective, the provision of two distinct models, dependent on whether a language is classed as ‘indigenous’ or ‘immigrant’, is not desirable (Rodriguez, 2006, p.687-9). This chapter argues that a single, general right to linguistic diversity may be preferable. In addition, recent European jurisprudence appears to point in this direction (Burch, 2009, p.140-8).

Regarding the issue of linguistic heritage, it is possible that certain provisions for the promotion of particular languages are objectively justifiable, when framed within an internationalist and universal cultural heritage model. Measures that are enacted for ‘mere’ nationalistic grounds or measures that do not have the specific aim of promoting or safeguarding an endangered language may not be acceptable within a universal cultural heritage framework (Dunbar, 2006, p. 196-8). Furthermore, it is possible that an international cultural heritage perspective, considered in the light of the UNESCO Convention on the Safeguard of the Intangible Heritage, 2003, has the potential provide a framework for a heritage-based language policy.

This chapter concludes with an assessment of the current legislation of the UK and Ireland in light of this internationalist perspective. Ultimately, this chapter argues that it may be justifiable to treat some languages unequally, but only in limited circumstances, and only so far as any ‘dissenting voices’ are properly taken into account (Howard, 2003, p.30).

LINGUISTIC DIVERSITY IN THE UK AND IRELAND – EXPLORING TWO DISTINCT LEGAL FRAMEWORKS

This section outlines the law in relation to the ‘indigenous’ Celtic languages in the UK and Ireland, as well as the law in relation the ‘immigrant’ languages spoken in both states. It is clear that there are two distinct legal frameworks. Regarding the Celtic languages, it is necessary to add that there is also a distinction between the status of Welsh in Wales and Irish in Ireland, in contrast to the status of Scots-Gaelic in Scotland and Irish in Northern Ireland. This is discussed further below.

In Wales, the *Welsh Language Act 1967* made provision for rights to use *Cymraeg/Welsh* in courts and helped to galvanize the Welsh language movement. The *Welsh Language Act 1993* went further and provided that the Welsh language had equal status with English regarding the functions of public bodies. In terms of language promotion, the Welsh Language Board was set up in accordance with the 1993 Act to promote and facilitate the use of the Welsh language. In Wales, around 20% of the population describe themselves as Welsh speakers according to the 2001 census, and the highest proportion of speakers is in the north-west.

In Scotland, the *Gaelic Language (Scotland) Act 2005* became the first piece of legislation to give official recognition of *Gàidhlig/Scots-Gaelic*, commanding equal respect to English. The legislation also included a national Gaelic language plan. An estimated 1.2% of the Scottish population describe themselves as Scots-Gaelic speakers according to the 2001 census, which is a decline from the previous census. One of the reasons for the enactment of the 2005 Act was to make provision for the reversal of this decline. *Bòrd na Gàidhlig* was set up, pursuant to the Act, to promote, develop and encourage the use of Scots-Gaelic in Scotland.

Following the enactment of The Agreement Reached in Multi-party Negotiations of 1998 (sometimes referred to as the Belfast 'Good Friday' Agreement), *An Gaeilge/Irish* received official recognition for the first time in Northern Ireland, although not all official documents require translation and translation is primarily directed towards areas of particular importance or relevance to Irish language speakers^{iv}. Furthermore in 1998, *Foras na Gaeilge* was established as a cross-border organization for the promotion of the Irish language in Northern Ireland and Ireland. Around 10% of the population of Northern Ireland has 'some knowledge' of the Irish language according to the 2001 Census.

In Ireland, *An Gaeilge/Irish* is the first official language, as enumerated by Article 8.1 of *Bunreacht na hÉireann*/the Constitution of Ireland. The *Official Languages Act, 2003* set up the office of the Irish Language Commissioner and the act provided that all official forms and documents created by public bodies must be translated into Irish. According to the 2006 Census, 40.9% of the Irish people describe themselves as 'competent' in Irish and the main *Gaeltachtai* (Irish speaking areas) are located in counties Donegal, Galway, Mayo, Kerry, and Cork, with smaller areas in the counties

Waterford and Meath. However, according to the 2006 Census, outside of the education system only around 7% of the Irish people speak Irish on a daily basis.

In contrast to the situation regarding the ‘indigenous’ Celtic languages above, the majority of legislative measures covering ‘immigrant’ languages are not specific to a particular language or even to the issue of provision of language services. In the UK, the *Race Relations Act 1976* (as amended by the *Race Relations Amendment Act 2000*) remains the primary framework for the provision of language services by government, as detailed below. In addition, the *Human Rights Act 1998*, through the enactment of Article 6 of the European Convention on Human Rights (ECHR) on the right to a fair trial, requires translation and/or the provision of an interpreter where necessary when someone is arrested or charged with a criminal offence. The primary aims of the *Race Relations Act* (RRA) are to prevent discrimination and to promote equality and good relations between different racial groups. For instance, section 71 requires local authorities to make appropriate arrangements so that their functions are carried out in line with these aims. Therefore, government policy in the area of language services for immigrants has been largely delegated to the local authorities. The principal reason for this is the fact that there are a diverse range of immigrant languages spoken within each particular area and no two local authorities will have identical language responsibilities. Hence, each local authority provides translation services based on the practical needs of the immigrant communities in its area^v.

The *Race Relations Act 1976* did not extend to Northern Ireland. Instead the *Race Relations Order (N.I.) Order 1997* (as amended by the *Race Relations Order (Amendment) Regulations (N.I.)* of 2003) has similar provisions to the RRA. The *Human Rights Act 1998* applies to Northern Ireland therefore Article 6 ECHR is applicable. In addition, section 75 of the *Northern Ireland Act 1998* makes similar provisions regarding equality of opportunity and interpretation services as the RRA.

In Ireland, the *Refugee Act 1996* states that interpretation services are to be provided during asylum interviews. The *Equal Status Act 2000* and the *Equality Act 2004* (known together as *Equal Status Acts 2000-2004*) prohibit discrimination on the basis of nine possible grounds including race, religion and family status. It is thought that failure to provide an interpreter could violate the *Equal Status Acts*,

but so far no case has been taken on this issue (National Consultative Committee on Racism and Interculturalism, 2008, p.7). The *European Convention on Human Rights Act 2003* incorporates Article 6 into Irish law a similar fashion to the Human Rights Act in the UK, to the extent that interpretation services would be required in criminal proceedings.

It is arguable that the two models, as outlined above, reflect a level of inequality in relation to the perceived value and status of 'indigenous' and 'immigrant' languages in the UK and Ireland. However, this distinction is by no means an obvious one and it is questionable whether it is justifiable (McCleod, 1998, p.1). Gupta has noted that the decision to prioritize one language as 'indigenous' and another as 'immigrant' is potentially problematic from a human rights perspective (2002, p.295-7). In line with this, Robert Dunbar has stated 'while the United Kingdom has taken positive steps with regard to Scots-Gaelic and Welsh, there is a clear argument for a much more comprehensive approach to minority-language communities more generally' (2006, p.198). In a diverse society with limited resources, where dozens of minority languages are relatively widely spoken, questions arise with regard to which ones should be safeguarded and promoted and which ones should not.

For instance, in recent years the UK has, through the Welsh Assembly government, consistently provided a large amount of funding, around £13 million, to the Welsh Language Board each year^{vi}. In addition, the relevant Scots-Gaelic organisation, *Bòrd na Gàidhlig* received £4.4m in government funds^{vii}. Furthermore the UK government, in conjunction with the Irish government, has continued to fund the development of *Foras na Gaeilge*. However, although it has continued to fund Celtic language services at a consistently high level, the UK government has recently changed its policy towards provision of translation services for immigrants. In recent decades, the level of immigration into the UK has continued to increase and different language communities have become ever more widely dispersed. Therefore, it is no surprise that more attention has been paid in the media to the amount of money spent by local authorities on basic translation services. In late 2006, the BBC reported that over £100 million of public money is spent on translation services in the UK, each year^{viii}. As a result, it was reported that the government intended to change its policy on translation services^{ix}. In the face of some criticism^x, the government pressed ahead with its new policy and the Department for Communities and Local Government published the report entitled 'Guidance for Local Authorities

on Translation of Publications' in 2007. The report noted that provision of services for immigrants to learn English are a priority. However, there are long waiting lists for services for learning English such as ESOL^{xi}. Thus, the report recognized that some translation services are necessary, particularly with regard to legal, medical or financial issues. The report provided a checklist to help local authorities decide when translation services are required.

In spite of the policy change, there is still some media criticism in relation to provision of translation services in the UK. For instance, in London, Haringey Council was recently criticized in the news media for producing translated documents that were in the case of a number of languages, not viewed by a single person^{xii}. It is true that there may be genuine public interest cost concerns in the case of documents that are translated, yet remain unread. However, these criticisms could also be made in relation to translation of documents into Welsh, Irish and Scots-Gaelic^{xiii}. The issue of translation in relation to 'immigrant' languages is often discussed in on a 'need' basis, but the issue of 'need' is arguably not as prevalent in discussions over the translation of documents into the 'indigenous' Celtic languages^{xiv}.

For example, in Ireland, the *Official Languages Act 2003* provides for the translation of official documents into Irish, many of which are never used by citizens^{xv}. In contrast, there is a lack of governmental policy and guidelines concerning language services for immigrants in Ireland (NCCRI Report, 2008, p.7). In fact, there is an acute shortage of interpretation and translation services for immigrants in other crucial areas and this has been described as a 'barrier' to integration (NCCRI Report, 2008, p.18). Hence it is arguable that the distinction between categories of language is even clearer in Ireland than in the UK. Therefore it appears that due to the requirements of the constitution and national legislation, translation services for the 'indigenous', national language of Irish are prioritized over translation services for other languages.

In fact, due to the various constitutional and legislative provisions outlined above, Irish, in Ireland, and Welsh, in Wales, are embedded in the Irish and Welsh legal frameworks in a way that goes beyond the position of many minority languages, including Scots-Gaelic, in Scotland, and Irish in Northern Ireland. Moreover, while the Welsh language revival has been a partial success, it does not

necessarily follow that the provision of a formal right to translation services, or the right to conduct legal affairs through Welsh, are the most vital aspects of the revival. It is important to also note the presence of cultural innovations such as the provision of radio and television services through Welsh, as well as the thriving 'Welsh-speaking youth culture' that exists in Wales (Barbour, p. 42). Indeed, it has been noted that in the case of Irish, considering the amount of Government resources that are spent on the formal requirements of Irish as an official language, the Government's policy in this area over recent decades has led to 'depressingly poor results' - only a small minority of people speak the 'national' language on a daily basis (Barbour, p. 38). As is discussed later in the chapter, with regard to Irish in Northern Ireland and Scots-Gaelic in Scotland, the provision of translation services is arguably more proportionate to the actual needs of the particular language speakers than it is in Ireland or Wales.

Therefore, the question remains - is the distinction between categories of language justifiable? Clearly, the person who has just arrived from India or Pakistan or Malaysia, who cannot speak English would have a far greater practical need for language translation and other services than any Celtic language native speaker, because today, although there are substantial minorities in areas of Wales and Ireland where Welsh and Irish are the native languages, it would be highly unusual today to find somebody who would not be bilingual i.e. be able to speak Welsh or Irish but not English (Sutherland, 2000, p.201). Nevertheless, the provision of translation and interpretation services to native speakers in their native language may well be important, from a minority rights perspective (McCleod, 1998, p.1). However, while the UK and Irish governments are supporting speakers of the indigenous Celtic languages through the provision of translation and other language services, translation services for 'immigrant' languages are under threat in some parts of the UK. Meanwhile, language services of remain scarce in Ireland.

Exploring International Perspectives on Language Rights

In light of the distinction between categories of language, as identified above, it may be useful to assess European jurisprudence on minority language rights and international cultural heritage law. With regard to the law of the European Union, it has been said that traditionally the EU has not

focused much attention on the issues surrounding minority languages (Nic Shuibhne, 2002, p.107-110). Indeed, the European Court of Justice has primarily ruled on this issue in relation to free movement of people under EU law principles^{xvi}. However the Charter of Fundamental Rights of the European Union is potentially relevant to language rights. This Charter provides for group-oriented language rights in Article 22. Interestingly, Article 22 of the Charter of Fundamental Freedoms is not expressly limited to indigenous languages of Europe, and as Burch has noted (2009, p.120) it is not clear from the text of the document that language 'preservation' is a key principle. Nonetheless, it is clear that a number of national and regional minority groups within the EU have taken Article 22 to mean that such rights are implicit in the document^{xvii} (Burch, 2009, p.120).

The most relevant^{xviii} Council of Europe measures in the area of language rights are the Charter for Regional and Minority Languages of 1992 and the Framework Convention for the Protection of National Minorities of 1995. These treaty documents have framed the last decade of discussion of the rights of linguistic minorities in Europe. However, these documents primarily apply to the minority languages usually described as 'indigenous' or 'of regional significance' to Europe. For instance, the text of the Charter explicitly excludes 'immigrant' languages. In addition, the language rights in these documents are group-oriented, rather than individual rights^{xix}. The UK has ratified the European Charter for Regional and Minority Languages in relation to Welsh in Wales, Scots-Gaelic in Scotland and Irish in Northern Ireland. In relation to Ireland, under the definition in Article 1(a)(2) of the European Charter for Regional and Minority Languages, Irish cannot be recognized as a minority language of Ireland as it is an official language of the State. However, as stated above it does have minority language status in Northern Ireland (as part of the UK). It is arguable that with regard to Welsh in Wales, the UK has even gone beyond its obligations under the European Charter for Regional and Minority Languages, due to the extent that Welsh is embedded in the Welsh legal framework, as noted above.

Hence it can be said that the two distinct frameworks, identified above, are mirrored to some extent at the European level. For instance, Stephen May (2001, p.65-80) has argued that the position within the EU of speakers of 'regional' or 'indigenous' languages in comparison with speakers of 'immigrant' languages cannot be described as equal. As Burch has recently argued, it is clear European

language rights ‘were originally understood to be preservationist, group-oriented, and available to territorially-defined national minority groups’ (2009, p.120). Indeed as is the case in the UK and Ireland, in Europe, until recently, the rights of indigenous language speakers and the rights of immigrant language speakers have been categorized separately (Hogan-Brun and Wolff, 2003, p.14). Indeed, speakers of ‘indigenous’ minority languages have been accorded rights which generally have not been extended to speakers of ‘immigrant’ languages. For instance, it has been noted that speakers of European minority ‘indigenous’ languages are more able to avail of the cultural aspects of their language (Burch, 2009, p.106). Additionally, members of indigenous minority language communities generally have the right to communicate with their regional, national, and in some cases even their EU governments in their minority language, something which is generally only available to immigrant communities on an ad hoc basis dependent on the law of the individual member state^{xx}.

Despite this, Burch has recently argued that although EU language policy has historically made a firm distinction between the rights of speakers of ‘regional’ languages and ‘immigrant’ languages, there is some evidence that at an EU level, the two distinct frameworks are beginning to converge (2009, p.147-8) . She has noted that it is clear from the recent case law of the ECJ and the actions of treaty bodies, that instruments designed to give rights to speakers of European regional or ‘indigenous’ languages can in certain circumstances be invoked to give rights to speakers of minority ‘immigrant’ languages. Burch has stated that what began as a right to ‘preservation’ may eventually become a fully fledged ‘right to linguistic diversity’ leading to comparable rights for speakers from both groups (2009, p.106-9). Arguably, it is logical to envisage this happening, particularly with regard to ‘minority rights’ issues, such as the right to communicate with local or national government, which may include related translation rights.

For instance, it has been noted that originally protection was given on the basis of ‘group-inhering, territorially-defined, preservationist’ rights (Burch, 2009, p.108-9). However, Burch has argued that a reformulation began with the recognition of the rights of Yiddish and Romani speakers who are scattered across Europe (2009, p.108). These languages are recognized as ‘non-territorial’ languages in the European Charter for Regional and Minority Languages. Following this development, the ECJ and the Council of Europe were instrumental in pushing for the ‘right to recognition of the languages

of all European migrants throughout the European Union' (Burch, 2009, p.108). Burch has noted that even though treaties such as the European Charter for Regional and Minority Languages and the Framework Convention on the Rights of National Minorities explicitly excluded 'immigrant' languages, treaty bodies often now consider these rights. For instance, in 2007 the Advisory Committee on the Framework Convention for the Protection of National Minorities considered the language needs of children and adults from immigrant communities in the UK^{xxi}. Furthermore, in relation to EU law, in *Haim* the ECJ stated that provisions should be made, in relation to the state healthcare system, for individuals to speak in their native language with dentists, even if the language is not the national language^{xxii} (Case C-424/97, 2000, p.60). Hence, it is arguable that 'immigrant' linguistic minorities are beginning to gain 'recognition similar to that accorded European migrants' (Burch, 2009, p.109). Ultimately, it is possible that the original formulation of European protectionist linguistic rights may eventually lead to the formulation of a 'right to linguistic diversity' for all minority language speakers in Europe, including immigrants. In the near future this general right could prove to be the most progressive way of dealing with issues of minority rights, including the provision of translation and interpretation services.

Nonetheless, it is true that issues of cultural and linguistic heritage are also important in this area. Furthermore, the Celtic languages are genuinely endangered. In fact, many of the world's languages are in a similar position. A UNESCO press release of 2002 noted:

'About half of the 6,000 or so languages spoken in the world are under threat. Over the past three centuries, languages have died out and disappeared at a dramatic and steadily increasing pace, especially in the Americas and Australia. Today at least 3,000 tongues are endangered, seriously endangered or dying in many parts of the world.'

This point is important because, as noted below, language is potentially the 'vehicle' by which culture is passed on. For example, it is arguable that the Celtic languages, and the traditional music and literature associated with the languages, are cultural resources that can and have been used to inspire individual creativity^{xxiii}. With this in mind, it is the Convention for the Safeguarding of the Intangible Cultural Heritage (CSICH), adopted by UNESCO in 2003, is potentially relevant to the

Celtic languages. The CSICH defines intangible cultural heritage in Article 2(1). Rieks Smeets (2004, p.157) has noted that there were some experts in favor of including language under the definition of intangible cultural heritage in Article 2(1) during the drafting stages of the CSICH. However, it was not eventually included. Nonetheless, language was included in Article 2(2) which specifically states that intangible cultural heritage covers language as 'a vehicle of the intangible cultural heritage'. Smeets (2003, p.161) remarked that language is the medium 'par excellence' of communication between performers of traditional cultures. One of the important points that Smeets referred to was that the language planning, preservation and re-invigoration envisaged under the CSICH, would only go as far as these measures are necessary for safeguarding the intangible cultural heritage of the selected community or group (2003, p.162). This is arguably a positive development. Potentially, the CSICH provides a universal cultural heritage framework to safeguard and promote endangered languages,

For instance, at a national level, contracting parties draw up inventories regarding the 'intangible cultural heritage' within their territories, and at the international level Article 5 establishes an Intergovernmental Committee to make 'representative lists' of intangible heritage. Once the CSICH is ratified by a state, applications can be made to the fund established by the CSICH in Article 25. The Committee administers the funds on the basis of guidelines laid down by the General Assembly. UNESCO had previously issued the 'Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity' in 2001. Once a state had signed the Proclamation, its 'masterpieces' could be considered. Since neither Ireland nor the UK was a signatory, no Celtic 'masterpieces' of intangible heritage have been considered. The CSICH representative lists encompass and replace the earlier 'masterpieces' proclamations. Without doubt there are many examples of Welsh, Scots-Gaelic and Irish heritage that could potentially be recognized under the CSICH, once ratified by the UK and Irish governments^{xxiv}. However, neither the UK nor Ireland has ratified the agreement as yet. As noted above, it appears that legal measures aimed at safeguarding and promoting the Celtic languages in the UK and Ireland currently work within a nationalist framework, rather than an internationalist one.

Furthermore, despite the enactment of legislative measures outlined above as well as the continued support of the UK and Irish governments, the Celtic languages remain endangered. It may be possible that a cultural internationalist approach, as outlined by the CSICH, could provide more

opportunities for recognition each language as a ‘cultural resource’. This may be preferable to placing emphasis on the state’s responsibilities towards a language as based upon a rather formalistic part of the constitutional or legislative character of the ‘nation’, as it arguably is in Ireland and Wales. Indeed, as noted below, it is arguable that the legislation covering Scots-Gaelic and Irish in Northern Ireland strikes a more rational balance between legal formalism and language promotion.

Some thoughts on recent legislation in the UK and Ireland

As noted above, the constitutional and legislative provisions which cover the Welsh language in Wales, and the Irish language in Ireland, appear to be based upon the premise that each language is a fundamental part of the ‘national’ character. However, scholars such as Hobsbawm (1990, p. 9-11) and Gellner (1983, p. 1-4) have noted that the concepts of ‘nation’ and ‘nationality’ are not immutable, and are in fact ‘constructed’. Therefore, it is arguably necessary to question whether such nationalistic policies are rationally justifiable. For instance, it is questionable whether a language which is spoken by only a minority of people within a national territory, can truly be described as a ‘national’ language in a practical sense. This does not mean that the language cannot have a particular national or regional cultural significance. Nonetheless, such analysis may lead to the question of whether legal formalism is in fact the most appropriate way to recognize the significance of the language. As noted above, it may well be the case that there is a strong argument, based on universal cultural heritage grounds, that the Celtic languages should be safeguarded as a cultural resource. However, whether this means that scarce resources should be allocated for translation services that are at a basic level, unnecessary, is another question, especially where resources for ‘immigrant’ language translation, where there is much less competence in English are under threat.

This issue was brought into sharp focus during the debate over the *Gaelic Language (Scotland) Act 2005*. Dunbar noted that in 2002 the Commission for Racial Equality, regarding the then proposed *Gaelic Language (Scotland) Bill*, argued that resources for Gaelic interpretation and interpretation should not be prioritized over other minority needs (2006, p.196-8). The CRE also stated that since Gaelic speakers are generally bilingual, language resources should be allocated to immigrant groups with little or no English (Education, Culture and Sport Committee, 2003).

However as Dunbar remarked (2006, p.196):

‘There may be both “objective” and “reasonable” grounds which justify the special support for Gaelic and Welsh provided by the Gaelic and Welsh Acts respectively.’

Dunbar argued that there was little or no evidence that other ethnic or linguistic groups themselves had objections to the provisions of the Bill (2006, p.196-9). In addition, when the law was enacted, it explicitly stated that Gaelic required unique legislation and resources because, as Dunbar stated (2006, p.197):

‘Unlike most other languages spoken in Scotland, and, indeed, in the United Kingdom, Gaelic is a seriously threatened language, is unique to Scotland, and given its long history here, often characterized by marginalization and even persecution, it has a special claim to support.’

This point is important. Many of the non-indigenous minority languages such as Chinese, Bengali and Hindi are spoken worldwide by far greater numbers than any of the Celtic languages, and as such they are not in a ‘fragile’ state of existence (Sutherland, 2000, p.200-1). Hence, it is arguable that the 2005 Act was ultimately justifiable only from a perspective which comes close to an international cultural heritage position, similar to the one outlined above in the CSICH. However, it is arguable that there are certain measures, and in particular some of the formal measures covering the Irish language in Ireland and the Welsh language in Wales, that are not justifiable from an internationalist perspective, as outlined below.

A prescient example regarding translation services is evident in Ireland, where under the *Official Languages Act* every official document must be produced in the Irish language as well as in English. Arguably this is unnecessary and a waste of resources, in relation to the actual value of the translation services. For instance, the *Gaeltacht* populations do require translation of documents, and there are genuine concerns for people who have Irish as a first language, who wish to use that language when dealing with government. However, the value of translating official documents, for no

practical purpose, and no purpose other than an official, national and constitutional one, must be questioned. A similar criticism could be made of the legal requirements of the *Welsh Language Act*, which required that Welsh be held at an equal level with English in the public sector, despite the fact that only a minority of the population is Welsh-speaking. A policy that sought to provide translation and other language services to speakers where it is appropriate, perhaps in line with the provisions of European Charter on Regional or Minority Languages, such as is the case with Irish in Northern Ireland and Scots-Gaelic in Scotland, might strike a more rational balance between the aims of language promotion and minority rights, while accepting the reality that Irish and Welsh are minority languages, even within the ‘nations’ of Ireland and Wales. Indeed, as noted above, it is possible that a general ‘right to linguistic diversity’ could provide a guide for the provision of translation services for the minority of people in predominantly Welsh, Scots-Gaelic or Irish-speaking areas who need to communicate with government in their language, as well as providing comparable rights for the speakers of ‘immigrant’ languages.

It is true that Will Kymlicka has argued in favor of the position that certain claims made by ‘indigenous’ communities may carry greater weight than claims of ‘immigrant’ communities (1995, p.33). However, this chapter argues that any heritage policy should take account of the diversity of all languages in the UK and Ireland. A policy enacted to promote one category of language, ‘indigenous’, rather than another category, ‘immigrant’, must also be ‘concerned for the dissenting voice’ (Howard, 2003, p.30). Hence, for the purposes of this chapter it is argued that international cultural heritage law has the potential to ‘civilize’ aspects of national policy in relation to the Celtic languages in the UK and Ireland. This point is related to the argument of Cristina Rodriguez that drawing a large distinction between two sets of minority language speakers is problematic, especially if the distinction is drawn on the basis of the ‘national’ verses ‘immigrant’ dichotomy (2006, p.687-699). Furthermore, Bryan has argued that it is ‘not enough to simply arrange national identities in a way which satisfies the maximum number of people’ (2007, p.6). Hence a more open and discursive approach would require the government, whether at a local, national or supra-national level, to address the concerns of minority ‘dissenting’ voices when enacting measures aimed at safeguarding or promoting an endangered language. While some measures for the promotion of an endangered language may be appropriate and objectively justifiable, the same cannot be said of allocation of translation services

where these services are not actually required or necessary from a practical point of view. At a time when resources for language are scarce in some areas, the CSICH framework may provide a better framework for the provision of language services. The CSICH provides a universal framework for the safeguard of endangered languages, with language viewed as the ‘vehicle’ of ‘intangible cultural heritage’. In the UK and Ireland, the CSICH framework could provide a bulwark against what is arguably often a nationalist-based distinction between two sets of minority language speakers. Furthermore, an ‘internationalist’ perspective, based on cultural heritage concerns, could provide a rational framework for enacting measures aimed at ensuring that the language is respected, promoted and safeguarded as a cultural resource.

However, it must be noted that in Ireland, due to the constitutional recognition of Irish, as well as its recognition as an official language of the EU, any change in legislative policy towards the language would require a constitutional amendment as well as a change to EU law. Similarly in Wales, at present it may not be politically tenable to change the status of Welsh due to the current, popular view of the language as an emblem of nationalist revival (Barbour, p. 42). This does present a substantial practical barrier to policy change, but it is submitted that it does not negate the underlying principles discussed in this chapter. Ultimately, this chapter argues that if there are justifiable, universal arguments for specific measures aimed at safeguarding and promoting intangible cultural and linguistic heritage then there is arguably no reason to resort to nationalist arguments. If there are no justifiable, rational, universal grounds for specific measures designed to safeguard an endangered language, then to resort to mere nationalist arguments may be unacceptable.

CONCLUSION

Firstly, it is probably fair to say that language is equally important to members of indigenous and immigrant groups. Furthermore these groups tend to face similar difficulties in dealing with national and local authorities, as recent European jurisprudence has shown. Thus, it is arguable that the rights of ‘indigenous’ language speakers and the rights of ‘immigrant’ language speakers should not be distinct, from a minority rights perspective (Gupta, 2002, p.295-7). Hence, issues of minority rights protection are probably better observed through a general right to linguistic diversity, rather than

through separate models. This is particularly important since these two separate models are sometimes based on a questionable value judgment on the comparative worth of 'indigenous' and 'immigrant' languages, and are often tied to complex questions of nationalism, multiculturalism and integration.

However, it is also arguable that language has a value as a cultural resource. Unlike many 'immigrant' languages prevalent in the UK and Ireland, the Celtic languages are genuinely endangered. Hence, when a universal cultural heritage perspective is considered, some particular measures do appear to be objectively justifiable. However, these measures are more likely to be justifiable if they are genuinely aimed at the promotion and safeguard of the languages as a cultural resource. Whether it is justifiable to provide translation services for indigenous languages, even where they are not genuinely required, and yet fail to provide them for immigrant languages, where they are genuinely required, is a question that is perhaps best answered by examining all of the issues through an 'internationalist' prism.

Hence, from an equality perspective, the framework of a 'right to linguistic diversity' appears to be the best way to resolve minority rights issues fairly. However, the remaining cultural issues, such as the value of endangered languages as cultural resources, are probably best resolved by using a framework of universal cultural heritage law. In pursuing this heritage policy, it may be necessary to prioritize some languages because they are genuinely under threat of extinction – in other words some inequality between languages may be objectively justifiable. This is not to say that any language is intrinsically more valuable than any other – it is merely a question of practical implication. For instance, it might be necessary to allocate greater resources to the promotion of e.g. Scots-Gaelic as an endangered cultural resource, but not Polish, Chinese, Hindi, Bengali or English, since although these languages could also be seen as 'cultural resources', they are not endangered. However, such measures will, in all likelihood, only be objectively justifiable if they are enacted from a universal heritage perspective, with any dissenting voices, such as those which may come from members of immigrant communities, are taken into account. In other words, to preserve linguistic diversity in the UK and Ireland, some inequality is arguably necessary and objectively justifiable. However measures

aimed at protecting linguistic diversity must be enacted very carefully so that any potential inequality is minimized.

ⁱ The area of language is also important in the area of education, as many commentators have noted. However, the law in relation to language and education in the UK and Ireland is generally outside the scope of this article, which has a particular focus on translation and interpretation services.

ⁱⁱ For the purposes of this chapter, Welsh in Wales, Scots-Gaelic in Scotland, Irish in Northern Ireland and Irish in Ireland are grouped together. What these languages have in common, apart from their shared Celtic linguistic history, is that these languages are of regional and/or national significance and have a special legal status within each regional or national legal framework, despite the fact they are spoken by a minority of people within that territory or region, as outlined over the course of this chapter. However, the legal status of these languages is not necessarily the same. As noted over the course of this chapter, within this grouping there is a divergence that can be identified between the status of Welsh in Wales and Irish in Ireland, in comparison with the status of Scots-Gaelic in Scotland and Irish in Northern Ireland.

ⁱⁱⁱ For the purposes of this chapter, the relevant languages covered are Welsh, Scots-Gaelic and Irish. However, both Manx and Cornish are also Celtic languages of the UK and Ireland. These languages are omitted from the discussion in this chapter. Nonetheless the general thrust of the chapter is arguably relevant to all the Celtic languages, including Manx and Cornish.

^{iv} The requirement to translate documents into Irish does not apply to all documents because it is framed around the European Charter for Regional or Minority Languages, as noted by the policy document accessible at; http://www.dcalni.gov.uk/guidance_for_public_servants.doc.doc. It is important to note that the status of the Ulster-Scots dialect was also recognized as a result of the Agreement. Since this is not one of the Celtic languages, it is not dealt with by this chapter. For more information on the status of Ulster-Scots, see <http://www.ulsterscotsagency.com/>

^v For instance, based on the needs for the immigrant population in its area, Peterborough Council recently translated a guide to life the locality into Czech, Lithuanian, Polish, Portuguese, Slovak, Ukrainian, Latvian, Kurdish-Sorani, Punjabi and Urdu. For further details refer to the report accessible at; <http://www.peterborough.gov.uk/page-7297>

^{vi} Further details of the level of funding are accessible at;

<http://wales.gov.uk/funding/fundgrantareas/welshfund/?lang=en>

^{vii} This funding comes through the Scottish Government grant system; <http://www.bord-na-gaidhlig.org.uk/funding.html>

^{viii} The BBC referred to this statistic in a news report which is accessible at;

<http://news.bbc.co.uk/1/hi/uk/6174303.stm>

^{ix} In July 2007, Ruth Kelly stated that the amount of money spent on translation of official documents by councils should be cut to encourage immigrants to learn English, in a report accessible at;

<http://www.guardian.co.uk/society/2007/jun/11/communities>

^x Community groups and Trevor Phillips countered Ruth Kelly's statements, and argued that translation services are necessary for the transition from one country and language to another, and this was reported at; http://news.bbc.co.uk/1/hi/uk_politics/6738603.stm

^{xi} ESOL is an English language learning services. For further details refer to

<http://www.homeoffice.gov.uk/rds/pdfs2/rdsolr1403.pdf>

^{xii} The Telegraph newspaper recently reported this story which is accessible at

<http://www.telegraph.co.uk/news/newstopics/politics/5523716/Councils-spend-50m-a-year-translating-documents-no-one-reads.html>

^{xiii} The cost of Welsh translation services have come under fire in the UK media recently. See for example; <http://www.dailymail.co.uk/news/article-1134310/Private-firms-utility-companies-forced-offer-services-Welsh-new-equality-law.html>. Furthermore, there has been debate over whether the Welsh translation services are value for money; <http://www.guardian.co.uk/uk/2009/aug/15/wales-language-diverse-literature> or even worthwhile; <http://www.guardian.co.uk/theguardian/2008/nov/01/5>

^{xiv} It was recently reported that one Welsh council even decided to opt-out of Welsh translation services; <http://news.bbc.co.uk/1/hi/wales/7717042.stm>

^{xv} There has been some recent criticism in the Irish media of the amount spent on translation services, particularly when these services are not accessed. See for example;

<http://www.irishtimes.com/newspaper/ireland/2009/0202/1232923381440.html>

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^{xvi} Cases involving language rights in ECJ include *Groener*, Case C-378/87 and *Angonese*, Case C-281/98

^{xvii} Burch noted in footnote 98, p.120 that groups in France as well as Italy have taken Article 22, to give rights to speakers of ‘indigenous’ languages.

^{xviii} The ECHR is also relevant, but only in the limited sphere covered in section 3.1. regarding Article 6 on the right to a fair trial, which is incorporated into UK law under the Human Rights Act 1998 and in Ireland under the European Convention on Human Rights Act, 2003.

^{xix} It is beyond the scope of this chapter to examine the positives and negatives of group vs. individual rights. However, it is clear that there is some ‘tension between individual rights and minority group rights’ within the EU (Weber, 2007, p.411-3). Weber has argued in favor of *sui generis* group rights, rather than individual-based rights, which would inhere in national and regional minority language groups.

^{xx} However, as is stated in sub-section three of section two, it is possible that Europe is already moving in an individualist direction in terms of language rights, and the possibility remains that a single right of linguistic diversity will apply to all individuals who speak a minority language (Burch, 2009).

^{xxi} The Advisory Committee is a committee of independent experts which periodically assesses a state’s obligations under the Framework Convention and reports to the Committee of Ministers at the Council of Europe - http://www.coe.int/t/dghl/monitoring/minorities/2_Monitoring/ACFC_intro_en.asp. In the report below, the Advisory Committee considered the rights of immigrant communities including the Afro-Caribbean, Pakistani and Bangladeshi communities. See report p.92-3 for further details - http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_2nd_OP_UK_en.pdf

^{xxii} In this case the language was Turkish and the case involved a Turkish dental patient in Germany.

^{xxiii} For instance *Sean nós* music is a popular traditional style of singing and many traditional songs in the Irish language are performed in this style. It is very much associated with the *Gaeltacht* areas in Ireland. This style of singing is usually unaccompanied, which allows the singer to add his own unique ornamentation to a piece. The Scots-Gaelic musical tradition of *púirt á beul* is comparable in terms of its uniqueness and its link with the language. The Welsh language also has unique cultural forms and a rich literary history including the popular and influential *Eisteddfod*, an annual cultural festival. It is possible that recognition of these traditions as ‘intangible cultural heritage’, as envisaged by the CSICH, could foster more interest and respect in the languages, especially in areas where English is the dominant language. For more information on Celtic cultural traditions refer to Sawyer, 2001.

^{xxiv} See xvi.

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LINGUISTIC DIVERSITY IN THE UK AND IRELAND – DOES THE MEANING OF EQUALITY GET LOST IN TRANSLATION?

Luke McDonagh

INTRODUCTION

This chapter examines the law in the area of linguistic diversity in the UK and Ireland, with particular focus on the provision of language services such as interpretation and translationⁱ. While English remains the dominant language, there are a vast number of minority languages spoken within both states (Barbour, 2000, p.43). However, as noted over the course of this chapter, while there is a diverse range of minority languages, the legal status of each language is not equal in either the UK or Ireland (McCleod, 1998, p.1, Sutherland 2000, p.200, Dunbar, 2006, p.198). In fact, there are two distinct legal frameworks. The legal framework to be used depends upon the category the language falls into. One model covers the category of 'indigenous' or 'regional' minority languagesⁱⁱ, such as the Celtic languages of Welsh, Scots-Gaelic and Irishⁱⁱⁱ. The other framework generally covers the languages of immigrants, and for the purpose of this chapter these languages are described as 'immigrant' languages. However, to some extent it is arguable that the terms 'indigenous' and 'immigrant' are unsatisfactory. For instance, Barbour has noted that it is unclear how long a language must be present in a territory before it is described as 'indigenous' (2000, p.21). Hence, the terms 'indigenous' and 'immigrant' are used with some trepidation in this chapter and these terms are used purely for the purposes of offering a critique on whether such a distinction is necessary and justifiable. This chapter also assesses the relevant European and international jurisprudence on language rights, which includes issues of minority rights as well as cultural heritage measures. For instance, the significance of minority language rights in Europe is examined, with particular reference to the provisions of the Charter for Regional and Minority Languages, which was enacted by the Council of Europe in 1992. It has been argued that the distinction between categories of language, as identified above, is mirrored to some extent at the European level (Hogan-Brun and Wolff, 2003, p.14).

However, it is further arguable that from a minority rights perspective, the provision of two distinct models, dependent on whether a language is classed as ‘indigenous’ or ‘immigrant’, is not desirable (Rodriguez, 2006, p.687-9). This chapter argues that a single, general right to linguistic diversity may be preferable. In addition, recent European jurisprudence appears to point in this direction (Burch, 2009, p.140-8).

Regarding the issue of linguistic heritage, it is possible that certain provisions for the promotion of particular languages are objectively justifiable, when framed within an internationalist and universal cultural heritage model. Measures that are enacted for ‘mere’ nationalistic grounds or measures that do not have the specific aim of promoting or safeguarding an endangered language may not be acceptable within a universal cultural heritage framework (Dunbar, 2006, p. 196-8). Furthermore, it is possible that an international cultural heritage perspective, considered in the light of the UNESCO Convention on the Safeguard of the Intangible Heritage, 2003, has the potential provide a framework for a heritage-based language policy.

This chapter concludes with an assessment of the current legislation of the UK and Ireland in light of this internationalist perspective. Ultimately, this chapter argues that it may be justifiable to treat some languages unequally, but only in limited circumstances, and only so far as any ‘dissenting voices’ are properly taken into account (Howard, 2003, p.30).

LINGUISTIC DIVERSITY IN THE UK AND IRELAND – EXPLORING TWO DISTINCT LEGAL FRAMEWORKS

This section outlines the law in relation to the ‘indigenous’ Celtic languages in the UK and Ireland, as well as the law in relation the ‘immigrant’ languages spoken in both states. It is clear that there are two distinct legal frameworks. Regarding the Celtic languages, it is necessary to add that there is also a distinction between the status of Welsh in Wales and Irish in Ireland, in contrast to the status of Scots-Gaelic in Scotland and Irish in Northern Ireland. This is discussed further below.

In Wales, the *Welsh Language Act 1967* made provision for rights to use *Cymraeg/Welsh* in courts and helped to galvanize the Welsh language movement. The *Welsh Language Act 1993* went further and provided that the Welsh language had equal status with English regarding the functions of public bodies. In terms of language promotion, the Welsh Language Board was set up in accordance with the 1993 Act to promote and facilitate the use of the Welsh language. In Wales, around 20% of the population describe themselves as Welsh speakers according to the 2001 census, and the highest proportion of speakers is in the north-west.

In Scotland, the *Gaelic Language (Scotland) Act 2005* became the first piece of legislation to give official recognition of *Gàidhlig/Scots-Gaelic*, commanding equal respect to English. The legislation also included a national Gaelic language plan. An estimated 1.2% of the Scottish population describe themselves as Scots-Gaelic speakers according to the 2001 census, which is a decline from the previous census. One of the reasons for the enactment of the 2005 Act was to make provision for the reversal of this decline. *Bòrd na Gàidhlig* was set up, pursuant to the Act, to promote, develop and encourage the use of Scots-Gaelic in Scotland.

Following the enactment of The Agreement Reached in Multi-party Negotiations of 1998 (sometimes referred to as the Belfast 'Good Friday' Agreement), *An Gaeilge/Irish* received official recognition for the first time in Northern Ireland, although not all official documents require translation and translation is primarily directed towards areas of particular importance or relevance to Irish language speakers^{iv}. Furthermore in 1998, *Foras na Gaeilge* was established as a cross-border organization for the promotion of the Irish language in Northern Ireland and Ireland. Around 10% of the population of Northern Ireland has 'some knowledge' of the Irish language according to the 2001 Census.

In Ireland, *An Gaeilge/Irish* is the first official language, as enumerated by Article 8.1 of *Bunreacht na hÉireann*/the Constitution of Ireland. The *Official Languages Act, 2003* set up the office of the Irish Language Commissioner and the act provided that all official forms and documents created by public bodies must be translated into Irish. According to the 2006 Census, 40.9% of the Irish people describe themselves as 'competent' in Irish and the main *Gaeltachtaí* (Irish speaking areas) are located in counties Donegal, Galway, Mayo, Kerry, and Cork, with smaller areas in the counties

Waterford and Meath. However, according to the 2006 Census, outside of the education system only around 7% of the Irish people speak Irish on a daily basis.

In contrast to the situation regarding the ‘indigenous’ Celtic languages above, the majority of legislative measures covering ‘immigrant’ languages are not specific to a particular language or even to the issue of provision of language services. In the UK, the *Race Relations Act 1976* (as amended by the *Race Relations Amendment Act 2000*) remains the primary framework for the provision of language services by government, as detailed below. In addition, the *Human Rights Act 1998*, through the enactment of Article 6 of the European Convention on Human Rights (ECHR) on the right to a fair trial, requires translation and/or the provision of an interpreter where necessary when someone is arrested or charged with a criminal offence. The primary aims of the *Race Relations Act* (RRA) are to prevent discrimination and to promote equality and good relations between different racial groups. For instance, section 71 requires local authorities to make appropriate arrangements so that their functions are carried out in line with these aims. Therefore, government policy in the area of language services for immigrants has been largely delegated to the local authorities. The principal reason for this is the fact that there are a diverse range of immigrant languages spoken within each particular area and no two local authorities will have identical language responsibilities. Hence, each local authority provides translation services based on the practical needs of the immigrant communities in its area^v.

The *Race Relations Act 1976* did not extend to Northern Ireland. Instead the *Race Relations Order (N.I.) Order 1997* (as amended by the *Race Relations Order (Amendment) Regulations (N.I.)* of 2003) has similar provisions to the RRA. The *Human Rights Act 1998* applies to Northern Ireland therefore Article 6 ECHR is applicable. In addition, section 75 of the *Northern Ireland Act 1998* makes similar provisions regarding equality of opportunity and interpretation services as the RRA.

In Ireland, the *Refugee Act 1996* states that interpretation services are to be provided during asylum interviews. The *Equal Status Act 2000* and the *Equality Act 2004* (known together as *Equal Status Acts 2000-2004*) prohibit discrimination on the basis of nine possible grounds including race, religion and family status. It is thought that failure to provide an interpreter could violate the *Equal Status Acts*,

but so far no case has been taken on this issue (National Consultative Committee on Racism and Interculturalism, 2008, p.7). The *European Convention on Human Rights Act 2003* incorporates Article 6 into Irish law a similar fashion to the Human Rights Act in the UK, to the extent that interpretation services would be required in criminal proceedings.

It is arguable that the two models, as outlined above, reflect a level of inequality in relation to the perceived value and status of 'indigenous' and 'immigrant' languages in the UK and Ireland. However, this distinction is by no means an obvious one and it is questionable whether it is justifiable (McCleod, 1998, p.1). Gupta has noted that the decision to prioritize one language as 'indigenous' and another as 'immigrant' is potentially problematic from a human rights perspective (2002, p.295-7). In line with this, Robert Dunbar has stated 'while the United Kingdom has taken positive steps with regard to Scots-Gaelic and Welsh, there is a clear argument for a much more comprehensive approach to minority-language communities more generally' (2006, p.198). In a diverse society with limited resources, where dozens of minority languages are relatively widely spoken, questions arise with regard to which ones should be safeguarded and promoted and which ones should not.

For instance, in recent years the UK has, through the Welsh Assembly government, consistently provided a large amount of funding, around £13 million, to the Welsh Language Board each year^{vi}. In addition, the relevant Scots-Gaelic organisation, *Bòrd na Gàidhlig* received £4.4m in government funds^{vii}. Furthermore the UK government, in conjunction with the Irish government, has continued to fund the development of *Foras na Gaeilge*. However, although it has continued to fund Celtic language services at a consistently high level, the UK government has recently changed its policy towards provision of translation services for immigrants. In recent decades, the level of immigration into the UK has continued to increase and different language communities have become ever more widely dispersed. Therefore, it is no surprise that more attention has been paid in the media to the amount of money spent by local authorities on basic translation services. In late 2006, the BBC reported that over £100 million of public money is spent on translation services in the UK, each year^{viii}. As a result, it was reported that the government intended to change its policy on translation services^{ix}. In the face of some criticism^x, the government pressed ahead with its new policy and the Department for Communities and Local Government published the report entitled 'Guidance for Local

Authorities on Translation of Publications' in 2007. The report noted that provision of services for immigrants to learn English are a priority. However, there are long waiting lists for services for learning English such as ESOL^{xi}. Thus, the report recognized that some translation services are necessary, particularly with regard to legal, medical or financial issues. The report provided a checklist to help local authorities decide when translation services are required.

In spite of the policy change, there is still some media criticism in relation to provision of translation services in the UK. For instance, in London, Haringey Council was recently criticized in the news media for producing translated documents that were in the case of a number of languages, not viewed by a single person^{xii}. It is true that there may be genuine public interest cost concerns in the case of documents that are translated, yet remain unread. However, these criticisms could also be made in relation to translation of documents into Welsh, Irish and Scots-Gaelic^{xiii}. The issue of translation in relation to 'immigrant' languages is often discussed in on a 'need' basis, but the issue of 'need' is arguably not as prevalent in discussions over the translation of documents into the 'indigenous' Celtic languages^{xiv}.

For example, in Ireland, the *Official Languages Act 2003* provides for the translation of official documents into Irish, many of which are never used by citizens^{xv}. In contrast, there is a lack of governmental policy and guidelines concerning language services for immigrants in Ireland (NCCRI Report, 2008, p.7). In fact, there is an acute shortage of interpretation and translation services for immigrants in other crucial areas and this has been described as a 'barrier' to integration (NCCRI Report, 2008, p.18). Hence it is arguable that the distinction between categories of language is even clearer in Ireland than in the UK. Therefore it appears that due to the requirements of the constitution and national legislation, translation services for the 'indigenous', national language of Irish are prioritized over translation services for other languages.

In fact, due to the various constitutional and legislative provisions outlined above, Irish, in Ireland, and Welsh, in Wales, are embedded in the Irish and Welsh legal frameworks in a way that goes beyond the position of many minority languages, including Scots-Gaelic, in Scotland, and Irish in Northern Ireland. Moreover, while the Welsh language revival has been a partial success, it does not

necessarily follow that the provision of a formal right to translation services, or the right to conduct legal affairs through Welsh, are the most vital aspects of the revival. It is important to also note the presence of cultural innovations such as the provision of radio and television services through Welsh, as well as the thriving 'Welsh-speaking youth culture' that exists in Wales (Barbour, p. 42). Indeed, it has been noted that in the case of Irish, considering the amount of Government resources that are spent on the formal requirements of Irish as an official language, the Government's policy in this area over recent decades has led to 'depressingly poor results' - only a small minority of people speak the 'national' language on a daily basis (Barbour, p. 38). As is discussed later in the chapter, with regard to Irish in Northern Ireland and Scots-Gaelic in Scotland, the provision of translation services is arguably more proportionate to the actual needs of the particular language speakers than it is in Ireland or Wales.

Therefore, the question remains - is the distinction between categories of language justifiable? Clearly, the person who has just arrived from India or Pakistan or Malaysia, who cannot speak English would have a far greater practical need for language translation and other services than any Celtic language native speaker, because today, although there are substantial minorities in areas of Wales and Ireland where Welsh and Irish are the native languages, it would be highly unusual today to find somebody who would not be bilingual i.e. be able to speak Welsh or Irish but not English (Sutherland, 2000, p.201). Nevertheless, the provision of translation and interpretation services to native speakers in their native language may well be important, from a minority rights perspective (McCleod, 1998, p.1). However, while the UK and Irish governments are supporting speakers of the indigenous Celtic languages through the provision of translation and other language services, translation services for 'immigrant' languages are under threat in some parts of the UK. Meanwhile, language services of remain scarce in Ireland.

Exploring International Perspectives on Language Rights

In light of the distinction between categories of language, as identified above, it may be useful to assess European jurisprudence on minority language rights and international cultural heritage law. With regard to the law of the European Union, it has been said that traditionally the EU has not

focused much attention on the issues surrounding minority languages (Nic Shuibhne, 2002, p.107-110). Indeed, the European Court of Justice has primarily ruled on this issue in relation to free movement of people under EU law principles^{xvi}. However the Charter of Fundamental Rights of the European Union is potentially relevant to language rights. This Charter provides for group-oriented language rights in Article 22. Interestingly, Article 22 of the Charter of Fundamental Freedoms is not expressly limited to indigenous languages of Europe, and as Burch has noted (2009, p.120) it is not clear from the text of the document that language 'preservation' is a key principle. Nonetheless, it is clear that a number of national and regional minority groups within the EU have taken Article 22 to mean that such rights are implicit in the document^{xvii} (Burch, 2009, p.120).

The most relevant^{xviii} Council of Europe measures in the area of language rights are the Charter for Regional and Minority Languages of 1992 and the Framework Convention for the Protection of National Minorities of 1995. These treaty documents have framed the last decade of discussion of the rights of linguistic minorities in Europe. However, these documents primarily apply to the minority languages usually described as 'indigenous' or 'of regional significance' to Europe. For instance, the text of the Charter explicitly excludes 'immigrant' languages. In addition, the language rights in these documents are group-oriented, rather than individual rights^{xix}. The UK has ratified the European Charter for Regional and Minority Languages in relation to Welsh in Wales, Scots-Gaelic in Scotland and Irish in Northern Ireland. In relation to Ireland, under the definition in Article 1(a)(2) of the European Charter for Regional and Minority Languages, Irish cannot be recognized as a minority language of Ireland as it is an official language of the State. However, as stated above it does have minority language status in Northern Ireland (as part of the UK). It is arguable that with regard to Welsh in Wales, the UK has even gone beyond its obligations under the European Charter for Regional and Minority Languages, due to the extent that Welsh is embedded in the Welsh legal framework, as noted above.

Hence it can be said that the two distinct frameworks, identified above, are mirrored to some extent at the European level. For instance, Stephen May (2001, p.65-80) has argued that the position within the EU of speakers of 'regional' or 'indigenous' languages in comparison with speakers of 'immigrant' languages cannot be described as equal. As Burch has recently argued, it is clear European

language rights ‘were originally understood to be preservationist, group-oriented, and available to territorially-defined national minority groups’ (2009, p.120). Indeed as is the case in the UK and Ireland, in Europe, until recently, the rights of indigenous language speakers and the rights of immigrant language speakers have been categorized separately (Hogan-Brun and Wolff, 2003, p.14). Indeed, speakers of ‘indigenous’ minority languages have been accorded rights which generally have not been extended to speakers of ‘immigrant’ languages. For instance, it has been noted that speakers of European minority ‘indigenous’ languages are more able to avail of the cultural aspects of their language (Burch, 2009, p.106). Additionally, members of indigenous minority language communities generally have the right to communicate with their regional, national, and in some cases even their EU governments in their minority language, something which is generally only available to immigrant communities on an ad hoc basis dependent on the law of the individual member state^{xx}.

Despite this, Burch has recently argued that although EU language policy has historically made a firm distinction between the rights of speakers of ‘regional’ languages and ‘immigrant’ languages, there is some evidence that at an EU level, the two distinct frameworks are beginning to converge (2009, p.147-8) . She has noted that it is clear from the recent case law of the ECJ and the actions of treaty bodies, that instruments designed to give rights to speakers of European regional or ‘indigenous’ languages can in certain circumstances be invoked to give rights to speakers of minority ‘immigrant’ languages. Burch has stated that what began as a right to ‘preservation’ may eventually become a fully fledged ‘right to linguistic diversity’ leading to comparable rights for speakers from both groups (2009, p.106-9). Arguably, it is logical to envisage this happening, particularly with regard to ‘minority rights’ issues, such as the right to communicate with local or national government, which may include related translation rights.

For instance, it has been noted that originally protection was given on the basis of ‘group-inhering, territorially-defined, preservationist’ rights (Burch, 2009, p.108-9). However, Burch has argued that a reformulation began with the recognition of the rights of Yiddish and Romani speakers who are scattered across Europe (2009, p.108). These languages are recognized as ‘non-territorial’ languages in the European Charter for Regional and Minority Languages. Following this development, the ECJ and the Council of Europe were instrumental in pushing for the ‘right to recognition of the languages

of all European migrants throughout the European Union' (Burch, 2009, p.108). Burch has noted that even though treaties such as the European Charter for Regional and Minority Languages and the Framework Convention on the Rights of National Minorities explicitly excluded 'immigrant' languages, treaty bodies often now consider these rights. For instance, in 2007 the Advisory Committee on the Framework Convention for the Protection of National Minorities considered the language needs of children and adults from immigrant communities in the UK^{xxi}. Furthermore, in relation to EU law, in *Haim* the ECJ stated that provisions should be made, in relation to the state healthcare system, for individuals to speak in their native language with dentists, even if the language is not the national language^{xxii} (Case C-424/97, 2000, p.60). Hence, it is arguable that 'immigrant' linguistic minorities are beginning to gain 'recognition similar to that accorded European migrants' (Burch, 2009, p.109). Ultimately, it is possible that the original formulation of European protectionist linguistic rights may eventually lead to the formulation of a 'right to linguistic diversity' for all minority language speakers in Europe, including immigrants. In the near future this general right could prove to be the most progressive way of dealing with issues of minority rights, including the provision of translation and interpretation services.

Nonetheless, it is true that issues of cultural and linguistic heritage are also important in this area. Furthermore, the Celtic languages are genuinely endangered. In fact, many of the world's languages are in a similar position. A UNESCO press release of 2002 noted:

'About half of the 6,000 or so languages spoken in the world are under threat. Over the past three centuries, languages have died out and disappeared at a dramatic and steadily increasing pace, especially in the Americas and Australia. Today at least 3,000 tongues are endangered, seriously endangered or dying in many parts of the world.'

This point is important because, as noted below, language is potentially the 'vehicle' by which culture is passed on. For example, it is arguable that the Celtic languages, and the traditional music and literature associated with the languages, are cultural resources that can and have been used to inspire individual creativity^{xxiii}. With this in mind, it is the Convention for the Safeguarding of the Intangible Cultural Heritage (CSICH), adopted by UNESCO in 2003, is potentially relevant to the

Celtic languages. The CSICH defines intangible cultural heritage in Article 2(1). Rieks Smeets (2004, p.157) has noted that there were some experts in favor of including language under the definition of intangible cultural heritage in Article 2(1) during the drafting stages of the CSICH. However, it was not eventually included. Nonetheless, language was included in Article 2(2) which specifically states that intangible cultural heritage covers language as 'a vehicle of the intangible cultural heritage'. Smeets (2003, p.161) remarked that language is the medium 'par excellence' of communication between performers of traditional cultures. One of the important points that Smeets referred to was that the language planning, preservation and re-invigoration envisaged under the CSICH, would only go as far as these measures are necessary for safeguarding the intangible cultural heritage of the selected community or group (2003, p.162). This is arguably a positive development. Potentially, the CSICH provides a universal cultural heritage framework to safeguard and promote endangered languages,

For instance, at a national level, contracting parties draw up inventories regarding the 'intangible cultural heritage' within their territories, and at the international level Article 5 establishes an Intergovernmental Committee to make 'representative lists' of intangible heritage. Once the CSICH is ratified by a state, applications can be made to the fund established by the CSICH in Article 25. The Committee administers the funds on the basis of guidelines laid down by the General Assembly. UNESCO had previously issued the 'Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity' in 2001. Once a state had signed the Proclamation, its 'masterpieces' could be considered. Since neither Ireland nor the UK was a signatory, no Celtic 'masterpieces' of intangible heritage have been considered. The CSICH representative lists encompass and replace the earlier 'masterpieces' proclamations. Without doubt there are many examples of Welsh, Scots-Gaelic and Irish heritage that could potentially be recognized under the CSICH, once ratified by the UK and Irish governments^{xxiv}. However, neither the UK nor Ireland has ratified the agreement as yet. As noted above, it appears that legal measures aimed at safeguarding and promoting the Celtic languages in the UK and Ireland currently work within a nationalist framework, rather than an internationalist one.

Furthermore, despite the enactment of legislative measures outlined above as well as the continued support of the UK and Irish governments, the Celtic languages remain endangered. It may be possible that a cultural internationalist approach, as outlined by the CSICH, could provide more

opportunities for recognition each language as a ‘cultural resource’. This may be preferable to placing emphasis on the state’s responsibilities towards a language as based upon a rather formalistic part of the constitutional or legislative character of the ‘nation’, as it arguably is in Ireland and Wales. Indeed, as noted below, it is arguable that the legislation covering Scots-Gaelic and Irish in Northern Ireland strikes a more rational balance between legal formalism and language promotion.

Some thoughts on recent legislation in the UK and Ireland

As noted above, the constitutional and legislative provisions which cover the Welsh language in Wales, and the Irish language in Ireland, appear to be based upon the premise that each language is a fundamental part of the ‘national’ character. However, scholars such as Hobsbawm (1990, p. 9-11) and Gellner (1983, p. 1-4) have noted that the concepts of ‘nation’ and ‘nationality’ are not immutable, and are in fact ‘constructed’. Therefore, it is arguably necessary to question whether such nationalistic policies are rationally justifiable. For instance, it is questionable whether a language which is spoken by only a minority of people within a national territory, can truly be described as a ‘national’ language in a practical sense. This does not mean that the language cannot have a particular national or regional cultural significance. Nonetheless, such analysis may lead to the question of whether legal formalism is in fact the most appropriate way to recognize the significance of the language. As noted above, it may well be the case that there is a strong argument, based on universal cultural heritage grounds, that the Celtic languages should be safeguarded as a cultural resource. However, whether this means that scarce resources should be allocated for translation services that are at a basic level, unnecessary, is another question, especially where resources for ‘immigrant’ language translation, where there is much less competence in English are under threat.

This issue was brought into sharp focus during the debate over the *Gaelic Language (Scotland) Act 2005*. Dunbar noted that in 2002 the Commission for Racial Equality, regarding the then proposed *Gaelic Language (Scotland) Bill*, argued that resources for Gaelic interpretation and interpretation should not be prioritized over other minority needs (2006, p.196-8). The CRE also stated that since Gaelic speakers are generally bilingual, language resources should be allocated to immigrant groups with little or no English (Education, Culture and Sport Committee, 2003).

However as Dunbar remarked (2006, p.196):

‘There may be both “objective” and “reasonable” grounds which justify the special support for Gaelic and Welsh provided by the Gaelic and Welsh Acts respectively.’

Dunbar argued that there was little or no evidence that other ethnic or linguistic groups themselves had objections to the provisions of the Bill (2006, p.196-9). In addition, when the law was enacted, it explicitly stated that Gaelic required unique legislation and resources because, as Dunbar stated (2006, p.197):

‘Unlike most other languages spoken in Scotland, and, indeed, in the United Kingdom, Gaelic is a seriously threatened language, is unique to Scotland, and given its long history here, often characterized by marginalization and even persecution, it has a special claim to support.’

This point is important. Many of the non-indigenous minority languages such as Chinese, Bengali and Hindi are spoken worldwide by far greater numbers than any of the Celtic languages, and as such they are not in a ‘fragile’ state of existence (Sutherland, 2000, p.200-1). Hence, it is arguable that the 2005 Act was ultimately justifiable only from a perspective which comes close to an international cultural heritage position, similar to the one outlined above in the CSICH. However, it is arguable that there are certain measures, and in particular some of the formal measures covering the Irish language in Ireland and the Welsh language in Wales, that are not justifiable from an internationalist perspective, as outlined below.

A prescient example regarding translation services is evident in Ireland, where under the *Official Languages Act* every official document must be produced in the Irish language as well as in English. Arguably this is unnecessary and a waste of resources, in relation to the actual value of the translation services. For instance, the *Gaeltacht* populations do require translation of documents, and there are genuine concerns for people who have Irish as a first language, who wish to use that language when dealing with government. However, the value of translating official documents, for no

practical purpose, and no purpose other than an official, national and constitutional one, must be questioned. A similar criticism could be made of the legal requirements of the *Welsh Language Act*, which required that Welsh be held at an equal level with English in the public sector, despite the fact that only a minority of the population is Welsh-speaking. A policy that sought to provide translation and other language services to speakers where it is appropriate, perhaps in line with the provisions of European Charter on Regional or Minority Languages, such as is the case with Irish in Northern Ireland and Scots-Gaelic in Scotland, might strike a more rational balance between the aims of language promotion and minority rights, while accepting the reality that Irish and Welsh are minority languages, even within the 'nations' of Ireland and Wales. Indeed, as noted above, it is possible that a general 'right to linguistic diversity' could provide a guide for the provision of translation services for the minority of people in predominantly Welsh, Scots-Gaelic or Irish-speaking areas who need to communicate with government in their language, as well as providing comparable rights for the speakers of 'immigrant' languages.

It is true that Will Kymlicka has argued in favor of the position that certain claims made by 'indigenous' communities may carry greater weight than claims of 'immigrant' communities (1995, p.33). However, this chapter argues that any heritage policy should take account of the diversity of all languages in the UK and Ireland. A policy enacted to promote one category of language, 'indigenous', rather than another category, 'immigrant', must also be 'concerned for the dissenting voice' (Howard, 2003, p.30). Hence, for the purposes of this chapter it is argued that international cultural heritage law has the potential to 'civilize' aspects of national policy in relation to the Celtic languages in the UK and Ireland. This point is related to the argument of Cristina Rodriguez that drawing a large distinction between two sets of minority language speakers is problematic, especially if the distinction is drawn on the basis of the 'national' versus 'immigrant' dichotomy (2006, p.687-699). Furthermore, Bryan has argued that it is 'not enough to simply arrange national identities in a way which satisfies the maximum number of people' (2007, p.6). Hence a more open and discursive approach would require the government, whether at a local, national or supra-national level, to address the concerns of minority 'dissenting' voices when enacting measures aimed at safeguarding or promoting an endangered language. While some measures for the promotion of an endangered language may be appropriate and objectively justifiable, the same cannot be said of allocation of translation services

where these services are not actually required or necessary from a practical point of view. At a time when resources for language are scarce in some areas, the CSICH framework may provide a better framework for the provision of language services. The CSICH provides a universal framework for the safeguard of endangered languages, with language viewed as the 'vehicle' of 'intangible cultural heritage'. In the UK and Ireland, the CSICH framework could provide a bulwark against what is arguably often a nationalist-based distinction between two sets of minority language speakers. Furthermore, an 'internationalist' perspective, based on cultural heritage concerns, could provide a rational framework for enacting measures aimed at ensuring that the language is respected, promoted and safeguarded as a cultural resource.

However, it must be noted that in Ireland, due to the constitutional recognition of Irish, as well as its recognition as an official language of the EU, any change in legislative policy towards the language would require a constitutional amendment as well as a change to EU law. Similarly in Wales, at present it may not be politically tenable to change the status of Welsh due to the current, popular view of the language as an emblem of nationalist revival (Barbour, p. 42). This does present a substantial practical barrier to policy change, but it is submitted that it does not negate the underlying principles discussed in this chapter. Ultimately, this chapter argues that if there are justifiable, universal arguments for specific measures aimed at safeguarding and promoting intangible cultural and linguistic heritage then there is arguably no reason to resort to nationalist arguments. If there are no justifiable, rational, universal grounds for specific measures designed to safeguard an endangered language, then to resort to mere nationalist arguments may be unacceptable.

CONCLUSION

Firstly, it is probably fair to say that language is equally important to members of indigenous and immigrant groups. Furthermore these groups tend to face similar difficulties in dealing with national and local authorities, as recent European jurisprudence has shown. Thus, it is arguable that the rights of 'indigenous' language speakers and the rights of 'immigrant' language speakers should not be distinct, from a minority rights perspective (Gupta, 2002, p.295-7). Hence, issues of minority rights protection are probably better observed through a general right to linguistic diversity, rather than

through separate models. This is particularly important since these two separate models are sometimes based on a questionable value judgment on the comparative worth of 'indigenous' and 'immigrant' languages, and are often tied to complex questions of nationalism, multiculturalism and integration.

However, it is also arguable that language has a value as a cultural resource. Unlike many 'immigrant' languages prevalent in the UK and Ireland, the Celtic languages are genuinely endangered. Hence, when a universal cultural heritage perspective is considered, some particular measures do appear to be objectively justifiable. However, these measures are more likely to be justifiable if they are genuinely aimed at the promotion and safeguard of the languages as a cultural resource. Whether it is justifiable to provide translation services for indigenous languages, even where they are not genuinely required, and yet fail to provide them for immigrant languages, where they are genuinely required, is a question that is perhaps best answered by examining all of the issues through an 'internationalist' prism.

Hence, from an equality perspective, the framework of a 'right to linguistic diversity' appears to be the best way to resolve minority rights issues fairly. However, the remaining cultural issues, such as the value of endangered languages as cultural resources, are probably best resolved by using a framework of universal cultural heritage law. In pursuing this heritage policy, it may be necessary to prioritize some languages because they are genuinely under threat of extinction – in other words some inequality between languages may be objectively justifiable. This is not to say that any language is intrinsically more valuable than any other – it is merely a question of practical implication. For instance, it might be necessary to allocate greater resources to the promotion of e.g. Scots-Gaelic as an endangered cultural resource, but not Polish, Chinese, Hindi, Bengali or English, since although these languages could also be seen as 'cultural resources', they are not endangered. However, such measures will, in all likelihood, only be objectively justifiable if they are enacted from a universal heritage perspective, with any dissenting voices, such as those which may come from members of immigrant communities, are taken into account. In other words, to preserve linguistic diversity in the UK and Ireland, some inequality is arguably necessary and objectively justifiable. However measures

aimed at protecting linguistic diversity must be enacted very carefully so that any potential inequality is minimized.

ⁱ The area of language is also important in the area of education, as many commentators have noted. However, the law in relation to language and education in the UK and Ireland is generally outside the scope of this article, which has a particular focus on translation and interpretation services.

ⁱⁱ For the purposes of this chapter, Welsh in Wales, Scots-Gaelic in Scotland, Irish in Northern Ireland and Irish in Ireland are grouped together. What these languages have in common, apart from their shared Celtic linguistic history, is that these languages are of regional and/or national significance and have a special legal status within each regional or national legal framework, despite the fact they are spoken by a minority of people within that territory or region, as outlined over the course of this chapter. However, the legal status of these languages is not necessarily the same. As noted over the course of this chapter, within this grouping there is a divergence that can be identified between the status of Welsh in Wales and Irish in Ireland, in comparison with the status of Scots-Gaelic in Scotland and Irish in Northern Ireland.

ⁱⁱⁱ For the purposes of this chapter, the relevant languages covered are Welsh, Scots-Gaelic and Irish. However, both Manx and Cornish are also Celtic languages of the UK and Ireland. These languages are omitted from the discussion in this chapter. Nonetheless the general thrust of the chapter is arguably relevant to all the Celtic languages, including Manx and Cornish.

^{iv} The requirement to translate documents into Irish does not apply to all documents because it is framed around the European Charter for Regional or Minority Languages, as noted by the policy document accessible at; http://www.dcalni.gov.uk/guidance_for_public_servants.doc.doc. It is important to note that the status of the Ulster-Scots dialect was also recognized as a result of the Agreement. Since this is not one of the Celtic languages, it is not dealt with by this chapter. For more information on the status of Ulster-Scots, see <http://www.ulsterscotsagency.com/>

^v For instance, based on the needs for the immigrant population in its area, Peterborough Council recently translated a guide to life the locality into Czech, Lithuanian, Polish, Portuguese, Slovak, Ukrainian, Latvian, Kurdish-Sorani, Punjabi and Urdu. For further details refer to the report accessible at; <http://www.peterborough.gov.uk/page-7297>

^{vi} Further details of the level of funding are accessible at;

<http://wales.gov.uk/funding/fundgrantareas/welshfund/?lang=en>

^{vii} This funding comes through the Scottish Government grant system; <http://www.bord-na-gaidhlig.org.uk/funding.html>

^{viii} The BBC referred to this statistic in a news report which is accessible at;

<http://news.bbc.co.uk/1/hi/uk/6174303.stm>

^{ix} In July 2007, Ruth Kelly stated that the amount of money spent on translation of official documents by councils should be cut to encourage immigrants to learn English, in a report accessible at;

<http://www.guardian.co.uk/society/2007/jun/11/communities>

^x Community groups and Trevor Phillips countered Ruth Kelly's statements, and argued that translation services are necessary for the transition from one country and language to another, and this was reported at; http://news.bbc.co.uk/1/hi/uk_politics/6738603.stm

^{xi} ESOL is an English language learning services. For further details refer to

<http://www.homeoffice.gov.uk/rds/pdfs2/rdsolr1403.pdf>

^{xii} The Telegraph newspaper recently reported this story which is accessible at

<http://www.telegraph.co.uk/news/newstopics/politics/5523716/Councils-spend-50m-a-year-translating-documents-no-one-reads.html>

^{xiii} The cost of Welsh translation services have come under fire in the UK media recently. See for example; <http://www.dailymail.co.uk/news/article-1134310/Private-firms-utility-companies-forced-offer-services-Welsh-new-equality-law.html>. Furthermore, there has been debate over whether the Welsh translation services are value for money; <http://www.guardian.co.uk/uk/2009/aug/15/wales-language-diverse-literature> or even worthwhile; <http://www.guardian.co.uk/theguardian/2008/nov/01/5>

^{xiv} It was recently reported that one Welsh council even decided to opt-out of Welsh translation services; <http://news.bbc.co.uk/1/hi/wales/7717042.stm>

^{xv} There has been some recent criticism in the Irish media of the amount spent on translation services, particularly when these services are not accessed. See for example;

<http://www.irishtimes.com/newspaper/ireland/2009/0202/1232923381440.html>

<http://archives.tcm.ie/irishexaminer/2007/11/05/story47087.asp>

^{xvi} Cases involving language rights in ECJ include *Groener*, Case C-378/87 and *Angonese*, Case C-281/98

^{xvii} Burch noted in footnote 98, p.120 that groups in France as well as Italy have taken Article 22, to give rights to speakers of ‘indigenous’ languages.

^{xviii} The ECHR is also relevant, but only in the limited sphere covered in section 3.1. regarding Article 6 on the right to a fair trial, which is incorporated into UK law under the Human Rights Act 1998 and in Ireland under the European Convention on Human Rights Act, 2003.

^{xix} It is beyond the scope of this chapter to examine the positives and negatives of group vs. individual rights. However, it is clear that there is some ‘tension between individual rights and minority group rights’ within the EU (Weber, 2007, p.411-3). Weber has argued in favor of *sui generis* group rights, rather than individual-based rights, which would inhere in national and regional minority language groups.

^{xx} However, as is stated in sub-section three of section two, it is possible that Europe is already moving in an individualist direction in terms of language rights, and the possibility remains that a single right of linguistic diversity will apply to all individuals who speak a minority language (Burch, 2009).

^{xxi} The Advisory Committee is a committee of independent experts which periodically assesses a state’s obligations under the Framework Convention and reports to the Committee of Ministers at the Council of Europe - http://www.coe.int/t/dghl/monitoring/minorities/2_Monitoring/ACFC_intro_en.asp. In the report below, the Advisory Committee considered the rights of immigrant communities including the Afro-Caribbean, Pakistani and Bangladeshi communities. See report p.92-3 for further details - http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_2nd_OP_UK_en.pdf

^{xxii} In this case the language was Turkish and the case involved a Turkish dental patient in Germany.

^{xxiii} For instance *Sean nós* music is a popular traditional style of singing and many traditional songs in the Irish language are performed in this style. It is very much associated with the *Gaeltacht* areas in Ireland. This style of singing is usually unaccompanied, which allows the singer to add his own unique ornamentation to a piece. The Scots-Gaelic musical tradition of *púirt á beul* is comparable in terms of its uniqueness and its link with the language. The Welsh language also has unique cultural forms and a rich literary history including the popular and influential *Eisteddfod*, an annual cultural festival. It is possible that recognition of these traditions as ‘intangible cultural heritage’, as envisaged by the CSICH, could foster more interest and respect in the languages, especially in areas where English is the dominant language. For more information on Celtic cultural traditions refer to Sawyer, 2001.

^{xxiv} See xvi.

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