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# LANGUAGE AND THE NEW ZEALAND STATE

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## **Abstract**

The purpose of this research was to determine how and why the New Zealand government has intervened in language. Three language groups were investigated: Te Reo Maori, Languages Other Than English or Maori, and The English Language. For each language, a summary of language policies has been provided. The policies have then been analysed by applying various theories of the state. Four theories have been used: the Minimal State, the Instrumental State, the Just State, and the Ethical State. The research has sought to establish how the imperatives created by each theory may have been used to justify policies for each language group.

The adopted method is secondary analysis, using a combination of documents from the government, the media and academic sources. Each item of text used has been categorised according to which model of the state it represents. Excerpts from the texts themselves have been interspersed with analysis by the researcher, placing them within the context of the theoretical model with which they are most closely aligned. In this way, it could be ascertained whether government discourse on language policy has provided any evidence that theoretical models of the state have been used in policy-making.

The research is qualitative in nature, with a high degree of subjective interpretation. The result is a detailed description of language policies in New Zealand and of the imperatives behind them, which demonstrates the inadequacy of any one theory of the state for explaining the intricacies of why public policy is created.

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# Introduction

This thesis concerns the intersection of public policy with another pervasive influence on human society – language. The importance of language is often underestimated, as most of us use language with very little thought as to how or why we do so. Like eating, sleeping or breathing, language acts (speaking and listening, reading and writing) are generally taken for granted as an essential part of being human.<sup>1</sup> Yet, while the decision of *whether* to use language can be taken for granted, *which* language to use involves a complex series of choices, from the simple decision whether to perform a language act or not, to the far more intricate selection of specific lexical items. The endless possibilities that language presents render language as dynamic and vivacious as the human imagination from which it is created. For language cannot exist in its own right. As American sociolinguist Noam Chomsky has remarked:

*People* use words to refer to things in complex ways, reflecting interests or circumstances, but the words themselves do not refer.<sup>2</sup>

Language resides in people, and it is the presence of living native speakers which gives languages life.

As language and humanity are inseparable, any change to human society will have implications for language change. Such changes may be as significant as wars in which whole language populations have been all but obliterated, or as minor as the popularisation of new vocabulary by emerging rock stars or television personalities. This paper concentrates on one particular aspect of how society effects language change; the direct and deliberate manipulation of language by the state. It will examine how public policy – the instrument through which the state's will is executed – is currently shaping language as we know it in New Zealand, and seek to explain these manipulations by applying various ideological theories of the state.

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<sup>1</sup>Linguist and philosopher Rene Descartes has even gone so far as to say that 'language is what qualitatively distinguishes human beings from other species.' Sternberg, Robert J, *In Search of the Human Mind*, Harcourt Brace & Company, Orlando, Florida, USA, 1995, p311

<sup>2</sup> Chomsky, Noam, *Powers and Prospects; Reflections on Human Nature and the Social Order*, Pluto Press, London 1996, p22

## KEY TERMS

The topic requires the definition of both public policy and language. This research defines public policy as any decisions made by elected public officials at a national level, and is confined to New Zealand and the present day. Of course, such a narrow definition excludes much that may be of value to the discussion. It confines the research to a specific country at a specific time, and overlooks other areas of public decision-making, such as local government, appointed governmental agencies, or the courts. Where instructive, then, examples may be drawn from outside the boundaries of this definition as well.

Another form of public policy which is omitted in this research, and which may be particularly salient in the state's manipulation of language in New Zealand, is passive intervention. The government, like any institution or individual, must make language choices every time it communicates anything, and these are more often the result of arbitrary language choices than planned language policy. The work of writers such as Chomsky describes how the rhetoric used by government can have significant bearing on the language adopted by the public. This type of influence will be left out of this research simply because its scope would exceed the logistical boundaries of discourse analysis. To analyse all government communications for the language that they use, rather than just those documents which specifically concern language-related policies, would be far beyond the capabilities of any one researcher.

This definition of policy also gives rise to a definition of what I mean by the New Zealand "state." The state, for this research, is the body which conceives and implements public policy. It therefore differs from the New Zealand *nation*-state, which encompasses everything within New Zealand's borders. My use of the word state refers only to the public sector; that is, elected and non-elected government officials, and only those who act at a national level. While it could be argued that the state comprises all of New Zealand's voting citizens, in that all make a contribution to policy in a certain sense, this thesis is concerned

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only with those whose influence over policy is more direct than that which is exercised at the polling booth.

The term ‘language’ can be applied to a broad variety of concepts, from animal ‘languages’, to human ‘body language,’ to its most common meaning as an everyday means of verbal communication. To tighten the definition, it may be instructive to draw a boundary between language and communication. Psychologist Robert Sternberg has suggested that

*Language* is the specific use of an organized means of combining words to communicate. *Communication* more broadly encompasses not only the exchange of thoughts and feelings through language, but also nonverbal communication such as through gestures, glances, distancing, and other contextual cues.<sup>3</sup>

This apparently tidy differentiation leaves one question unanswered; is signing, which could fit into Sternberg’s definitions of either language or “nonverbal communication”, language or not? Although it is usually regarded as a language, signing has been omitted from this research because policy imperatives for signers are inalienable from policy imperatives for the disabled. This raises issues for signing which are beyond the scope of this project. It must be noted, however, that the government’s own language report, *Aotearoa*, does include a section on sign language, combined with Languages Other Than English or Māori in the “Community Languages” chapter.

It has already been noted that any living language is constantly evolving. To assume, then, that the divisions between languages is any more static than the languages themselves is clearly erroneous. While dictionaries may seek to contain languages within manageable borders, the lines are forever being drawn and redrawn, as new contact situations emerge between language groups. The abundance of loanwords from other languages which have been adopted into everyday English (ballet, nacho, chutzpah or kindergarten, for example,) demonstrates how languages are by no means discrete. While vocabulary may be the most common area in which language mixing occurs, it may happen at other levels, too. If a migrant group of, say, Samoans, come to apply the English grammatical structures of their new surroundings to the language they brought with them, is it still Samoan that they are



speaking? This question is of particular interest in language revival, such as in the case of Te Reo Māori, where it is unclear what exactly is to be revived – pre-European Māori, or modern Māori, diluted as it is by English neologisms.

This temporal difference between languages (‘original’ Māori versus ‘modern’ Māori) illustrates the second caveat with respect to language definition – that differences may occur on more levels than culture or nationality. As well as varying between eras, ‘languages’ can differ between groups within one language community. Consider, for example, the difficulties an elderly New Zealander might have in deciphering the ‘English’ of teenagers in a bar, or the problems an uneducated factory worker might have in understanding a discussion of postgraduate sociology. Language may also be seen to differ between genders. Sociolinguists Janet Holmes and Nicola Daly have given an account of how language use varies between men and women in New Zealand.<sup>4</sup> Poet Anasuya Sengupta has taken this idea even further, by writing that

Too many women  
In too many countries  
speak the same language  
of silence.<sup>5</sup>

Both the idea that silence might be a language itself, and the possibility that only women “speak” or understand it, presents challenges for conventional ideas of what “a language” is. Nor may language use be seen as universal *within* gender groups. Taylor, Gilligan and Sullivan, reporting on speech research in young, working-class women, commented that even within a relatively homogeneous group, different languages were being spoken:

We quickly discovered that we had to learn new ways of listening, become attuned to different voices, different cultures, and different languages even when English remained the spoken tongue.<sup>6</sup>

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<sup>3</sup> Sternberg, 1995, p311

<sup>4</sup> J Holmes & N Daly, ‘Language and Gender Research in New Zealand’, *New Zealand Sociology*, vol 16 #1 2001, pp108-127

<sup>5</sup> Jill McLean Taylor, Carol Gilligan, Amy M Sullivan, *Between Voice and Silence: Women and Girls, Race and Relationship*, Harvard University Press, Cambridge Massachusetts, 1995, p1

<sup>6</sup> *ibid*, p2

Taken to its logical extreme, this endless dissection of language groups would result in each individual speaking a language all of their own.<sup>7</sup> This argument reveals the arbitrary nature of lumping individual language-users into “language” groups, but also the necessity of making such associations if any kind of analysis is to be undertaken. It is not the purpose of this paper to challenge the conventional boundaries for language division – it is enough merely to demonstrate and acknowledge their subjectivity. Three such delineations will be used in the following discussion; English language, Māori language (te reo Māori), and Languages Other Than English or Māori (LOTEMs).

### **THEORIES OF THE STATE**

Having conceptualized the boundaries of both language and public policy, it remains to determine at which points they intersect. This section seeks to establish a theoretical background for the role public policy might play in manipulating language, by contrasting various theories of the legitimate role of the state.

The state is the only body to which is accorded the sanctioned use of coercion. No other body, or individual, is allowed by society to impose upon the freedom of any other adult, without their consent. Certain models of the state have been devised to explain the origins of this power; whether it is the result of an unspoken “contract” between citizens (as described by such theorists as Locke, Hobbes and Rousseau), or the coercive means of oppression for one dominant group over another (as is suggested by Marx, for example). While acknowledging the existence of this debate in political philosophy, and its possible applicability to language issues, these are not the models of state behaviour which this research seeks to contrast. It is concerned not with where this power comes from, but with how and why it is applied.

The models to be used are the Minimal State, the Instrumental State, the Just State, and the Ethical State. The list is taken from Morris and Batten’s introduction to the Ministry of Social Policy’s 1988 publication, *The Role of the State: Five Perspectives*. Each model explains what motivates public policy in terms of different concepts of value, which will be

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<sup>7</sup> See the writings of Jacques Derrida for a philosophical discussion of this view.

articulated below. These four models of the state are by no means exhaustive. Morris and Batten's own justification for choosing them ran as follows:

Since New Zealand is an industrially developed 'Western' country with a liberal-democratic type of government and state, situated in competitive market economy, only theories of the state consistent with this type of society are considered.<sup>8</sup>

This appears to take a rather narrow view of the possibilities available to New Zealand, and perhaps to give "liberal democracy" and "market economy" excessive importance as the constant features which define the nation. Rather, it seems that these four models have been chosen not because they are the only ones *possible*, but because they are the only ones which have *actually* made their way into New Zealand's political rhetoric. Other possibilities abound. Notwithstanding the more radical state models which Morris and Batten acknowledged but rejected ("anarchism, socialism, communism and theocracy"<sup>9</sup>), numerous groups within New Zealand society, who have been marginalised in the development of the New Zealand political system (Māori, or women, for example), may have their own philosophies concerning government behaviour. This research, however, will focus on those models of the state which have entered the mainstream discourse of New Zealand political economy.

### **The Minimal State**

The first theory of the state that Morris and Batten mentioned was the minimal state, as advocated by Robert Nozick.<sup>10</sup> The dominant value in this theory could be said to be individual freedom. Nozick's main objection to the state arose from what he regarded as compromise of freedom brought about by the government's appropriation of private property through the tax-and-transfer system of public provision:

It is the lack of choice on both the side of the person whose portion of holdings is being appropriated, and on the side of the person who without choice receives, that is unjust for Nozick.<sup>11</sup>

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<sup>8</sup> M Morris and D Batten, 'Theories of the State: A Background Paper', *The Role of the State: Five Perspectives*, Ministry of Social Policy, Wellington, New Zealand, March 1988, p2

<sup>9</sup> *Ibid*, p2

<sup>10</sup> *Ibid*, p8

<sup>11</sup> *Ibid*, pp11-12

Nozick believed, because of this undesirable need for appropriation through taxation, that government activity should be kept to a minimum. On the other hand, Nozick admitted that the state could not be done away with entirely:

The State's role in society is one of protecting its citizens from harm and ensuring that wealth is acquired and transferred freely, i.e. without coercion.<sup>12</sup>

For language interventions to be justified, then, it must be demonstrated that they either “protect citizens from harm,” or prevent “coercion.” The potential for language to cause harm is evident in any verbal assault, or other offensive utterance, between two speakers who both understand the same language. Harm may also be caused between speakers of different languages, who do not understand each other enough to engage in verbal conflict. Here, a power imbalance is created, and Roberts, Davies and Jupp have observed that

Language is used by people with power to sustain their power (consciously or unconsciously).<sup>13</sup>

Abuse of such power can also result in the sort of economic coercion Nozick is anxious for the state to prevent. New Zealand's history gives a luminary example of such coercion, as colonists established English as the language of power, and of the market. Many Waitangi Tribunal plaintiffs have claimed that their ancestors parted with land unwittingly, as the English, rather than the Māori, understanding of land ownership was used in transactions.

For the minimal state to act, though, it is not enough that the potential for harm exists. It must also be demonstrated that this harm cannot be prevented by either the market or the voluntary sector. Nozick looked to these other sectors first to help those at risk:

[Nozick] expects that voluntary redistribution, whether by means of market processes or charitable activity, will adequately alleviate the suffering of the least advantaged.<sup>14</sup>

Market processes and charitable community organisations can be supplemented by what is sometimes called the “fourth sector” (which Nozick neglected to mention); the household. As Cody has observed:

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<sup>12</sup> Morris & Batten, 1988, p8

<sup>13</sup> Celia Roberts, Evelyn Davies and Tom Jupp, *Language and Discrimination: A Study of Communication in Multi-Ethnic Workplaces*, Longman, London (UK), 1992, p368

<sup>14</sup> Ibid, p15

It is obvious that significant transfers of resources, real and financial, occur daily within families and households, the basic units of our social system.<sup>15</sup>

The application of the minimalist model of the state will therefore explore how institutions outside of the public sector, including the household, may be used to “alleviate the suffering” that language, or lack of it, may cause.

To determine when state intervention might be justified, it is necessary to identify the reasons why the market, the household, and the voluntary sector (“private initiative”) might be caused to fail. For households, the obvious failing is a shortage of resources. This may be a lack of financial resources, or of human resources such as knowledge or time. The voluntary sector is often similarly afflicted by a shortage of all kinds of resources, but is also troubled by what has been termed ‘free rider syndrome:’

People may fear that indicating an interest, say, in better roads, will trap them into having to foot the bill. Whatever the reason, the temptation to free ride, easy ride or simply not express one's preferences sends the wrong signal to suppliers.<sup>16</sup>

A shortage of volunteers for service provision may not be an indication that people do not value this service, but, rather that they value it but are wary of being left to provide it for themselves.

The market may also fail to provide a good for a variety of reasons. Stiglitz offers failure of competition, public goods, externalities, incomplete coverage, and information failures as a few of the reasons for which markets may fall short of adequately providing something.<sup>17</sup> These possibilities will be explored where they might be applicable to the languages under investigation in this research, to determine where the minimal state might find cause to intervene in providing them.

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<sup>15</sup> John Cody, Introduction to G R Hawke and David Robinson (eds) *Performance Without Profit: The Voluntary Welfare Sector in New Zealand*, Institute of Policy Studies, Wellington (NZ), 1993, p2

<sup>16</sup> *Global Public Goods*, p7

<sup>17</sup> J E Stiglitz, *Economics of the Public Sector*, Norton, New York (USA), 1988, pp71-81

## The Instrumental State

The second model that Morris and Batten confronted was that of the instrumental state, advocated by Miliband and Hayek. The difference between the two models may be conceptualised as a difference in values. While the minimal state values freedom above all else, the instrumental state's overriding concern is money. The instrumental state must act, above all, to protect and enhance the wealth of its citizens, by facilitating the market in which this wealth is created:

Far from advocating...a 'minimal state', we find it unquestionable that in an advanced society government ought to use its power of raising money by taxation to provide a number of services which for various reasons cannot be provided, or cannot be provided adequately, by the market.<sup>18</sup>

As might be expected under a model of which the driving force for intervention is money, economic policy is the dominant concern of the instrumental state. Social policy – the area in which language interventions may be bracketed – is of little interest to instrumental ideologists:

Social policy is firstly a problem of the market, secondly a problem of private initiative, and only as a last resort, to a minimum standard necessary to maintain the well being of the economy, an issue for the state.<sup>19</sup>

With respect to language, then, the instrumental state is similar to the minimal state in that it will intervene to provide language only when the market and the voluntary sector (“private initiative”) fail to do so. The difference lies in the condition on which this intervention is undertaken. For the minimal state, it will intervene only where harm may be caused; for the instrumental state, governments ought to intervene to provide anything which may assist the market to reach its optimum productive potential.

One of the most common causes for market failure in which the instrumental state intervenes is public goods. The externalities, or indirect benefits, of these are often necessary for an optimal market; for example, a healthy population, or an educated workforce. Public goods can be defined as goods which are both non-rival (one person's use of it does not detract

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<sup>18</sup> Hayek, 'Law, Legislation and Liberty', VIII, p41, qopp17-18

<sup>19</sup> Morris and Batten, p21

from what is available to future users), and non-excludable (potential users cannot be excluded from benefiting from the good). To determine whether government involvement is justified in each language under the instrumental state, it must be shown whether or not they entail any public goods.

Language itself is undeniably non-rival; indeed, each person's use of language could even be said to enhance what is available to future users, as demonstrated by the wealth of lexical items provided by Shakespeare, for example. Language is also non-excludable; no-one can be excluded from the possibility of using language. It could even be argued that language is "free good," or something which is provided naturally without intervention from any sector. We live in a linguistic milieu in which ample opportunities for self-tuition may exist, given the time and the wherewithal to learn. Public television, public libraries and public signage are just some of the areas in which language is freely available to all. According to Chomsky, the development of language is, at least in part, a naturally occurring phenomenon:

... humans have an innate Language Acquisition Device (LAD), which facilitates language acquisition. That is, we humans seem to be prewired or biologically preconfigured to be ready to acquire language.<sup>20</sup>

However, the result of independent language acquisition may be less than adequate for it to be said that language has truly been "acquired." Even the most basic elements of first language development necessitate the presence of an instructor of some kind; early language acquisition is believed to combine processes of imitation with conditioning, both of which require the presence of a parent, or comparable language 'tutor'.<sup>21</sup> Therefore, the approach taken to language acquisition in this paper will be that it is something which must be taught, as well as learned. This situation is common to all forms of knowledge, as Stiglitz has observed:

To be sure, to acquire and use knowledge, individuals may have to expend resources - just as they might have to expend resources to retrieve water from a public lake.

That there may be significant costs associated with transmission of knowledge does

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<sup>20</sup> *ibid*

<sup>21</sup> Sternberg, pp308-309

not in any way affect the public good nature of knowledge itself: private providers can provide the "transmission" for a charge reflecting the marginal cost of transmission while at the same time the good itself remains free.<sup>22</sup>

It is this "transmission", or education, that is at stake in discussion of language policies.

Arguments concerning the public good aspect of language policies often resemble those concerning general education, of which literacy and communication are an important part. Education of any kind appears to have the properties of a private good. It is both excludable and rival, in that there are only so many places available in so many schools, and the direct benefits from attending these classes accrue solely to the individual who attends them. And yet, there are few countries in which some education is not provided by the state. Kaul, Grunberg and Stern have explained this apparent incongruity, with special reference to literacy:

What about the benefits that literacy brings to all the companies that rely on the written word to advertise? The benefits to those who issue public warnings, put out signs or seek to implement laws?...because of its substantial externalities, education is a public good.<sup>23</sup>

Even if their externalities were not public goods in their own right, languages may be seen as public goods in that they facilitate access to other public goods. This is in some ways ironic, as Kaul *et al* later remarked,

The fact that some public goods have access problems may sound paradoxical, because public goods are, at least partially, nonexcludable.<sup>24</sup>

but

...many opportunities to take advantage of (free) knowledge are lost due to illiteracy<sup>25</sup>.

This point was also made in the government's 1992 language policy report, *Aotearoa*:

Language also figures in questions of access. New Zealanders must be able to communicate effectively with one another in order to ensure they have access to

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<sup>22</sup> Joseph E Stiglitz, 'Knowledge as a Global Public Good', in Kaul, Grunberg & Stern, 1999, p309

<sup>23</sup> Kaul, Grunberg & Stern, 1999, pxx

<sup>24</sup> *ibid*, pxxix

<sup>25</sup> *ibid*, pxxx



accurate and up-to-date information, to justice, to employment, to education and to social services.<sup>26</sup>

This connects language to an enormous number of public goods, from laws, to place names, to Citizens Advice Bureaux, to the internet. The provision of language may also increase the efficiency of public good provision, as it allows information in one language to be disseminated to a greater number of recipients.

Yet the instrumental state does not advocate government provision of just any public good. Morris and Batten's definition of public goods which are legitimate grounds for state intervention under an instrumental state model ran as follows:

... the collective goods that are necessary for economic growth, such as roads, but which are not profitable for the private sector to provide... [and] the social services necessary to enable citizens to sustain themselves and participate in the growth of the market economy.<sup>27</sup>

It must therefore be established either that language policies are "necessary for economic growth", or "necessary to enable citizens to sustain themselves and participate..."

The value of language in facilitating the market economy is difficult to refute. Consider two persons attempting to transact in a linguistic vacuum; would they be able to establish a "market economy" without language? History of trading between different language groups seems to suggest that they would. However, simple colonial transactions are far removed from the intricate reality of the economy as we know it today. Indeed, as Cremer and Willes have noted,

International trade, to use a phrase coined by Cope and Solomon (1993), "runs on talk."<sup>28</sup>

This is especially true as the ever-increasing trade between distant partners makes the physical proximity necessary for non-verbal communication less and less feasible. As well as being indubitably necessary for the perpetuation of the free market, language may also be

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<sup>26</sup> J Waite, 1992A, pp5-6

<sup>27</sup> Morris & Batten, 1988, p18

seen as necessary for the participation of the individual therein. It is not necessary to enumerate all the ways in which lack of linguistic comprehension can exclude an individual from economic activities, from finding themselves unable to secure employment, to not being able to read the label on a can of food in the supermarket.

Language could also be given economic value through Fukuyama's famous notion of "trust", or Putnam's "social capital".<sup>29</sup> The essence of both of these ideas is that economic growth will be improved if a society contains high levels of trust between its citizens. The peace of mind offered by freedom from exposure to harmful or coercive language situations could be seen to contribute to such trust. The government's intervention to prevent such situations from arising (which will be seen in later discussion) could be seen as demonstrative of the instrumental state's valuation of peace.

### **The Just State**

The next two models of the state do not view the state as the market's housekeeper, but as an entirely separate body, governed by different motivations and serving different needs for its participants:

The market and the state are two distinct entities.....The political person is more complex than her economic counterpart (*homo economicus*) and the role of the citizen is irreducibly distinct from the role of the consumer.<sup>30</sup>

In the model of the just state, the government is not only distinct from the market, but also dominant over it:

The state acts as a sort of regulator of the market, ensuring that efficiency does not override justice as the criterion for the distribution of primary benefits.<sup>31</sup>

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<sup>28</sup> Rolf D Cremer, & Mary J Willes, *Overcoming Language Barriers to International Trade: A Text-Based Study of the Language of Deals*, Discussion Paper No. 94.2, Massey University School of Applied and International Economics, February 1992, p1

<sup>29</sup> R Putnam, *Democracies in Flux: The Evolution of Social Capital in Contemporary Society*, Oxford University Press, New York (USA), 2002, or Francis Fukuyama, *Trust: The Social Virtues and the Creation of Prosperity*, Free Press, New York (USA), 1995

<sup>30</sup> John Martin Gillroy & Maurice Wade (eds) *The Moral Dimensions of Public Policy Choice: Beyond the Market Paradigm*, University of Pittsburgh Press, Pittsburgh USA, 1992, pviii

<sup>31</sup> *ibid*, p29

While the minimal state valued freedom above all else, and the instrumental state efficiency (or productivity), the just state values justice. To determine how language policies may be deemed worthwhile under a just state model, it is therefore necessary to describe them using concepts of justice.

For the purposes of this research, the definition of justice used will be the same as Morris and Batten's, which derived from John Rawls' famous treatise on the subject. Rawls takes his conceptualization of justice from behind the "veil of ignorance", an imaginary situation in which humans invent the state they would wish for if they were unaware of their identity, and any natural advantages they may possess. Rawls believes that their first priority would be to secure certain "basic social goods", to ensure that they would never lack anything they needed. Rawls does not presume to list what these goods may be, but his theory has since been substantially developed and applied. The basic social goods have been renamed as what is now known as human rights, and are taking an ever-more-active role in both domestic and international politics.

Language has made its way into human rights law, and examples of the right to protection from linguistic discrimination can be found in the international human rights documents emanating from the United Nations (UN).<sup>32</sup> These documents form the basis for New Zealand's own human rights legislation, by virtue of our membership of the UN, although the documents themselves have not been adopted as binding domestic law. The ways in which these concepts have been applied in domestic public policy will be shown when the just state model is applied to each of the languages of this research.

Many of the anti-discrimination rights which exist in law today are responses to perceived injustices of the past, and language is no exception. As de Varennes has written, the nation-state-building that was undertaken by the states of the late nineteenth century had a dramatic influence on linguistic freedom:

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<sup>32</sup> For instance, UN Universal Declaration of Human Rights, Article 2(1), ICCPR, Article 2(1), and ICESCR, Article 2(2)

The increasing involvement of the state in what had previously been the private affairs of individuals and communities had a dramatic side-effect: many individuals who had generally been free to use their native language, as well as have their children learn that language, now found themselves obliged by the state to submit to the language preference of the majority. Nationalism became closely associated with the image, some would even say the myth, of a community of individuals sharing a common cultural identity, often expressed by a common language.<sup>33</sup>

Language became a tool of repression and discrimination by the language groups which held power, and many languages found themselves disenfranchised and on the brink of extinction. Human rights law thus concerns itself with ensuring that no dominant language group can enforce the extinction of a less powerful one.

As will be shown in subsequent discussion, though, even human rights laws are not enough to secure the power of minorities, because, as is the case with any legislation, there are a number of different ways in which they may be interpreted. The paradox of the anti-discrimination laws themselves illustrates this point; although they forbid discrimination on the grounds of language, they are written in English. Even were they translated into every language imaginable, they would still have been conceived in English, and therefore the English version would always have closest resemblance to their original purpose.

This brings us to the problem with basing a state on justice and equality; it requires that unequal weight be given to different concepts of justice within that state. Rawls himself has demonstrated this fallibility of his theory of justice, in his criteria for where citizens are to be placed on a scale of advantage:

The two factors determining relevant positions are identified by Rawls as equal citizenship and the person's place in the distribution of income and wealth.<sup>34</sup>

"Equal citizenship" is a highly subjective concept, as is determining a person's level of dessert by their material wealth. Citizens may be disadvantaged in other ways which may conflict with some conceptualisations of justice. As with all state models, then, the just state

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<sup>33</sup> Ibid, p19

<sup>34</sup> Morris & Batten, 1988, p28

does not provide a comprehensive blueprint for government activity, as the interpretation of justice will depend upon the beliefs and preferences of those with the power to determine it.

While the “veil of ignorance” may be a useful starting point for exploring what motivates state behaviour, then, it is impossible in reality to detach oneself from one’s identity. Therefore, any time the question of “What is justice?” or rather “What should the just state do?” is asked, a different answer will be given, depending on the identity of the answerer. Each state will thus have a distinct concept of justice which reflects the values and experiences of its people. To determine what principles of justice are valued by a particular state, it is instructive to turn to its laws, in which a society’s principals of justice are enshrined. My application of the just state model therefore focused on the place of language in New Zealand’s laws.

### **Ethical State**

The final model described by Morris and Batten - the ethical state – acknowledges the subjectivity of human values-systems in formulating public policy. Again, Hegel was adopted as the exemplary advocate, and Morris and Batten explained how his theories may be applied to the New Zealand situation:

The relevance of Hegel's theory for contemporary New Zealand and its social policies lies in the possibility that ethical arguments may be put forward from elements of society citing theological and/or other cultural reasons distinct from individual liberalism as normative principles that ought to underlie the role and activity of the state.<sup>35</sup>

The idea that there may be “theological and/or cultural reasons” underlying state activity is not new. Indeed, all of the above models of the state could be described as resulting from cultural preferences of some kind; for example, an emphasis on economic productivity has been linked to Protestant religious ethics. What sets the ethical state model apart is that these values are at the forefront, not in the background, of policy-making.

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<sup>35</sup> *Ibid*, pp32-33

The ethical state model may be seen as particularly relevant for language policy, because, as one government report has attested, “Language is a vital medium for transmitting values and culture.”<sup>36</sup> The most obvious manifestation of this model in New Zealand public policy is censorship. The choice of which books should be imported, which movies rated as R18, or which advertisements banned from public viewing is entirely a matter of moral, subjective judgment. As censorship appears to become ever more lenient, it may appear that this moral approach to language policy is in decline. However, a lack of censorship is itself a moral judgment, just as much as a rigorous censorship programme may be. Yet censorship is not the only time the government exercises values in language policy. As Gillroy and Wade have argued, “no policy is value-free,”<sup>37</sup> and any language policy can therefore be conceivable as an “ethical” choice. Exactly what these values are, and how they have been applied to language policy, will be the subject of later discussion.

The plurality of rationales for government action provided by these four theories of the state demonstrates the apparent impossibility of making definitive policy choices. As Anderson has rather wryly remarked:

We can favour a specific programme for the reason that the benefits outweigh the costs. We can base our decision on the grounds of legality, or on the grounds that one option appears more politically feasible than the rest. We can decide on the basis of majority will or fundamental fairness or because of self-interest, organizational interest or the interest of some group whose cause we are trying to advance. We can decide on instrumental grounds....Failing all else, we can make a decision because heads came up rather than tails.<sup>38</sup>

What follows is an exploration of which language policies the New Zealand government currently pursues, followed by discussion of the grounds upon which each one could be defended and condemned, taking into account the factors motivating state behaviour in all the aforementioned models.

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<sup>36</sup> *The New Zealand Curriculum Framework*, Ministry of Education, Wellington (NZ), 1993, p10

<sup>37</sup> Gillroy & Wade, 1992, pviii

<sup>38</sup> Charles W Anderson, ‘The Place of Principles in Policy Analysis’, in Gillroy & Wade, 1992,p387

The analysis will be set against the backdrop of New Zealand's political history and global policy trends, but also against the social context in which each policy operates. The reason for this has been well articulated by Dahl:

In a sense, what we ordinarily describe as democratic "politics" is merely the chaff. It is the surface manifestation, representing superficial conflicts. Prior to politics, beneath it, enveloping it, restricting it, conditioning it, is the underlying consensus on policy that usually exists in the society among a predominant portion of the politically active members.<sup>39</sup>

Just as the development of language is inseparable from that of the society which creates it, so too is the development of public policy. This paper seeks to explore the spaces in which the ever-shifting tides of both have overlapped.

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<sup>39</sup> Charles E Lindblom, & Edward J Woodhouse, *The Policy-Making Process* (3rd ed.), Prentice-Hall Inc, New Jersey (USA), 1993, p11