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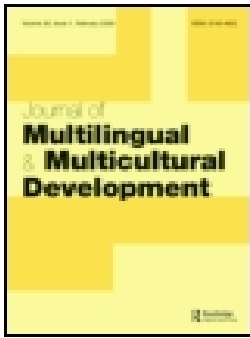
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Realising linguistic justice: resources versus capabilities

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ABSTRACT

This paper focuses on a particular understanding of linguistic justice, one described as the 'fair background conditions position'. This position has clear liberal-egalitarian roots, and its main feature is the contention that the basic requirement of justice with regard to language is the establishment of certain fair background conditions. The aim of the paper is to further the discussion regarding the implications of this understanding of linguistic justice. It will be argued that current accounts of how we realise fair linguistic conditions are lacking, due to their resource-based nature, which means that they tend to focus solely on people's holdings of basic linguistic resources, in the form of rights, goods and services. While these resources are important, they should be viewed as only part of the story. If our goal is the establishment of conditions that provide people with truly fair opportunities to use and sustain their respective languages, then other factors, in particular the constraining influence of implicit social norms, also need to be considered, a matter that can be better grasped by adopting a capability-based, as opposed to a resource-based approach.

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Introduction

Since the early 1990s political theorists have engaged in a wide-ranging debate concerning the implications of cultural diversity. One of the most recent consequences of this process has been the development of a body of literature that focuses on the normative questions that arise due to the linguistic diversity that characterises the vast majority of modern states. Indeed, in a relatively short period of time, we have seen the publication of a number of studies that seek to identify what is required in order to ensure that this diversity is managed in a fair and just manner (see, e.g. Carens 2000; De Schutter 2008; May 2001; Patten 2001, 2003a, 2014; Stilz 2009; Van Parijs 2011; see also the various contributions in Kymlicka and Patten 2003 and Ricento, Peled, and Ives 2014).

In this paper I propose to contribute to this burgeoning body of literature by focusing in detail on one particular understanding of the nature of linguistic justice that has been advanced by several scholars over recent years; what I describe as the 'fair background conditions position'. It is a position that has clear liberal-egalitarian roots; its main contention is that the basic requirement of justice in the field of language is the establishment of conditions under which people can be said to have a fair opportunity to use their favoured language and also to strive for its continued success and survival.

I focus on this particular conception of linguistic justice with the aim of furthering the debate regarding its potential implications. The key question under consideration will be the following: if we conclude that linguistic justice should equate to the establishment of fair background conditions, what types of steps need to be taken in order to realise such a state of affairs – what are the different

factors that need to be considered and addressed? By way of response, an original argument will be advanced, one that seeks, for the first time, to bring insights from Amartya Sen's capability approach to bear on debates regarding the nature of linguistic justice. The argument will contend that current accounts of how to realise fair linguistic conditions are lacking, due to their resource-based nature, which means that they tend to focus solely on people's holdings of certain basic linguistic resources, in the form of rights, goods and services. While these resources or means are certainly important, they should be viewed as only part of the story. If the goal is to establish conditions that provide people with real or effective opportunities to use and sustain their respective languages, then other morally relevant factors also need to be considered and addressed. This is a challenge that can be better grasped by adopting a capability-based, as opposed to a resource-based approach, due to its broader focus.

The paper will unfold as follows. Firstly, the main features of the fair background conditions understanding of linguistic justice will be identified and some of the main arguments advanced in its favour will be outlined. Secondly, the paper will go on to consider current accounts of how the desired fair linguistic conditions are to be realised, and here it will be demonstrated that the tendency, thus far, has been to adopt a resource-based approach to the issue. Thirdly, the paper will introduce the main features of Sen's alternative capability-based approach, focusing in particular on its insistence that any assessment of the opportunities available to people must take account not only of the resources at their disposal, but also of other factors that influence the degree to which these resources can be exploited and converted into actual 'beings and doings'. Fourthly the paper will seek to demonstrate that the broader scope of the capability approach leads to it being a particularly appropriate framework for the realisation of fair linguistic conditions. As part of this, the paper will use the case of Wales and the Welsh language in order to illustrate the relevance of certain general observations. In conclusion, the paper will consider some of the practical policy implications of the argument developed during the preceding sections.

Before moving ahead with the discussion, a series of clarifying observations need to be made. Firstly, the reader should note that the primary aim of the paper is to further debate regarding the potential implications of the fair background conditions understanding of linguistic justice. Given this, while what follows will outline certain arguments that demonstrate why adherence to this particular position is desirable, for reasons of space, no effort will be made here to develop a comprehensive account that explains why it should be favoured over its potential rivals.¹

Secondly, it should be noted that throughout the paper it is Sen's version of the capability approach that informs the discussion. Other influential formulations, in particular that proposed by Nussbaum (2000), are not considered. This has important implications for how the paper views the capability approach. It means that the approach is not viewed as a comprehensive theory of justice in its own right. The capability approach, as employed here, cannot set out basic requirements for justice in specific fields, for example whether justice in the field of language policy actually calls for a monolingual or more multilingual approach. This is a task that calls for other, more foundational, arguments. Rather, in this paper, the capability approach is viewed and employed as a secondary device that allows for the measurement of respective levels of advantage or opportunity. It is thus an analytical device that can be incorporated into a more general theory of justice (e.g. a theory of linguistic justice such as the fair background conditions position) to assess how certain key objectives or principles can be realised.²

Thirdly, wherever the paper refers to cases of different language groups residing within a single political community, it will be assumed that such diversity does not result from recent immigration. Rather, it will be assumed that the various language groups that feature in the discussion 'are on all fours with one another in the degree to which they can claim to be indigenous' (Patten 2001, 694). I make this assumption because for now I wish to sidestep the complex issue of whether there is a basic moral distinction between the linguistic interests possessed by members of immigrant groups and those possessed by members of host societies.³

Linguistic justice as fair background conditions

According to the fair background conditions position, the basic requirement of justice in the field of language is the establishment of background conditions under which people have an opportunity to use their favoured language and to strive for its continued success and survival. The provision of such opportunities, in turn, requires the removal of any unfair pressures that serve to discourage certain linguistic forms of behaviour while promoting others. Such unfair pressures may include explicit coercion, in the form of prohibitions on the use of one language and prescriptions to use another. However, they may also include the existence of disincentives that have the effect of curtailing the availability of certain social, economic or political options for those who associate with a particular language, thus causing them to refrain from using it and/or from transferring it to future generations.

The position outlined above is one that has been advocated by several prominent contributors to the linguistic justice debate. Among the first to do so were Leslie Green and Denise Réaume in a series of papers published during the late 1980s and early 1990s (Green 1987; Réaume 1991, 1994). In these publications it was claimed that justice called for the removal of ‘unjust pressures on language choice’ and the establishment of ‘circumstances that are fair and unbiased’: circumstances that would provide people with ‘a secure environment in which to make choices about language use and in which normal processes of language transmission between generations can take place’ (Réaume 1991, 46). More recently, Alan Patten has taken up a similar line of argument in several of his significant contributions (see, in particular, Patten 2003a, 2003b, 2009; 2014). Patten (2009, 121) has argued that the basic objective of a just linguistic regime should be to provide ‘protection against unfair or coercive pressures’, and that this can be done by establishing ‘fair background conditions under which speakers of different languages can each strive for the success and survival of the different language communities with which they identify’ (Patten 2003a, 370). Yet another proponent of the position is Helder De Schutter, who has argued that justice requires the kinds of ‘background conditions’ that provide people with fair opportunities to use and sustain their particular languages, and through this ensure that the linguistic preferences of some people are not portrayed as ‘deviant’ and as ‘less legitimate than those of others’ (De Schutter 2008, 112).

Yet, why should linguistic justice be conceived in these terms? The first part of the case offered in favour of the fair background conditions position stresses its ability to take account of important interests. Arguably the most important of these is the interest that people have in being treated with respect in relation to aspects of their collective identity. As is now widely acknowledged, along with factors such as gender, race or religion, language acts as an important marker of identity for many people. As Réaume (1991, 45) asserts, ‘most people regard their language as a marker of identity, a cultural inheritance which they value’. Indeed, even if they can speak another language, people will often prize the language of ‘the community in which they have been acculturated’ (Réaume 1991, 45). Given this, it is vital that people’s particular linguistic preferences are not disparaged. As Charles Taylor argued in his famous essay, *The Politics of Recognition* (1994), failure to recognise and respect characteristics such as language that can contribute significantly to a person’s sense of identity can, over time, cause serious harm. Yet, the fair background conditions conception of linguistic justice can claim to avoid such eventualities. By insisting that people should be free to use their favoured language and to strive for its continued survival without facing impediments or discouragement, it ensures a context in which everyone’s linguistic identity will be respected.⁴

The second part of the argument in favour of the fair background conditions position highlights how, in addition to serving important linguistic interests, such as that of identity, it embodies a powerful account of fairness that has featured prominently in many contemporary liberal-egalitarian works. According to this view, the degree to which a society treats different ways of life and conceptions of the good fairly should not be measured according to whether they go on to flourish or decline over time. Rather, fairness is served by the establishment of a general context ‘within which permissible forms of life have a fair opportunity to maintain themselves and to gain adherents’

(Rawls 1993, 198). Therefore, on this view the long-term sustainability of particular ways of life, and their associated practices, traditions and beliefs, is ultimately not the responsibility of the state, but rather that of private citizens – it is they, ultimately, who should bear the responsibility for attracting sufficient adherents in order to allow their chosen way of life to survive. The state's responsibility is to ensure that their efforts can take place under 'fair background conditions' (Rawls 1993, 199; see also Dworkin 1978). In sum, it seems that there is a clear overlap between the fair background conditions conception of linguistic justice and the liberal-egalitarian account of fairness. Indeed the nature of this overlap is reflected clearly in the following quote by Réaume (1991, 47): 'the ultimate fate of a language community is up to its members, but they should be protected from unfair or coercive pressures distorting normal practices of language use and transmission'.

Realising fair background conditions: a resource-based approach

If linguistic justice is understood as the existence of fair background conditions under which people have an opportunity to use their favoured language and to strive for its continued success and survival, then the question that arises immediately is what kinds of steps need to be taken in order to realise these conditions? Current advocates of the fair background conditions conception of linguistic justice have tended to adopt a resource-based approach to this question. This means that they have tended to focus on people's holdings of basic resources – rights, liberties, goods and opportunities – and then seek to ensure that these are distributed evenly. Their adherence to a resource-based approach to the issue of fair linguistic conditions can be seen if we look closely at the specific steps that they have advocated. These steps hinge on the fair distributions of key resources.

Firstly, it has been argued that the establishment of fair conditions would require the existence of a 'regime of linguistic tolerance'. Such a regime would encompass 'the usual rights of freedom of expression, association, non-discrimination, and natural justice, as applied to language' (Réaume 1991, 50–51). These are rights that protect people's freedom to use whichever language they choose in the private domain; most importantly, their freedom to use their chosen language when conversing informally with family members and friends, but also the freedom to use their chosen language while conducting other 'private' activities, such as publishing newspapers, supporting electronic media, or organising and administrating community organisations (Green 1987, 660).

However, if the aim is to establish background conditions that are characterised by the absence of pressure to assimilate to other linguistic communities, then it is not sufficient to guarantee people's ability to use their language solely in private domains; they must also be able to use it as they participate in public domains (Green 1987, 663). As a result, the proposals advanced by the advocates of the fair background conditions approach have consistently included a second important element: the need for a policy of official multilingualism, which entails public institutions organising themselves in a manner that ensures that public tasks can be conducted in each of the languages spoken by their citizens (Patten 2001, 695). According to De Schutter (2008, 117), in multilingual societies adherence to such a policy is vital 'for linguistic justice to be realized'. This is a point echoed by Réaume (1991, 53) who argues that fair background conditions require that 'the members of a community be able to live as fully as possible in their own language', and to achieve this, rights to use their language in the public domain are required.

As suggested, these proposals clearly demonstrates a tendency to view the realisation of fair linguistic background conditions – conditions that will provide people with a fair opportunity to use their language and to strive for its continued survival – as primarily a matter of ensuring a fair distribution of key resources. After all when establishing a regime of linguistic tolerance or adopting a policy of official multilingualism what the state is essentially doing is distributing certain resources that are relevant to the goal of providing people with opportunities to use their favoured language: on the one hand, certain rights and liberties and on the other hand, certain goods and services (e.g. in the form of multilingual public servants, various versions of key forms and documents, translation facilities, etc.). Indeed, Patten (2001, 710) confirms this view when he describes his proposals for the

establishment of fair linguistic conditions – in particular the policy of official multilingualism – as being based on a consideration of ‘the resources available to people’.

It should be noted that by approaching the question of how to realise fair linguistic background conditions from a resource-based perspective, the theorists under discussion here are adopting a method of evaluating the fairness of social conditions that has been endorsed by a significant number of contemporary liberal-egalitarians. It is a method that is consistent with that advanced by John Rawls as part of his general theory of justice as fairness. According to Rawls, the proper metric of justice are basic resources, or as he describes them, ‘social primary goods’. These include liberty and opportunity, income and wealth and the social bases of self-respect (see Rawls 1971, 303). Rawls then argues that when evaluating social conditions and their implications for people’s ability to pursue their respective goals and preferences, it is the distribution of resources such as these that we should study. Moreover, he contends that we should do so without looking too closely at what different individuals can do with their respective resources (Brighouse and Robeyns 2010, 1).

Yet, while the Rawlsian, resource-based approach to the question of how we ensure fair social conditions for the pursuit of life goals has proved popular over recent years, it is not the only available option. One prominent alternative is the capability-based approach developed by Amartya Sen (see, e.g. Sen 1980, 1990, 1992). Indeed, as will be argued during the remaining sections of the paper, when it comes to language such an approach may actually be a more appropriate one to adopt.

Amartya Sen’s capability approach

As Sen has acknowledged on numerous occasions, his analysis of the basic goal of a theory of social justice was influenced substantially by the ideas advanced by John Rawls in his theory of justice as fairness (see, e.g. Sen 1990, 111; 1995, 263; 2010, 239). Generally speaking, Sen agrees with Rawls that our aim should be to ensure the existence of circumstances that provide people with fair and equal opportunities to pursue their respective goals or preferences (Robeyns 2003, 544). However, while in agreement regarding this basic goal, Sen disagrees with Rawls on the issue of what particular factors need to be considered and addressed in order to realise such conditions.

For Sen, the degree to which people possess substantive opportunities to pursue and to achieve their favoured ends is not solely determined by the bundle of primary goods that they happen to hold. Goods such as those listed by Rawls perform an important role but they ‘are only part of the story’ (Robeyns 2003, 545). According to Sen the opportunities that people have to pursue their life plans are also influenced by a range of factors that can determine the manner and extent to which individuals are able to exploit these goods and convert them into desired ‘modes of living’ (Sen 1995, 267).

Sen (1980, 215) claims that Rawls’s metric fails to take account of this vital point due its disregard for ‘the diversity of human beings’. If people were basically similar and lived in very similar circumstances, the key factors that influence their ability to convert means into desired ends would be identical and, consequently, ‘an index of primary goods might be quite a good way of judging advantage’ (Sen 1980, 215). However, the reality is that people are very different and live under radically different circumstances and this can have far-reaching implications for what certain bundles of goods can actually enable them to do. This means that ‘equality in holdings of primary goods or resources can go hand in hand with serious inequalities in actual [opportunities] enjoyed by different persons’ (Sen 1990, 115).

Sen, therefore, accuses the primary goods metric of being ‘informationally short’ (1980, 217). Insufficient attention is given to the question of what different people can actually do with their respective goods in light of the fact that similar holdings can lead to very different levels of opportunity (1980, 218; 1995, 264). This, Sen contends, introduces an element of arbitrariness to Rawls’s theory: ‘interpersonal variability in the conversion of primary goods into [opportunities] to achieve introduces elements of arbitrariness into the Rawlsian accounting of the respective advantages

enjoyed by different persons; this can be a source of unjustified inequality and unfairness' (1990, 112).

In response to these shortcomings, Sen argues in favour of changing the method used to measure levels of advantage or opportunity as part of a theory of distributive justice. Rather than focusing on people's holdings of primary goods, we should focus on respective levels of substantive freedom, that is, the degree to which people have a *real* and *effective* opportunity (as opposed to formal) to pursue their life plans – to do what they want to do and be who they want to be (Robeyns 2009, 403). In other words, justice should be evaluated in terms of people's 'capabilities' (Sen 1990, 115).

Therefore, by focusing on what people actually are able to be and do, the capability approach leads to a broadening of the informational scope with regards to the measurement of advantage. In addition to considering the distribution of basic resources or primary goods, accounts also need to consider the influence of various factors that can influence the extent to which people are able to exploit their respective holdings and convert them into desired ends. In his various writings Sen has distinguished between three different categories of 'conversion factors'. They are: personal conversion factors (e.g. metabolism, physical condition, sex, reading skills and intelligence); social conversion factors (e.g. public policies, discriminatory practices, societal hierarchies, power relations, social or cultural norms and conventions); and environmental conversion factors (e.g. climate, infrastructure). All of these factors are deemed, in various ways, to influence the process of converting the features of goods and resources into actual opportunities to pursue particular goals, or in Sen's terminology 'capabilities to function'.

Realising fair background conditions: a capability-based approach

The broader scope of the capability approach, and the fact that it is able to take proper account of the influence of a number of important 'conversion factors', means that it is a particularly appropriate framework to adopt when seeking to realise fair linguistic conditions – conditions under which people can be said to have a fair opportunity to use their favoured tongue and to strive for its continued survival. The following discussion will seek to substantiate this claim by focusing on how one particular type of social conversion factor can influence the nature of people's linguistic opportunities – the potentially constraining influence of implicit social norms and conventions. As will become apparent, this is one factor that has important implications for our understanding of the types of steps that need to be taken in order to bring about truly fair linguistic conditions.⁵

Over the years, several scholars have pointed to the ability of the capability approach to take account of the potentially harmful influence of informal and implicit social norms and conventions as evidence of why it should be favoured over the more traditional resource-based approach. One such scholar is Anderson (1999, 2010; see also Sen 1995). According to Anderson (2010, 90), social norms and conventions can represent morally relevant constraints on people's ability to pursue their life goals, yet such things are 'invisible' from the perspective of the resourcist approach. By way of illustration, she highlights the experience of gays and lesbians and their efforts to appear openly in public without stigma. From a resourcist perspective, social conditions that ensure such opportunities would seem to be established if gays and lesbians are accorded with formal rights that combat various forms of discrimination. However, while necessary and extremely important, such rights may not be sufficient on their own. If a public culture persists which, through various informal and implicit norms and conventions, promotes disdain and aversion towards such identities and ways of life, then many gays and lesbians may feel unable to exploit the rights in their possession. Rather, they may continue to adhere to the practice of 'closeting', in order to avoid 'exposure to hostile and unjust contempt in civil society' (Anderson 2010, 89). As a result, if gays and lesbians are to be provided with truly fair conditions to be and do as they choose, such informal and implicit factors may also need to be considered and addressed.

A similar line of argument is adopted by Robeyns (2003, 545–547) as part of a discussion that focuses on the gender division of labour. As she explains, in order to address the inequality that

is a feature of the economic arrangements of Western societies, and thus provide women with a truly fair opportunity to choose between either wage labour or caring and housekeeping duties (or, indeed, a combination of both), it is necessary to do more than just ensure that certain key resources (e.g. rights, care services, public funds, etc.) are distributed in an appropriate manner. Without doubt, such measures should not be discounted – they are an essential part of the process of addressing gender inequality. However, for women to possess a truly fair opportunity to pursue their favoured course in life, it is also vital that informal social norms and conventions be challenged and changed, so that women ‘do not feel more social or moral pressure than men to prioritize their families over other activities’ (Robeyns 2003, 547). Without doing this, Robeyns argues that it is questionable whether the opportunity for women to choose a way of life is being established in a truly substantive sense.

It is my contention that the arguments outlined above in favour of the capability approach, due to its ability to grapple with the constraining influence of implicit social norms and conventions, also holds relevance when it comes to the issue of language and the task of establishing conditions under which people can be said to have a fair opportunity to use their favoured tongue and to strive for its continued survival. As was demonstrated earlier, from the perspective of the resource-based approach such conditions are seen to have been established if a regime of linguistic toleration is in existence and a policy of official multilingualism is adhered to. Clearly, the importance of these measures should not be disputed. After all, a person could not be said to have any kind of opportunity to use his language, particularly in the all-important public sphere, if the necessary resources, in the form of certain legal and institutional arrangements, were not in place. However, language, like sexuality and gender, is a field where it is possible that a distribution of key resources, on its own, may prove insufficient. This is another field where deep-rooted social norms and conventions can act as ‘sources of pervasive social discouragement’ that regulate significantly ‘what people feel that they can or cannot do’ (Sen 1995, 265). As a result, the wider informational scope of the capability approach means that it is better equipped to grasp the various factors that need to be considered and addressed in order to ensure the existence of fair linguistic background conditions.

Consider the following stylised case in which there is a community that encompasses two different languages. One of them – language X – is spoken by a majority of the population, and for many years was the only language granted official recognition and therefore the only language that could be used in order to access public services and conduct public business. The other – language Y – is spoken by a minority, and during the same period its lack of public recognition meant that it could only be used in relation to certain private, informal activities. Eventually, this state of affairs is changed as the state decides to adopt a policy of official multilingualism, which gives rise to rights to use Y in addition to X in public settings. However, after a period of time it begins to become apparent that there is a trend among numerous members of the Y-speaking community not to seek out the newly created opportunities to use their language. When social research is conducted in order to gain an understanding of why this may be the case, the results make for interesting reading. Significantly, the observed language use patterns are deemed not to reflect a rejection of their mother tongue on the part of Y-speakers and simply a desire to adopt X as their main language of interaction. Rather, a number of deep-rooted social norms, conventions and beliefs are found to be acting as informal constraints on the options that Y-speakers perceive as being available to them. For example, it emerges that despite the adoption the new policy, which declares that both languages should be viewed and treated in an equal manner, X is still viewed across society (among both X-speakers and Y-speakers) as the more ‘normal’ and more ‘legitimate’ medium to use when participating in the public domain. Due to this general context, a number of Y-speakers report that they are often left feeling unsure about whether it is appropriate for them to seek to use of Y when conducting public business or accessing public services. Indeed, for some this uncertainty is heightened by a fear that seeking to use Y may lead to them being viewed as less capable or less developed than their X-speaking counterparts. At the same time, others report that they are slightly reluctant to press their new rights to use Y

for fear that they will be marked out by public officials (who, for historical reasons, are more familiar with conducting their work through the medium of X) as being rude, awkward or troublesome.

However, trends such as those outlined above are not merely suppositional. They have all been identified and discussed in various empirical studies that consider the nature of the language use patterns that emerge in societies where a minority language that was once denied public recognition is (re)introduced to official domains. In such cases, it is often found that even after the formal constraints on language use have been removed, implicit constraints, in the form of social norms and conventions, can remain, thus interfering with people's perceptions of the linguistic opportunities available to them. In order to illustrate this point further, the following paragraphs reflect on the findings of research into language use patterns in Wales since the Welsh language was reintroduced to official domains following the passing of the 1993 Welsh Language Act.

In a particularly prominent study, Williams and Morris (2000) argued that despite the fact that the 1993 Welsh Language Act placed a statutory duty on public bodies to offer services through the medium of both English and Welsh, the historical legacy of monolingualism meant that in a wide range of contexts the former language continued to be seen as the unquestioned norm (2000, 194). To adopt their terminology, over the preceding decades the use of English had become 'institutionalized' and 'stabilized' (2000, 192), and consequently the general trend among Welsh speakers was neither to expect nor to look out for opportunities to use the language in public settings. Moreover, in those cases where an awareness of the possibility of using Welsh existed, there remained the fear that seeking to do so would lead to 'marking oneself as a deviant from the norm' (2000, 194; for a similar discussion see Davies 2000).

In more recent work, Eaves (2007) concurs with the above arguments, but also goes on to highlight how the attitudes of individual public servants and the general culture of public institutions can act as constraints on the perceived availability of certain Welsh-medium opportunities. He draws attention to the fact that the introduction of official bilingualism across the public sector in Wales was a development that, in many locations, was greeted with reluctance or, indeed, hostility by those responsible for the implementation of such a policy. For decades, the professional confidence, authority and status of public servants had been developed solely through the medium of English. Consequently, certain staff, including Welsh speakers and non-Welsh speakers alike, whether managers, professional officers or frontline staff, have found the process of bilingualising services and workplaces to be a difficult one that challenges longstanding norms regarding how they interact with each other within the workplace and, more importantly, how they engage with service users (2007, 85). One important consequence of such a state of affairs is that public institutions in Wales have often been extremely poor at conveying clearly to the general public that they now have the right to access services and conduct official business through the medium of either English or Welsh, and moreover, that they are welcome to request such opportunities if they happen not to be clearly available at the time of original contact.

The arguments outlined above are reinforced by the findings of a series of detailed studies enquiring into the nature of Welsh-medium provision in the health, social service and social care sectors (Davies 2012; Madoc-Jones 2004; Misell 2000; Roberts et al. 2004). Many of these studies report that despite the introduction of official bilingualism, service providers and users across the three sectors continue to operate within a context where English is widely seen as the unquestioned norm (Davies 2012, 21). This, in turn, means that there is an extremely low level of expectation among Welsh speakers that they will actually encounter opportunities to use the language and also that there is a general lack of confidence to seek out such opportunities if they happen not to be available at the time of original contact (Davies 2012, 6, 35, 57, 58; Misell 2000, 16). More importantly, however, several of the studies refer to the manner in which the attitudes and work practices of individual public officials, and also the general culture of public institutions, can pressure Welsh speakers to settle for English medium provision, despite the existence of a statutory requirement that requires the two languages to be dealt with on the basis of equality (Davies 2012, 17, 37; Misell 2000, 16, 57; Roberts et al. 2004, x, 3, 33). In addition, it is reported that Welsh speakers will often be unwilling to challenge

this state of affairs, and insist that they be served in their favoured language, as they are wary of being viewed as awkward or, indeed, of prompting conflict with the public servant. Indeed, this is a fear that may be particularly acute in the fields under consideration here, as they are ones where the service user often finds himself/herself in a position of weakness (Davies 2012, 18–19, 31).

Therefore, we see that language, like gender and sexuality, is a field where implicit social norms and conventions can significantly constrain the range of opportunities that people may perceive to be open and available to them. In other words, such sources of social discouragement can also severely limit what people feel that they are able to be and do in linguistic terms. As a result, if linguistic justice is understood as requiring the establishment of background conditions that provide people with fair opportunities to use and sustain their languages, then the influence of social norms and conventions is something that must surely be considered and addressed. With this in mind, due to the fact that its concern with ‘conversion factors’ allows it to better grasp the potentially constraining influence of such factors, it is claimed that the capability approach is likely to provide the most effective guidance with regards to the realisation of linguistic justice

Practical implications

It should be acknowledged that, in practical terms, acting on the insights of a capability-based approach to linguistic justice, by seeking to take steps that address the constraining impact of social norms and conventions, may not be straightforward. Adding such issues to the list of factors that impinge on the existence of the desired fair linguistic background conditions means that we incorporate items that will not be subject to formally administrable remedies. As Anderson (2010, 91) has argued, social norms and conventions are constraints on behaviour that ‘are beyond the reach of correction by formal rules’. Firstly, this is so because seeking to bring about changes within public culture directly, through edict, risks interfering with liberties that are fundamental within a free society. For example, within such societies laws cannot be passed that set out in detail what opinions people should or should not hold with regards to specific languages and cultures, given their potential impact on basic liberties such as freedom of speech or freedom of conscience. Secondly, direct efforts to ‘correct’ aspects of public culture are likely to prove ineffective. After all, the state cannot force people to be friendlier or more considerate towards others or to hold different attitudes with regards to the language and cultures of the members of different groups.

However, while direct and formally administrable remedies, mainly in the form of legislation, may not be an option, public policy is capable of addressing the unfairness and inequality that can be caused by deep-rooted social norms and conventions in an indirect manner. It can be used to facilitate the development of alternative social conditions, characterised by alternative attitudes and understandings (Anderson 2010, 91). For example, with regards to racial or ethnic differences, many have claimed that indirect policy steps, such as reforming aspects of school curricula, student socialisation policies and also teaching practices can help to undermine harmful social stereotypes and behavioural norms, and thus instigate a greater level of toleration and empathy (see, e.g. Parekh 2000, 224–230; Young 1990, 154). In addition, it has been claimed that public institutions and corporations can facilitate better relations among their diverse workforces, and also between those workforces and the diverse populations that they serve, by implementing ‘consciousness-raising workshops’ (Young 1990, 154) or programmes that ‘facilitate informal intergroup socialization and cooperation’ (Anderson 2010, 90).

Setting out in detail how such ideas could be incorporated into debates regarding language, and what that would then mean in practical policy terms is a task that will require further research. However, I note here two ventures that may prove to be of some relevance. The first is the ‘Norma’ campaign that was implemented in relation to Catalan during the early 1980s. This publicly funded education campaign preceded the 1983 Language Normalization Law and had the aim of emphasising that Catalan was once more a legitimate language. It was personified by a cartoon character called Norma who appeared on adverts and posters encouraging Catalans to have the confidence to use the

language once more in public domains and, moreover, that seeking to do so was not discourteous or a sign of awkwardness (McRoberts 2001, 143; Strubell 1998, 165).

The second example is the language awareness workshops developed in Wales over the past decade (Eaves 2007). These are training courses that seek to generate a greater awareness among public officials of the reasons why they are now required to operate increasingly through the medium of two languages. As part of these sessions, attention is drawn to factors such as the communicative and expressive interests that are served when individuals are able to interact with public bodies in their chosen language, and through discussion of such issues a 'critical awareness' is developed among public employees of the linguistic needs of those who use the services that they provide (Eaves 2007, 90). It is hoped that the development of such awareness among public officials will, over time, help to create a context where the need to provide services through the medium of both English and Welsh is approached in a more positive manner and that this, in turn, has an empowering effect among those who would prefer to access key services through the medium of Welsh.

To recap, addressing the constraining impact of implicit social norms or conventions, in line with the requirements of Sen's capability perspective, will not be possible through direct and formally administrable remedies. Rather, the effects of such factors must be tackled through more indirect and long-term policy programmes. Identifying and analysing the nature of such measures will require further research, yet it is possible that they could include ventures similar to the Catalan and Welsh examples outlined above. Indeed, referring to such policy programmes helps to convey in more detail what is distinctive about a capability-based approach to the task of realising fair and just linguistic conditions. From a capability perspective, indirect policy programmes such as the 'Norma' campaign or the language awareness workshops can be seen as possessing moral significance. Alongside more formal measures that distribute key resources – in the form of rights, goods and services – they are seen as a vital part of an effort to create conditions that provide people with truly fair opportunities to use their favoured language and strive for its continued survival.

Conclusion

This paper has sought to contribute to the emerging debate among political theorists regarding the nature of linguistic justice, by focusing on what was described as the 'fair background conditions position'. The discussion was organised around the following key question: if we conclude that linguistic justice should equate to the establishment of fair background conditions, what types of steps need to be taken in order to realise such a state of affairs – what are the different factors that need to be considered and addressed? By way of response, an original argument was advanced, one that sought, for the first time, to bring insights from Amartya Sen's capability approach to bear on debates regarding the nature of linguistic justice. According to this argument, current accounts of how to realise fair linguistic conditions are lacking, due to their resource-based nature, which means that they tend to focus solely on people's holdings of certain basic linguistic resources, in the form of rights, goods and services. While these resources or means are certainly important, they should be viewed as only part of the story. If the goal is to establish conditions that provide people with truly fair opportunities to use and sustain their respective languages, then additional 'conversion' factors, for example the constraining influence of implicit social norms and conventions, also need to be considered and addressed. This is a challenge that can be better grasped by adopting a capability-based approach, due to its broader informational scope. As a result, it is contended that this should be the general normative framework adopted by advocates of the fair background conditions approach to linguistic justice as they seek to further develop and refine their position.

Notes

1. For a taste of such arguments see Réaume (1991); Patten (2003a, 2009, 2014).

2. I am grateful to Matteo Bonotti for pushing me to clarify the points made in this paragraph. For further discussion of the various ways in which the capability approach has been viewed and, in particular, for discussion of the difference between the nature and scope of Sen and Nussbaum's versions, see Robeyns (2005).
3. For further discussion of the immigrant/national group dichotomy see Carens (2000, 77–87); Kymlicka (1995, 95–100); Patten (2006); Pinto (2007); Rubio-Marin (2003).
4. For detailed discussions of the nature of the link between language and identity see Edwards (1985); Fishman (1991); May (2011).
5. By choosing to focus on the issue of social norms and conventions it is not suggested that some of the other issues identified by Sen have no relevance at all to discussions regarding the realisation of linguistic justice. Indeed, it is quite possible that consideration of some of the issues that fall under the rubric of either personal or environmental conversion factors may also lead to important conclusions, and, therefore, a full account of a capability-based approach to the realisation of fair linguistic background conditions would need to take account of such factors as well. However, for reasons of space, this has not been possible here.

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