

## **New Spaces, Old Truths: Problematic Applications**

Colin H. Williams

*D School of Welsh*  
*Cardiff University, UK*  
[williamsch@cardiff.ac.uk](mailto:williamsch@cardiff.ac.uk)

## **New Spaces, Old Truths: Problematic Applications**

This paper will consider how three fundamental trends in society are coalescing to change the relationship between selected minority language communities, the state and the international system. The three trends are 1) the emergence of new representative institutions within sub-state political contexts; 2) the increased regulation of official minority languages; 3) the reduction of public sector finance and support for language promotion bodies and the partial transfer of their functions to non-state agencies and organisations.

Taken together these three trends are changing the landscape within which regional or non-hegemonic official languages operate. Such a configuration makes it more imperative that selected minority language agencies and organisations exchange best practice, develop sophisticated arguments for mainstreaming their agendas and needs and understand the full implications of entering an increasingly regulated and judicial context whose interventions can have unintended consequences on the capacity of the target language group to develop their own policies and implement their own agendas. One of the great virtues of the EUNoM network is that it allows such arguments to be constructed, tested and refined. As we shall see applying such insights and best practice ideas is problematic and challenging.

Keywords: official minority languages, Ireland, language policy, decentralization, governance

### **1. Introduction**

This paper will consider how three fundamental trends in society are coalescing to change the relationship between selected minority language communities, the state and the international system. The three trends are 1) the emergence of new representative institutions within sub-state political contexts; 2) the increased regulation of official minority languages; 3) the reduction of public sector finance and support for language promotion bodies and the partial transfer of their functions to non-state agencies and organisations.

Taken together these three trends are changing the landscape within which regional or non-hegemonic official languages operate. Such a configuration makes it more imperative that selected minority language agencies and organisations exchange best practice, develop sophisticated arguments for mainstreaming their agendas and needs and understand the full implications of entering an increasingly regulated and judicial context whose interventions can have unintended consequences on the capacity of the target language group to develop their own policies and implement their own agendas. One of the great virtues of the EUNoM

network is that it allows such arguments to be constructed, tested and refined. As we shall see applying such insights and best practice ideas is problematic and challenging.

## **2. Where are the ‘new’ spaces?**

One of the conceptual results of the new thinking associated with globalization has been an argument that geography and space no longer matter in the way that they did until fairly recently. The literature is replete with reference to deterritorialization, the collapse of time and space, the ubiquity of foot-loose investment and the almost hapless abandonment of the trinitarian relationship of capital, labour and resources.

While undoubtedly the collapse of space and time as a result of current configurations does render several time-distance barriers less impermeable, it is also true that the new global reality forces a reconceptualisation rather than an abandonment of geography and space as powerful influences on our understanding of global change.

I want to focus on the reconfiguration of European political and economic space which has resulted in four significant trends which shape the context of multilingualism and public policy, let alone the actual social behaviour of citizens and organizations.

1. At the European level, the opening and closing of border regions and the re-emergence of historical regions as key global actors has resulted in new opportunities.
2. The internal dynamics of multilingual cities has been influenced greatly by ethnically diverse immigration, succession-invasion processes and pressures on the urban infra-structure presenting new challenges.
3. Hitherto relatively uniform rural areas also face pressures of culturally and class-distinct migration patterns accompanying worries of economic vulnerability as the agrarian base shrinks producing new tensions.
4. Citizens and consumers making individual decisions, changing their perceptions and seeking different forms of socio-economic interactions form new networks and virtual communities.

In terms of our concern with managing multilingual and multiethnic societies and institutions it is evident that these trends represent profound social changes. Yet they are mediated within surviving robust ideological and value systems which reproduce in large part a series of structured relationships reflecting old truths. The range and significance of majority-minority relations together with the degree to which non-hegemonic languages are used within the public sphere of society remain subject to these truths, despite the emergence of several of the new opportunities described above.

### 3. Old Truths

• **Power** remains the locus of activity and influence, for who wields power determines the priorities and shape of the policy programme which impacts on all our lives as citizens.

• **Cumulative advantage** is still a significant variable favouring the economic core at the expense of the periphery. The haves at the expense of the have nots, and the well-placed elite at the expense of the masses.

• **The rule of majoritarian pressure** favours speakers of the hegemonic language and members of the dominant culture, whilst simultaneously reinforcing the system of democratic representation.

We may now add two new 'old truths' which have become embedded elements of any official language regime, namely that:

- **Minority language promotion is accompanied by increased regulation**
- **Increased fiscal minority dependency on the public purse.**

In order to interpret several of these truths to allow a degree of social justice for the minority there is a pressing need to create sophisticated, evidence-based policies to convince the majority to interpret the repositioning of minority interests into the mainstream as a public good and not just as a special need.

One of the great advantages of the new spaces which have opened up in Europe is that the combination of the reconfigured state and a paradigm shift to multilingualism have together allowed for the emergence of new language regimes in sub-state polities such as the Basque Country, Catalonia and Wales and has led to a reinterpretation of the role of official languages in sovereign states such as Ireland, Finland and Slovenia. Both of these types of renewal face daunting challenges in securing the salience of the target language within the education and health system, public administration and the wider commercial and economic domains. Nevertheless there are interesting examples of innovative approaches to official language policy and thus this paper will seek to tease out how reforms in language policy must deal with several problematic applications if the new approaches and opportunities are to be realised.

### 4. Problematic Applications

Any interpretation of the current efficacy of official language strategies and their implementation would be enriched by a consideration of the macro-level impact of the reconfigured state; cross-cutting ideological undercurrents; the variable effects of a paradigm shift to multilingualism and the dynamic relationship between language promotion and regulation.

As part of the reconfigured state the emergence of localization, subsidiarity and devolved government has resulted in a decentralization of decision-making from central government to a more local level of 'civil society' and 'representative government'. This has allowed minority language policy to be refashioned, less as a response to one or more interest group's demands, and more as a public good, part of the mainstream of social and political decision-making. The potential for 'depoliticizing' often acrimonious language issues and reconceptualising bilingual or multilingual programmes as an integral element of a public sector delivery system seems beguiling. However, this transition is not without its problems for inherent in the treatment of minority languages as a public good is a great deal of reluctance as a result of both strong ideological resistance and the strictures of 'neo-liberalism' which places a strong emphasis on market forces, competition and citizen choice. Neo liberal arguments aver that central and local government departments, which used to bear a large part the cost of minority language education, popular culture, representation in the media etc, should transfer some of the resource allocation responsibility back to the community and civil society. In consequence several of the gains made in the past generation in relation to minority language television, communication and the media, for example, are being undermined or threatened by more cost-effective arguments calling for the removal of 'artificial subsidies' and majoritarian support for minority interests in plural societies.

However, official language renewal and regeneration projects run a great risk that they place too much emphasis on the policy and legal framework and too little attention to the social and communitarian networking trends which breath life into any language group. I would argue that there are significant lessons for language revitalization to be learned from the manner in which urban and regional regeneration has been tackled in the past generation. New spaces, old truths and problematic applications applies equally well to regional and urban planning as it does to language policy and planning, in fact more so as it involves the physical reconstruction of the economy and landscape.

Across Europe several industrial and heavy manufacturing regions have been in steep decline. Policies designed to ameliorate the worst effects of deindustrialisation and mass unemployment in regions such as Limburg, East Germany, South Wales and the Basque Country have been focussed on job creation, infra-structure development, attracting capital investment and the like. The more successful policies have rebuilt the economic base of some of these lagging regions, the least successful have merely delayed the inevitable by attracting short-term investment through public grant subsidy; once the subsidy and economic incentives run dry then the industry relocates from the north of Spain to Poland or from South Wales to the Czech Republic.

Similarly great industrial cities such as Liverpool, Glasgow, Bilbao and Dusseldorf have had to reinvent themselves. All such regeneration programmes tend to have a preoccupation with the physical and land use base to their actions. Yet tackling population decline and urban squalor through physical acts of reconstruction do not necessarily succeed

over the long term unless the social process of reinvention is tackled simultaneously. Thus reconfiguration is not just a physical make over. It requires a change of mentality, of spirit and is as much involved with school restructuring, skills development and spirit of place as it is with job creation, motorway access routes and R and D. Were one to depend only on the effects of the demolition of post-war housing estates or the tearing down of nineteenth century industrial villages within metropolitan cores, then the problems do not disappear. As Marx and Engels remarked those many years ago they simply relocate the problems elsewhere as the system juggles with the fortunes of the poor. One cannot, of course, reduce the city to a single system, respondent in toto to planned developments, but successful regeneration as in Barcelona’s Poblenou district devoted to culture, innovation and the creative industries at Can Ricart is a happy conjunction of cultural and physical regeneration.

I would argue that language regeneration is subject to the same discipline. It requires far more than the infra-structural framework of legislation and official policy support in order to succeed. It also requires creative and sustained promotional work to allow the language to breathe, to experiment, to attract new speakers from increasingly diverse backgrounds and motivations. The core message is that the conventional routine promotional work of language transmission should not be sacrificed on the altar of increased legislation and regulation. As with urban regeneration, the physical framework is a necessary but not a sufficient condition of success. It also requires social action to animate the system and this is best realised as a release of collective energy from within the language group itself rather than the fulfilment of top-down language planning programmes.

## **5. Decentralization and Governance**

A further trend is the move from direct government to a more partnership-based system of governance, where co-management rather than a command and control form of responsible politics is practised. This newer type of politics has characterised Welsh and Scottish politics of late and has a more chequered history in Catalonia and the Basque Country. Government and governance are both ways of governing society yet while government relates to the forms associated with liberal representative democracy i.e. the traditional state, governance involves a much wider set of actors, including elected politicians and public officials, but also various non-elected interest and pressure groups. The main thrust of the argument of governance theorists is that, as society becomes more complex and differentiated; the traditional method of governing from above – government – becomes more difficult. This leads to governance, understood as steering rather than directing, which it is claimed supplements or, at times, even replaces government. Governance is allegedly more bottom-up than top-down and largely involves a partnership between government and non-governmental elements of civil society. Within this same ‘bottom-up’ perspective and implicit in the arguments promoting governance is the notion of transformation: modes of governing go from formal government to a wider system of governance (Loughlin and Williams, 2007).



Within European democracies a great deal has been made of the rise of the enabling state which seeks to empower certain groups and sections of society and draw them in to the decision-making process. This recognition of the importance of networks and mutual trust to make advanced democracies work may be a corollary of the decline of public engagement with political parties. Thus empowerment may not only be a matter of engaging hitherto disadvantaged groups, it may be a way of harnessing the myriad talents within society while simultaneously buttressing the legitimacy of the existing political order. Not surprisingly, then, governance has promised a great deal, both to the aspiring actors and to the established institutions in need of some revitalisation and fresh approaches to the common problems of the day. Among the more important problems are how to stimulate public engagement with and buy-in of the state's many policy programmes.

The transformation of the nation-state may also lead to the weakening of the hegemony of national languages thereby giving minority languages a new legitimacy, if not necessarily an automatic boost to their actual use within civil society. We have seen that new opportunities have arisen for selected linguistic minorities both within devolved legislatures such as in Wales, Catalonia and the Basque Country and as a result of the enlargement of the EU which include the gaining of political influence. This is most clearly seen in the promotion of the Catalan language within the European framework and in a cooperative vein within several networks the most significant of which is the Network for the Promotion of Linguistic Diversity (NPLD). The main aim of the network is the promotion of mutual cooperation, knowledge transfer and project coordination, but it also entreats with a stronger voice in its dealings with the EU. Consequently many EU decisions now recognise the continuum of language reality within society rather than adhering strictly to the 'official' language regime of earlier times. The NPLD was officially launched in Brussels, June 2008, having been established in December 2007 and co-funded for a three-year period by the European Commission. Government agencies which are NPLD members are drawn from a range of territories including, Estonia, Friesland, France, Hungary, Ireland, Scotland, Slovenia, Spain, Sweden, and Wales (which provided the secretariat via the Welsh Language Board until April 2012). It also includes NGOs, universities, and organizations from the voluntary and private sectors. Members share information on best practice in language planning and development and the NPLD Think Tank commissions specialist work on topics such as Family Language Transmission, Language Legislation and Official Language Strategies.

Partnership in terms of governance often introduces new actors into the policy formation process. This is a positive move if additional resources are released which allow such partnerships to work. A new emphasis on 'capacity building' within the lesser-used language communities has to overcome structural difficulties in realising the promise of service innovation, empowerment and institutional trust, the new leitmotifs of policies of social inclusion.

However, in all these instances it is extremely difficult to isolate the patterns of cause and effect. Much of the dynamism behind these changes seems to originate in economic developments, in the avalanche of new technologies which have developed over the last forty years and which are now accelerating at an incredible rate. However, these economic changes are also dependent on other factors such as new values and attitudes in society and new forms of state activity and design. What we have witnessed is the emergence of a new kind of state, with new roles and functions and new types of relationships with other levels of government and with the private sector and society.

In many respects selected devolved governments within Europe have sought to ameliorate these trends in relation to the treatment of their indigenous language policies. They tend to advance more social democratic notions of the role of the state in correcting market failure through political intervention by the state to support the weakest or differentiated sections of society. This recognition has profound consequences for the manner in which the local state delivers key public services such as education, public health and welfare, but it also has ramifications for the range of languages used to deliver bilingual and multilingual services and impacts on identity politics in ways hitherto unimagined, leading to the sanctioning of multiple identities and quite complex cross-cutting electoral and interest group alignments at the regional and local level.

Current patterns of immigration and demolinguistic growth mean that the regional governments have to cope with a much more differentiated clientele now which can expose the underlying stresses already present in the larger society. Moreover in a rather direct way, such new migrants can over time, strengthen the languages of wider communication at the expense of the regional minority languages unless the local state is sufficiently robust and innovative in its implementation of education, health and social welfare policies in and through the target language. This is clearly the case in Italy and in its relations with France and other neighbours. It is also a major challenge for the Spanish state, particularly acute in Catalonia and Valencia.

## **6. The Threat to Established Language Regimes: Ireland as Illustration.**

In several 'developed' official minority language regimes, such as Catalonia, Ireland, Finland, the Basque Country and Wales, the current push for official language regulation seems to have overshadowed the more fundamental work of language production and reproduction, weakened by structural reforms and fiscal cut backs. The fiscal pressures in many regions threaten the capacity of the local state and civil society to maintain, let alone, expand the range of activities which support the vitality of the minority language community and network of speakers. Thus bilingual and multilingual services are being threatened in the name of majoritarian democracy and efficiency arguments in contexts as varied as Catalonia, Finland, Ireland and Wales. Let me illustrate these often conflicting trends by reference to a



sovereign member state of the EU whose national language policy issues are more akin to the sub-state regions such as the Basque Country and Wales than they are to states such as Sweden, Finland or Greece.

### **6.1. The Constitutional Status of Irish.**

The 1937 Constitution (Bunreacht na hÉireann) states the legal status of Irish as follows:

Article 8.1 The Irish language as the National Language is the first official language.

Article 8.2 The English language is recognised as a second official language.

Article 8.3 Provision may, however, be made by law for the exclusive use of either of the said languages for any one or more official purposes, either throughout the State or in any part thereof.

Article 25.4.4 ° Where the President signs the text of a Bill in one only of the official languages, an official translation shall be issued in the other official language.

Article 25.5.4 ° In case of conflict between the text of any copy of this constitution enrolled under this section, the text in the national language shall prevail.

The right to use Irish is a constitutional one.

On joining the EEC in 1973 the Irish Government did not request official working language status for the Irish language. Since then the status of Irish in the EU has improved incrementally and the Irish language was designated as an official working language with effect from the first of January 2007.

The general condition of Irish is far from satisfactory. Three broad issues remain a challenge to government, educators and language planners, let alone citizens who wish to use their Irish in an optimum range of domains. The first is the great disjuncture between the c1.65 million Irish speakers and those who use of Irish on a daily basis in society, particularly in regard to public affairs. The second is the continuing struggle of the Gaeltacht as a context for the transmission of Irish culture, language and economic behaviour. The third is the under-performance of the public administration system in providing Irish-medium services to the citizen in dealing with the state and local government.

Conscious of these difficulties the Fianna Fáil government committed itself to developing a 20 Year Irish Language Strategy. The Strategy was charged with realising four key government aims, namely the increase in numbers who can speak Irish from 1.65 to 2 million; the growth in the numbers of daily Irish speakers from 85,000 to 250,000; the invigoration of the Gaeltacht areas and an increase in the use of State services through Irish and access to Irish language media. The preparation of a draft strategy was contracted to an

expert group, directed by FIONTAR, of Dublin City University and its draft strategy was produced late in 2010. Much of the strength of the draft (Fiontar 2010), was its innovative, holistic approach to the promotion and regulation of Irish.

Following internal review by the sponsoring department, several of the more innovative ideas and programmes were removed from the final strategy as accepted by the Irish Cabinet. Of course, this is an entirely appropriate action for government to take, except that it weakened the integrative and mutually reinforcing logic of the several elements of the strategy seen as a cumulative rather than as a partial intervention. Nevertheless the Strategy: identified the following key areas for action: education; the Gaeltacht; family transmission of the language; early intervention; administration, services and community; media and technology; dictionaries; legislation and status; economic life; cross-cutting initiatives.

On the 25th of February 2011 the Fianna Fáil Party was swept from power in a General Election, to be replaced by a Fine Gael and Labour coalition government. Fine Gael won a record 75 seats of the 165 Teachtaí Dála and set about reconfiguring the shape of Irish politics, spurred on by its pre-election promises to reform the public sector and to deal with the immense challenges thrown up by Ireland’s poor economic performance and the pressures brought to bear by its membership of the Eurozone.

A change of government also ushered in a different approach to the issues surrounding the promotion and regulation of Irish and has occasioned a review of the legal basis of the current language regime as embodied in the Official Languages Act 2003.

Structural reforms announced by the government in June 2011 included the enactment of new legislation enacted to give effect to the actions set out in the Strategy, including measures to provide a new definition for the Gaeltacht based on linguistic criteria; repeal the *Údarás na Gaeltachta* legislation so as to establish a new *Údarás na Gaeilge* and a commitment to retain *Foras na Gaeilge* in its current format.

While not entirely satisfied the Irish language community and its representative agencies within civil society largely welcomed the Strategy as a positive attempt to revitalise and prioritise government action in promoting Irish and in seeking to grow both numbers and the opportunities for usage. It was recognised that changing behaviour, especially the internal culture of the public sector which was charged with specifying its mode of delivering bilingual public services through its language schemes, remained a huge challenge.

Advance consideration of the issues which should figure in the review was contained within the Irish Language Commissioner’s July 2011, ‘Review of the Official Languages Act 2003’ (An Coimisinéir Teanga 2011). The report drew attention to the difficulties of operating a system of language schemes when there was very little buy-in from senior managers and almost no political purchase from the sponsoring department to guarantee the success of the schemes. The range and number of adopted schemes had been declining for the past four years and Commissioner reports that only one scheme was confirmed in 2011. In fact 66% of

schemes have expired without new schemes being confirmed to replace them. Some are more than 3 years expired. It is evident that a schemes-based system requires a significant, continuous commitment of time and resources (both human and financial) by individual public bodies, but more importantly by the Department charged with agreeing/confirming them<sup>i</sup>. Plainly in the Irish case this level of support is not forthcoming and there are fears that it will diminish as a consequence of the review undertaken in 2012. This is how the Commissioner described a proposal to move from a scheme-based system to a standards-based system as is happening currently in Wales.

“The schemes system is complex and it can be difficult for the public in general to identify the services through Irish to which they are entitled in accordance with schemes, and to know when such services will be provided. For this reason, a more strategic approach is required and at the very least common standards should apply to different schemes, particularly to those in the same sector. An integrated approach is necessary which would identify those services through Irish for which most demand would exist. A dedicated section within the Department would be required to coordinate the administration of the language schemes; in Wales, this work was undertaken by a staff of 18 in the section of the Welsh Language Board that dealt with their language schemes! In addition, state organisations would need to be empowered to provide services in Irish at the highest standards. If those steps are not taken, there is a danger that members of the public will leave their language rights and wishes aside if it appears to them that English is the default working language of the State. This is then misinterpreted as showing little demand for services through Irish.

Another alternative system is worth considering, one which would reduce the administrative and bureaucratic workload involved in drafting, agreeing and confirming language schemes. This option would involve a “standards” system based on statutory regulations which could be introduced over a period of time and which would outline the level of services through Irish to be provided by public bodies in accordance with their classification by certain criteria. Such a system is under consideration for the Welsh language in Wales at present. The second option would have the advantage of reducing significantly the Departmental staff requirement to deal with this matter once the regulations were in place. It would be much simpler to explain language rights and obligations under this system to the public in general and consistencies could be introduced across various sectors.” (An Coimisinéir Teanga (2011).

The recommendations of this valuable report suggest:-

- a) a new system to replace the existing Language Schemes operated by the Public Bodies under the Act;

b) that public bodies be classified into different categories (A, B, C, etc.) in accordance with their range of functions and their level of interaction with the public in general, including the Irish language and Gaeltacht communities, and that the level of service through Irish to be provided by public bodies should depend on that classification;

c) that a renewed effort be made to ensure the proper implementation of the language schemes system on a strategic and consistent basis, or, as an alternative, that a new “standards” system based on statutory regulations be developed, as is planned for the Welsh language in Wales.

In terms of provision of services to Gaeltacht regions it is recommended that public bodies be obliged by statute to provide their services through Irish in Gaeltacht regions and that such services should be of a standard equal to those provided elsewhere through English.

In terms of bilingual publications of certain documents under section 10 of the Act, it is recommended that priority be given to those publications for which there is the greatest demand from the public, the Irish speaking and Gaeltacht communities included.

In reality this means that provision of documents by electronic means should necessarily be given priority, with a focus on development of bilingual websites as the first contact point of the public with the State, etc.]

It is also recommended that statutory provision be made to ensure that people have the right to use their first name, surname and address in their choice of official language when dealing with public bodies.

In addition, it is recommended that the most fundamental difficulty with the provision of state services through Irish, i.e. the lack of staff in the public sector competent in the two official languages of the State, be addressed by the introduction of a new system of recruitment and training.

These are eminently suitable recommendations borne out of the everyday reality of dealing with the regulation and investigation of language schemes and the educational/promotional role which the Office of the Irish Language Commissioner has pursued with such good effect. It was with great surprise then that the government announced on the November 17th 2011 that it had decided to merge the Oifig an Choimisinéara Teanga (Irish Language Commissioner) and transfer its functions to the Office of the Ombudsman. This has been interpreted as a further threat to the language regime which has been so assiduously built up during this past decade.

In time, there may be a reconsideration of this decision, which is justified as part of the cost-cutting exercise the Irish government is obliged to enforce as a consequence of its straitened fiscal position within the Euro zone. This has caused considerable public disquiet because the decision seems to have been taken in advance of the comprehensive review itself

and thus it is subject to charges that it is motivated by party political or ideological considerations rather than those which may emerge from the consideration of the evidence gathered within the review process. It has also emerged that no one in government can explain with any authority what exactly the cost implications of the proposed merger are.

Over and above the particulars of what may happen after the review has been concluded the real difficulty which has been raised by this unexpected policy turn is the question what value might one place on Language Acts and the state’s declared Language Policy and Strategies? The Commissioner’s role has been guaranteed by statutory edict, namely the Official Languages Act of 2003 (Acht na dTeangacha Oifigiúla 2003). What value and public confidence can one have in legally guaranteed independent agencies if they can be moved, shut and silenced without a great deal of public discussion and more pertinently overwhelmingly convincing logical arguments regarding their past performance?

It must be doubtful that there is any evidence whatsoever that the Commissioner’s Office has been failing in its duties under its statutory obligations. In fact it is generally understood that the Commissioner’s Office has been very successful in both educating Irish citizens vis a vis their rights and in conducting investigations into non-compliance. A logical reading of the current decision might conclude that the principal reason why the Office has been threatened with abolition is that it has been too successful in highlighting the deficiencies in the Irish system and as a consequence government have taken the decision to remove from the scene an agency which guarantees some degree of democratic accountability and redress for the inconsistent application of Irish language legislation. If this is so then such moves threaten the whole integrity of the state’s commitment to the honouring of Irish as the first official language.

## **6.2. Review of the Official Languages Act 2003**

The Irish government is currently conducting a review of the Official Languages Act 2003 (OLA) which should be completed by mid-Spring 2012. By the end of January 2012 the Government had gathered all the submissions of evidence for its review and is deliberating its recommendations in the light of the terms of reference of the review. This is in itself highly significant for the discourse used in the official specification of the review is full of meaning as will be reported in the material which follows below.

The decennial review of the operation of any Act of Parliament is a useful exercise in democracy and the review wishes to guarantee that the improved provision of public services through the Irish language has been achieved through the implementation of the OLA 2003.

Thus notwithstanding the constitutional status of the Irish language as the first official language, the Act provides a statutory framework for the delivery by public bodies of services in Irish. Its principal mechanism for improving services was the language schemes and these



schemes are monitored by the Office of An Coimisinéir Teanga which was established under the Act in 2004.

The government affirms that the Act seeks to reflect the position of the Irish language in Article 8 of the Constitution, which states that: "The Irish language as the national language is the first official language." The application and interpretation of this constitutional status assumed particular relevance following the 2001 decision of the Supreme Court in *Ó Beoláin v Fahy*. The Supreme Court found that the citizen has the right to conduct all business with public bodies through Irish<sup>ii</sup>. The Official Languages Act provides a framework for improvements in the delivery of public services through Irish over time so that the State's obligations can be met in a coherent manner which is commensurate with available resources.

The Act provides for the delivery of public services in Irish in three ways:

1. through provisions of the Act which are applicable to all public bodies under the Act;
2. through regulations made by the Minister for Arts, Heritage and the Gaeltacht which again are applicable to all public bodies under the Act; and
3. through language schemes which are agreed with individual public bodies which provide for an increase over time in the number and standard of services provided in Irish by these individual public bodies.

In the briefing note announcing the review process it is stated that the Programme for Government contains the following commitment:

"We will review the Official Languages Act to ensure expenditure on the language is best targeted towards the development of the language and that obligations are imposed appropriately in response to demand from citizens."

The objectives of the review are "to ensure that the Act is an effective mechanism to support the development of the Irish language in an efficient and cost-effective manner and that the obligations arising from the Act are appropriate to ensure the satisfactory provision of services in Irish by public bodies, in line with public demand." (Government of Ireland, 2011)

Given this the terms of reference have been framed with regard to the constitutional position of the Irish language, all existing legislation, the policy objectives of the 20-Year Strategy for the Irish language 2010-2030, and the relevant commitment in the Programme for Government.

### **6.3. Terms of Reference**

The review will:



- “examine the provisions of the Official Languages Act to evaluate the effectiveness of the legislation in ensuring the provision of public services through Irish, in line with the demands of citizens who wish to conduct their official business in that language;
- consider if the provisions of the Act should be amended to ensure that the public services to be provided through Irish are those which are most in demand;
- consider if the objectives of the Act could be met by alternative or amended provisions which would ensure that expenditure arising from the legislation is cost-effective, particularly in the context of the present economic constraints;
- consider if the obligations placed on public bodies under the Act are appropriate, having regard to the foregoing and to the constitutional status of the Irish language;
- consider if the provisions of the Act should be amended to ensure that it better supports the preservation and promotion of Irish:
  - o as the community language in Gaeltacht areas; and
  - o as the language of choice of others throughout the State;
- consider if the language rights confirmed in the Act continue to be appropriate; and review the provisions setting down the role of the Office of An Coimisinéir Teanga.” (Government of Ireland, 2011)

The government declaration notes that it will take account of international experience in terms of delivery of language services by public bodies in other jurisdictions. (presumably the federal and provincial levels in Canada and Wales, Scotland, etc.).

The review is led by officials from the Department of Arts, Heritage and the Gaeltacht, who will consult with key stakeholders, including the Office of An Coimisinéir Teanga, Government Departments and other public bodies, Irish language and Gaeltacht organisations, and the public in general. The review may also draw on external expertise, including academic and international expertise, as appropriate. The terms of reference for the review are published on the Department's website [www.ahg.gov.ie](http://www.ahg.gov.ie).

On completion, the Minister will make recommendations to be considered by the full government.

Apart from the nature of the review itself, it is interesting to note that the tone of the review briefing note reflects current concern with cost-effectiveness, demand and rational behaviour. Nowhere does the review remit argue for a more robust system or the full implementation of the 20 Year Strategy as a priority. Neither does it give an unequivocal guarantee that as a result of the review the position of Irish will not be weakened. Two other features combine to cause concern for Irish language supporters. The first is the lack of implementation of the language schemes. In the past four years the number of schemes being

submitted and/or approved has dwindled to nothing, this despite the fact that such trends occurred during the tenure of the champion of the OLA process, Minister Éamon Ó Cuiv and thus this failing cannot be laid at the door of the current government. It is very evident, both in terms of the weaknesses of the language scheme implementation process and in terms of the very low number of public servants charged with oversight of the OLA and language schemes that the Irish language regime is not fully committed to the full realization of the OLA itself.

The second difficulty is the regular threat made by the government, both while in opposition and in government that it is minded to change the status of Irish within the statutory education system from a core subject of the Leaving Certificate to an option within the curriculum to ‘better reflect the real demand for Irish in society’. What effect will the downgrading of the constitutionally guaranteed national language have on the capacity of the system to deliver bilingual services, to operate in Irish, to engage with citizens in the language of their choice? What effect on the psychology of the nation or on the vitality of Irish in the 21st century?

These are difficult issues indeed for any marginalised language group, made doubly difficult when they appear to be the product of a system which at best appears neutral toward the fortunes of the language and at worst downright hostile.

## **7. Concluding remarks**

I have been concerned with illustrating some basic facts of language policy life, namely that structural realities often defy fresh initiatives or legislative enactments, especially when they are introduced without a fully supportive political and legal will to implement such reforms.

Three home truths need to be repeated in respect of the evidence discussed herein. Namely that

- 1) language acts should not be seen as a substitute for the routine, fundamental aspects of holistic language promotion and planning;
- 2) the “spirit of legislation” may be a significant under-valued means by which language policy and planning is promoted; and
- 3) language vitality should not be reduced to an identifiable set of language rights or language schemes alone.

There is great merit in tracing the contours by which official language strategy is implemented, particularly the role of influential politicians, senior managers and gate-keepers and the culture of public administration within various polities.

We also need to be aware that there is a great danger that while one arm of government is committed to promoting target language(s) other political considerations reduce the capacity of government to deliver promises. This is especially pertinent because the underlying ideological drive can so often be justified these days by reference to fiscal cut backs and the need to seek value for money. Demand rather than need, general amalgamation rather than specific interest-group targetting and service delivery and above all an appeal to majoritarian democracy all conspire to make life more difficult for several non-hegemonic groups.

Consequently while new spaces do suggest new solutions, we need to evaluate how will the official language strategies manage expectations, whether they are those reflective of the indigenous, historically salient groups, such as Irish speakers, or those of more recent immigrant communities. Legislating for new opportunities is one sort of activity, implementing the resultant, agreed language schemes and services, it seems is a more difficult challenge and one we need to learn to overcome as a matter of urgency lest we fall foul of believing our own rhetoric as to how well the lesser used languages of the EU are faring. In seeking to manage the multilingual and multiethnic societies and institutions of Europe we would do well to reflect on how difficult it remains to manage officially bilingual societies and institutions.

## 11. References

- An Coimisinéir Teanga (2011). *Review of the Official Languages Act 2003*, Spidal: An Coimisinéir Teanga.
- Fiontar (2010). *Twenty Year Strategy for Irish*, Dublin: DCU. [http://www.unige.ch/traduction-interpretation/recherches/groupe/elf/recherche-activite/plean/PLEANreport\\_en.pdf](http://www.unige.ch/traduction-interpretation/recherches/groupe/elf/recherche-activite/plean/PLEANreport_en.pdf)
- Government of Ireland (2011). *Review of the Official Language Act 2003*. Dublin: Department of Arts, Heritage and the Gaeltacht. <http://www.ahg.gov.ie/en/Consultations/ReviewoftheOfficialLanguagesAct2003/TermsofReference/Terms%20of%20reference.pdf>
- Loughlin, J. and Williams, C. H. (2007). Governance and Language: The Intellectual Heritage, in Williams, C. H. (ed.), *Language and Governance*, Cardiff: University of Wales Press.
- Marquand, D. (2004). *Decline of the Public*, Cambridge: Polity Press.
- Sandberg, S. Ó Flatharta, P. & Williams, C. H. (2011). *From Act to Action*. Helsinki; Svenska kulturfonden.
- Strubell, M. & Boix-Fuster, E. (eds.) (2011). *Democratic Policies for Language Revitalisation: The Case of Catalan*, Basingstoke: Palgrave.

Williams, C.H. (2008). *Linguistic Minorities in Democratic Context*, Basingstoke: Palgrave.

<sup>i</sup> Too few civil servants are allocated to the process of agreeing language schemes and this in turn reflects the low priority which successive governments have given to the idea of delivering Irish-medium public services.

<sup>ii</sup> There have been several court cases taken by individual citizens in order to ascertain their rights under the constitution. Article 8 was invoked in one of the major judgements (Hardiman) in the Supreme Court case taken on behalf of Ó Beolán April 2001:

*“ In my view the Irish language which is the national language and, at the same time, the first official language of the State, cannot (at least in the absence of a law of the sort envisaged by Article 8.3) be excluded from any part of the public discourse of the nation or the official business of the State or any of its emanations. Nor can it be treated less favourably in these contexts than the second official language. Nor can those who are competent and desirous of using it as a means of expression or communication be precluded from or disadvantaged in so doing in any national or official context.” Ó Beolán v Fahy [2001] 2I.R. 279 ar 324.*