Official status of languages in the UK and Ireland

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Official status of languages in the UK and Ireland

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I. Introduction

There are at least three ways to identify which languages have official status in a state: definition in law or a constitution, de facto status, or acceptance as a facet of statehood (Ager, 1996: 20). In (the Republic of) Ireland,[1] the answer is found in the first instance in article 8 of the 1937 Constitution: Irish[2] 'as the national language is the first official language' while English 'is recognised as a second official language'. However, when it comes to the United Kingdom and its uncodified constitutional tradition, there is a need to seek the constitutional status of languages in the UK through the study of legislation and practice. Although scholars take different positions on the degree to which recognition *should* be given to languages other than English in the UK, there has been broad agreement on the actual position. English is the 'de facto official language' (Dunbar, 2007: 112) and the language of Parliament and Government (Beloff, 1987: 142). From time to time, this has been reinforced through legislation, with the key examples being provisions on the use of English during the Commonwealth period (Morris, 1998: 32), and the incorporation of Wales into England in the 16th century (Ager, 1996: 20). However, a number of more recent UK-wide and devolved statutes refer to Welsh and Gaelic[3] (and to a lesser extent Irish), using varying language on status.

In this article, I assess in detail the position of Welsh, Gaelic and Irish under UK law, set alongside the constitutional approach taken in Ireland. The three languages mentioned are the subject of the UK's most significant obligations under the European Charter for Regional or Minority Languages; this Charter is discussed in more detail in Part IVB. However, briefer reference is also made to other languages – Ulster Scots (mentioned in the Belfast Agreement and part of the UK's ratification of the Charter) and other languages within the scope of the UK's ratification (Scots, Manx Gaelic, and Cornish). Building upon the established scholarly approach of looking for lessons to be learned from the various approaches to language across the UK and Ireland (e.g. Williams (2009) on the relative performance of the language authorities in Wales and Ireland), I emphasise in this article the degree to which the UK's unique version of constitutional law, including the distinctive impact of devolution, affects the understanding of the official status of language. The close connections between the UK and Ireland, including on the question of language (as set out in this article) present some direct contrasts in approach which become well known in campaigning and lawmaking, and so deserve closer attention.

Initially, the constitutional significance of language, and of official status, is set out (Part II). In Part III, specific legislation on language in the UK and Ireland (including designations of

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[1] Reference in this article to 'Ireland' is typically to the Republic of Ireland.

[2] Also known in some contexts as 'Irish Gaelic' or even Gaelic, but always referred to here as 'Irish' for clarity.

[3] Also known in some contexts as 'Scottish Gaelic', but always referred to here as 'Gaelic' for clarity.

official or other status) is discussed. In this context, the impact of devolution within the UK is highlighted. In Part IV, this material is placed in the context of the treaty between the UK and Ireland regarding the Belfast Agreement, and the UK's obligations under the European Charter for Regional or Minority Languages (ECRML) (which Ireland has not signed). Further analysis in Part V considers the significance of language to concepts of territory and identity. Part VI summarises.

II. The significance of status

A number of preliminary questions are addressed in this section. This is because the broad matter of status masks tensions between substantive and symbolic, and unavoidable questions on territory and extent will immediately arise. The most basic question is where the status of a language is typically found. A resulting issue is what effects such a designation might have, and whether those effects apply across a state or in a more limited fashion. These questions are noted as regards the specific positions of the UK and Ireland, in anticipation of the more detailed consideration of legislative provisions in Part III.

Constitutions normally address language issues to some extent, although this can be confined to a general provision forbidding discrimination (Arzoz, 2009: 557) or depend on subsequent judicial interpretation (Bambust et al., 2012: 216). Codified written constitutions do normally address language, although the United States famously lacks an official language at federal level (Schildkraut, 2005: 13). During the 20th century, there has been a substantial increase in the number of legal orders which deal with language matters at the constitutional and/or statutory level (Spolsky, 2004: 116); around half of the written constitutions in the world assign some special status to a language or to more than one language (including Ireland). Taking a broader approach to official status, Schildkraut contends that the UK is one of only eight countries without an official language (Schildkraut, 2005: 10).

What does designation as 'official' mean in practice? Patten and Kymlicka contend that the effects of doing so encompass the substantive (e.g. the right to use in court or access public services) and the symbolic (e.g. the identification of different groups with the state) (2003: 25) It affects the social status of the language, and not just the legal (O'Rourke, 2011: 23). However, the official-language model is one of a number of broad approaches to language rights, alongside other starting points such as 'minority rights' and 'indigenous peoples rights' (Arzoz, 2010). When addressing language through any of these models, lawmakers can focus on specific rights and duties, or promote the delivery of services through plans and schemes. They can regulate specific uses, or take a comprehensive approach. They can state and pursue a particular objective, such as promoting a particular language. Moreover, approaches can be *minimal* (focusing on permitting private use), *maximal* (comprehensive rights including communication with the State, as in Canada) and *hybrid* (e.g. Israel where Arabic has official but not equal status), as explained by Pinto (2014: 233). However, and of particular relevance to the present study, an effort can be made to constitutionalise the question of language, rather than focus on a demographic case (Parry, 2015: 200).

Additionally, states may choose to define status in at least three spatial ways. One is to approach the state as a whole, with language provisions applying throughout. A second is to apply different provisions on a territorial basis (i.e. within an autonomous region or on municipal boundaries). Thirdly, a 'personality' approach would focus on speakers of a given language (Arraiza, 2011: 124; Edwards, 2010: 27-28).

How are these approaches reflected in the constitutional positions of the UK and Ireland? The issue is particularly complex in the UK case, because of the ambiguity concerning its multi-national nature. In Ireland, the relationship between language and the emergence and

constitutional identity of the independent Republic of Ireland – and its relationship with Northern Ireland – also complicates an answer. Taken as a whole, legislation in the UK and Ireland can be seen to have dealt with some but certainly not all language policy issues. Of course, the devolved institutions (in Wales and Scotland, if not Northern Ireland) have delivered substantial bodies of language legislation even in their early days. At times, action at the UK level has been taken in order to strengthen the UK through 'showing a proper respect' for languages other than English (Morgan, 1981: 418). Changes and campaigns in respect of one language are also, at times, taken up in respect of others; an example is the influence of Welsh-language civil disobedience on emergence of Irish-language activism in Belfast (Kachuk, 1994: 143).

However, through examining those situations where concessions to language rights and/or symbolic recognition as a part of 'Britishness' (or indeed the special position of Northern Ireland), and the more targeted legislation of recent years, we will see in Part III little evidence of a deliberate approach being taken to language, especially at the UK level. Given recent judicial interest in the UK in the notion that some statutes may be 'constitutional' and potentially protected against implied repeal,[4] and revived debates about the next stages in devolution, the lack of clear UK-wide legislation on language is arguably a barrier to a proper understanding of the post-devolution United Kingdom. Similarly, certain similarities in approaches to language across the UK and Ireland may point to the limited significance of the constitutional form of protection as compared with political commitment and policy priorities.

III. Legislation on languages

IIIA Provisions regarding Welsh

Although Welsh was the subject of specific legal disadvantage from the 16th century onwards,[5] it remained a significant aspect of a distinctive Welsh identity post-Union (Bryant, 2006: 117), and was the language that was first subject to significant parliamentary activity in the 20th century. Initially, the Welsh Courts Act 1942 created a limited right to use Welsh in court proceedings. This responded to a celebrated trial where language activists attempted to plead in Welsh (Andrews and Henshaw, 1984: 8; Bankowski and Mungham, 1980: 57-58), to petition efforts (predating but given renewed force by the trial) (Parry, 2010a: 132; Davies, 2014: 99) and to concerns that the position, as highlighted by the trial, was a distraction from the war effort (Watkin, 2007: 190). Nonetheless, as seen in Roxburgh J's telling obiter observation regarding translations in court proceedings, Welsh was politically important but still of limited status.[6] Isolated measures also addressed particular issues, e.g. support for the Eisteddfod and for school books (Johnes, 2012: 291).

The Welsh Language Act 1967 was more extensive, putting in place stronger rights in respect of the court system (at the choice of a party rather than only where necessary) and supporting the validity of official documents in Welsh. However, it did not create new obligations for public bodies or official status, despite calls for such in official reports in the lead up to the

[4] See for instance *Thoburn v Sunderland City Council* [2002] EWHC 195 (Admin) [62]; *R (HS2 Action Alliance) v Secretary of State for Transport* [2014] UKSC 3 [72].

[5] In particular, the Acts of Union (Act for Law and Justice 1535/6, Act for Certain Ordinances 1542/3) prescribed English as the official language of law and government in Wales. See further Watkin (2007: 134); Fishlock (1972: 51); Colley (2014: 77).

[6] *Trepca Mines* [1960] 1 WLR 24, 27 (Ch) ('if a Welshman came here and sought to conduct proceedings before me through an interpreter I should be bound to refuse to hear him. Were I to give a Serb something which would be denied to a Welshman it might produce a Parliamentary crisis'), quoted in Morris (1998: 49).

Act.[7] Subsequent years saw the question of general language legislation being revisited. The nationalist party Plaid Cymru proposed a new Bill in 1986, without success. However, a Welsh Language Board was established in 1988, to advise the Secretary of State for Wales on language matters (Ager, 1996: 168), and reviews took place.

The result was a 1992 Bill and then the Welsh Language Act 1993. While the Bill had proposed a formulation that 'Welsh shall be an official language in Wales', the Act took a different approach and set out a principle. The principle was that 'in the conduct of public business and the administration of justice in Wales, the English and Welsh languages should be treated on a basis of equality'. The Welsh Language Board, now placed on a statutory basis, was charged with a duty to advise certain bodies on how to exercise public functions in accordance with this principle.

A key feature was the requirement on public bodies to prepare and submit for approval language schemes, setting out which services would be available in Welsh and the steps that would be taken in support of the language. Importantly, the broad commitment to equality was tempered with a restriction on requirements to situations where the use of Welsh was reasonable and appropriate. Further considerations on the significance of this requirement included the ability of the Board to determine what was reasonable and appropriate (May, 2012: 281), and the non-applicability of the new duty to Crown bodies (central departments and some agencies), who participated but out of goodwill rather than obligation (Williams, 2010: 51). The result was a broad range of bilingual services becoming available, although some departments treated Welsh alongside many other languages and used more simplistic solutions such as machine translation (49).

From the inception of the National Assembly for Wales, language was important, and it was a bilingual institution, in many regards, from its first day of business – thereby contributing to the 'representation of Wales as a bilingual nation' (Bryant, 2006: 140-142). Its initial powers included supporting the Welsh language (albeit, as with other competences under the Government of Wales Act 1998, through spending and secondary legislation only: s 32). This broad power was extended to the statutory Executive in the Government of Wales Act 2006 (s 61); the Executive was also required to adopt a strategy and scheme on the promotion and facilitation of the Welsh language, by the Government itself and by public bodies (s 76). These provisions also repeated the 1993 Act's 'basis of equality' principle, subject again to the reasonableness and appropriateness codicils. Furthermore, the 2006 Act provided for the (optional) transfer to or concurrent exercise of non-devolved functions by the Welsh Government, if that function is exercisable 'in relation to the Welsh language' (by way of s 58 and schedule 3, part 1, clause 2). This particular provision reinforced the association between devolution and executive functions in respect of the Welsh language.

The 2006 legislation also contemplated the granting of primary legislative powers to the National Assembly for Wales, within 20 'fields' specified in the Act. One of those fields was the Welsh language. Not long after, a coalition government formed in 2007, between Labour and Plaid Cymru, included as a goal the creation of a bilingual Wales.[8] Both developments paved the way for a legislative competence order (LCO) in 2010, which enabled the subsequent

[7] 'Legal status of the Welsh language' (1965) Cmnd 2785 ('Hughes Parry Report'); Council for Wales and Monmouthshire, 'Report on the Welsh language today' (1963) Cmnd 2198.

[8] 'One Wales: a progressive agenda for the government of Wales' (27 June 2007) http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/27_06_07_onewales.pdf (accessed 8 February 2018) at 5: 'we aim for a rich and diverse culture, which promotes Wales as a bilingual and multicultural nation'; 34: 'we will work to extend the scope of the Welsh Language Legislative Competence Order … with a view to a new Assembly Measure to confirm official status for both Welsh and English'.

Welsh Language (Wales) Measure 2011. The LCO, as required by the 2006 Act, set out the specific 'matters' on which the Assembly could legislate. These included 'promoting or facilitating the use of the Welsh language', 'the treatment of the Welsh and English languages on the basis of equality' and 'provision about or in connection with the freedom of persons wishing to use the Welsh language to do so with one another (including any limitations upon it)'.

The 2011 Measure then did what had not been done in 1967 or 1993, and declared in s 1(1) that 'the Welsh language has official status in Wales'. It went on, without prejudice to this general principle, to set out the way in which this status 'is given legal effect'. A new Commissioner was vested with functions, to be exercised with regard to this official status (with a new Tribunal to hear appeals), as well as two new principles: 'in Wales, the Welsh language should be treated no less favourably than the English language' and 'persons in Wales should be able to live their lives through the medium of the Welsh language if they choose to do so.' This built upon the unconditional statement regarding equality in the LCO (which was simply an enabling power for the Assembly to make use of), with the 'no less favourable' clause lacking the typical restrictions of reasonableness, and the 'live their lives' clause breaking new ground entirely. This can be contrasted with the view of a Parliamentary committee 15 years earlier, which argued that 'a general principle of equality of status for the two languages' (i.e. English and Welsh) would be 'a practice foreign to our law'.[9]

In 2011, a referendum approved the replacement of the LCO system with direct legislative powers for the National Assembly for Wales – meaning that future legislation on language would be through Assembly Acts. The Assembly used these new powers to adopt legislation on the status of Welsh in the Assembly itself (National Assembly for Wales (Official Languages) Act 2012) and will in the future consider new legislation arising out of the 2017 White Paper on a Welsh Language Bill.

IIIB Provisions regarding Gaelic

The UK Parliament has not adopted general legislation in respect of Gaelic. The House of Commons did however once have the opportunity to consider a more formal 'status' for Gaelic, in 1981. Western Isles MP Donald Stewart, having been drawn second in the annual ballot for the opportunity to introduce a Private Member's Bill, brought forward the Gaelic (Miscellaneous Provisions) Bill. The Bill, based in part on the Welsh Language Act 1967, would have defined certain parts of Scotland as 'Gaelic-speaking' and set out a duty to provide Gaelic education in such areas, a legal right to use Gaelic in courts, a requirement that certain statutory forms be made available in Gaelic, and further provisions in relation to broadcasting. Although a lively debate ensued, the Bill did not receive the support of the Government, nor did it receive enough votes to proceed to a further reading;[10] it was of limited political impact, subsequently being recorded as the 'wrong Bill at the wrong time' (Hutchinson, 2005: 144).

Occasionally, Westminster found itself dealing with Gaelic issues. The pre-devolution Local Government (Gaelic Names) (Scotland) Act 1997, as its title would suggest, enables local authorities in Scotland to adopt Gaelic names. This had hitherto been prevented, indirectly, by s 2 of the Local Government etc (Scotland) Act 1994, which required all authorities to include the word 'Council' in the official name of the authority. Indeed, following the 1997 Act, the Western Isles Council changed its name, in accordance with the new legislation, to *Comhairle nan Eilean Siar*.

[9] Procedure Committee, 'Use of the Welsh Language in Parliamentary Proceedings in Wales' (1995-6) HC 387.
[10] HC Deb 13 February 1981, 5th series, vol 998 cols 1088-152.

Such issues were however in response to particular situations rather than dealing with language policy per se. A campaign for specific legislation on Gaelic continued, with increased intensity after the establishment of the Scottish Parliament in 1998. The 2003 coalition agreement between Labour and the Liberal Democrats included a commitment to legislate, representing the culmination of a long-running campaign in which *Comunn na Gàidhlig* focused on secure status ('Inbhe Thearainte') for the language (Caimbeul, 2000: 62). In the second Scottish Parliament (2003-2007), a Government Bill was introduced, and ultimately became the Gaelic Language (Scotland) Act 2005.

This Act established a body (*Bord na Gàidhlig*) with functions 'exercisable with a view to securing the status of the Gaelic language as an official language of Scotland commanding equal respect to the English language' and regulates national and public authority-based Gaelic language plans.[11] As with the Welsh Language Act 1993, the principle was framed in relation to the duties of the statutory Board – although in the case of Gaelic, the objective was that the desired status be secured, rather than be confirmed immediately by legislation.

Nominally the Act pertains to the *Bord* (which existed in a more basic, non-statutory form before the Act came into force), rather than the status of Gaelic or linguistic rights more broadly. However, as with the earlier legislation on Welsh, a purposive understanding is that the institutional requirements for the *Bord* are the vehicle through which the policy of the Government and Parliament, of support for Gaelic, is given legislative force.

The Act has served as a fulcrum for political debate on Gaelic in Scotland, and includes some institutional arrangements (i.e. the requesting and approval of language plans) that may, over time, have such an impact on policy discourse and financial planning in the Scottish public sector. As discussed above, the role of the then-Welsh Language Board in approving the plans of public bodies in respect of Welsh was a significant one – and cleared a path for the more extensive powers of the Welsh Language Commissioner under the 2011 Measure.

IIIC Provisions regarding Irish in the United Kingdom

As with Gaelic, Westminster has not legislated in a comprehensive way on Irish, and the earlier devolved legislature (the 1921-1972 Northern Ireland Parliament) did not promote the language.[12] However, emphasising Northern Ireland's distinctive legal and political position, linguistic issues in Northern Ireland are strongly influenced by their treatment in the 1998 Belfast Agreement, in particular the commitment that 'all participants recognise the importance of respect, understanding and tolerance in relation to linguistic diversity, including in Northern Ireland, the Irish language, Ulster-Scots and the languages of the various ethnic communities, all of which are part of the cultural wealth of the island of Ireland'.

The Agreement also notes the 'active consideration' being given to the signing of the ECRML by the United Kingdom (discussed further in Part IVB, below), and included a cross-border body on language as one of the six such bodies established by the UK and Ireland. The resulting 'North/South Language Body' is in practice two agencies, both operating in Northern Ireland and the Republic of Ireland: *Foras na Gaeilge* in respect of Irish and *Tha Boord O Ulstèr-Scotch* in respect of Ulster-Scots.

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[11] For commentary on the 2005 Act, see McLeod (2006); Walsh and McLeod (2008).

[12] For example, following initial discussion and reviews in the period of 1921-2, the Education Act 1923 reduced and limited funding and status for the teaching of Irish in schools (Andrews, 1997: 58-65; Mac Ionnrachtaigh, 2011: 139). Remaining funding was essentially removed in 1933 after campaigns by some MPs in the Northern Ireland Parliament (Walker, 2012: 26-27). Indeed, language was a topic of stark differences between Northern Ireland and the Irish Free State, with differences in the education systems being the subject of debate and critique (Kennedy, 1988).

Language issues have continued to be controversial in the post-Agreement period. In particular, the inability of the Executive to agree on legislative measures has been a particular phenomenon, meaning that as compared with the significant changes in legal status made in respect of Gaelic and Welsh by the Scottish Parliament and National Assembly for Wales respectively, the Northern Ireland Assembly has had a very limited impact on question of language in Northern Ireland.

The St Andrews Agreement of 2006 (which led to the restoration of devolution following a suspension) included a commitment that the UK Government would introduce an Irish Language Act and work on the development of the language following the restoration of the institutions. However, the resulting legislation (the Northern Ireland (St Andrews Agreement) Act 2006, s 15) requires the Northern Ireland Executive to 'adopt a strategy setting out how it proposes to enhance and protect the development of the Irish language' and also a strategy on how it proposes to 'enhance and develop the Ulster Scots language, heritage and culture'. Ní Dhrisceoil (2013: 694) highlights how the duty is for the adoption of a *strategy*, rather than the Agreement's commitment for the introduction of a *statute* on the Irish language 'reflecting on the experience of Wales and Ireland'. Another useful but arguably incomplete aspect of the Agreement was the explicit reference to 'reflecting on the experience of Wales and Ireland' in drafting an Irish Language Act; this may have been intended to point to systems with stronger statutory provisions than Scotland, though some aspects of the provision for Gaelic in Scotland, and indeed models from outwith the UK or Ireland, could also inform a meaningful debate.

Strategies for Irish and Ulster-Scots (Department of Culture Arts and Leisure (NI), 2015b; Department of Culture Arts and Leisure (NI), 2015c) were published by the responsible Department (then led by a nationalist Minister) in 2015, after a 2012 consultation process. However, on coming before the Executive for approval in 2016, the strategies were not adopted, as the necessary cross-community voting requirement under the Act was not satisfied. *Conradh na Gaeilge*, a group promoting Irish, sought judicial review of the Executive's failure to adopt strategies under s 28D; the High Court in Northern Ireland duly declared that the Executive was in breach of its statutory duty in failing to adopt the required strategies.[13] The Advisory Committee on the Framework Convention for National Minorities has also been critical of this failure (2017: [103]).

Meanwhile, consideration of whether legislation on Irish should be adopted has continued; a consultation paper issued later in 2015 by the Department of Culture, Arts and Leisure (Department of Culture Arts and Leisure (NI), 2015a), and arguments made by political parties, both kept the issue in the public eye. The Advisory Committee on the Framework Convention on National Minorities has argued that legislation is needed 'to protect and promote the Irish language', even arguing that the UK government should 'help create the political consensus needed for such adoption' (2017: [105]). Indeed, the question of legislation regarding language and culture (whether in the form of an Irish Language Act or a broader package) has emerged as a contentious one between the two largest parties (the Democratic Unionist Party (DUP) and Sinn Féin) in the attempts of re-establishing the institutions of devolution after the March 2017 Assembly elections, with Sinn Féin arguing that there should be a commitment to a standalone Act in advance of re-establishment.

Despite some landmark projects intended to promote Irish in unionist communities (Mitchell and Miller, 2017; Geoghegan, 2014), some unionist politicians continue to be broadly critical of proposals for greater legal status for Irish. For instance, the regular columns of the unionist chair of the responsible Assembly committee Nelson McCausland (formerly the minister

[13] *Re Conradh na Gaeilge* [2017] NIQB 27.

responsible for language issues) document his trenchant criticisms of the current state of affairs, ranging from the cost (2015a) to the links to republican 'cultural war' (2015b). During 2017, specific actions by the DUP leader in demonstrating a willingness to engage with language issues have been reported as a possible change in emphasis (Moriarty, 2017). However, at the time of writing in January 2018, neither an agreement to establish an Executive nor a specific answer on the question of language legislation has emerged.

The absence of legislation has left Northern Ireland in a different position to Wales and indeed Scotland. An example is found in the question of the use of language in court. In the 18th century, the Courts of Justice Act 1731 (in respect of England), Courts in Wales and Chester Act 1732, and Administration of Justice (Language) Act Ireland 1737 required the use of English in court proceedings (Andrews and Henshaw, 1984: 3). The legislation (which had reinforced the ascendancy of English over Welsh) was purportedly repealed in England and Wales in 1871 (de Napier, 2003: 31; Parry, 2010a: 136) and, as discussed in Part IIIA, definitively repealed in 1942 (Welsh Courts Act 1942) and supplemented by new provisions favouring the use of Welsh since; more limited provision has subsequently been made in respect of Gaelic in some parts of Scotland.[14]

The continued restriction on the use of Irish in court in Northern Ireland[15] was the subject of an unsuccessful legal challenge in 2010. In *Mac Giolla Catháin v NICS*,[16] the applicant argued that the prohibition was in violation of the European Convention on Human Rights and the European Charter for Regional or Minority Languages. However, the former is famously limited in its application to language rights, and the latter (despite the emphasis placed on it at a later stage in the present article) is in the familiar position of an international treaty ratified by the UK, i.e. only justiciable in very limited circumstances. Morris has argued (1998: 43) that the primary purpose of the 18th-century legislation was to curtail the use of incomprehensible law Latin and law French in order to ensure access to justice. The Court followed a similar line. However, Ní Dhrisceoil contends (2013: 698) that the outcome, while justifiable in UK constitutional and EHCR terms, contradicts the Belfast Agreement. Furthermore, the Committee of Experts continue to criticise the 'active prohibition' of the use of Irish in court proceedings (Committee of Experts on the European Charter for Regional or Minority Languages, 2014: [78]).

IIID Provisions regarding multiple languages in the UK

A number of UK-wide statutes afford a certain status to more than one language. These provisions include matters of obvious 'constitutional' significance such as citizenship, and are often the types of issue that would be dealt with at the highest level in a federal system. Indeed, although the greater part of language-specific legislation in the post-devolution UK has come from the devolved legislatures (as discussed above), Westminster legislation remains relevant to an analysis of the status of language in the UK. This can arise in pre-devolution legislation, or in respect of a field or institutions that has not been the subject of devolution. In this section, provisions on citizenship, elections, defining British culture, road signs, and minority rights are considered, with a concluding section on UK public bodies.

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[14] The optional use of Gaelic (by Gaelic parties who also understand English – in practice, all Gaelic speakers) was refused in *Taylor v Haughney* 1982 SCCR 360. However, an Act of Court (2001 SLT (News) 194) now allows parties to opt to give evidence in Gaelic, if notice is given (Dunbar, 2005: 469). See also Rule 40.22 of the Rules of the Court of Session, on appeals where Gaelic has been used in the lower court.

[15] For a summary of 20th century cases, see de Napier (2003: 31).

[16] [2009] NIQB 66; [2010] NICA 24.

The most notable, because of its relationship with the important constitutional concept of citizenship, are provisions on naturalisation. The British Nationality Act 1981 provided that a sufficient knowledge of 'the English, Welsh or Scottish Gaelic language' is required for naturalisation as a British citizen.[17] Tests satisfying the additional requirement of knowledge of life in the UK[18] can be taken in English, Welsh, or Gaelic;[19] there is also further use of Gaelic and Welsh (and in a different location, Irish) in UK passports.[20] However, although proper provision was made until 2013,[21] current regulations and administrative provisions may contradict the legislative intention, as they set out in detail the ways in which proficiency in English can be demonstrated (through holding certain qualifications), without equivalent provision for the other two languages.[22] Although these provisions are unlikely to be in regular use (especially in light of the present confusion), it is constitutionally significant that language is associated with nationality in this way, Conversely, the lack of provision for the Irish language for citizenship purposes in the UK has drawn criticism in the context of periodic reviews under the ECRML; the Committee of Experts also noted that no justification was provided for the difference in treatment (Committee of Experts on the European Charter for Regional or Minority Languages, 2014: [78]).

Electoral law is reserved to Westminster in respect of general elections, and partially reserved in other regards. There are some subdivisions, such as there being two registers of parties – one for Great Britain (although parties can register in England, Scotland and/or Wales) and another for Northern Ireland. Ballot papers and other materials are available in English and Welsh in Wales (under the 1993 Act) and the Electoral Commission operates under an approved Welsh Language Scheme.

Political parties must register with the Electoral Commission. This means that the name of a party, and its description, are of interest, and determine how party candidates appear on ballot papers (Electoral Commission, u.d.). A party name cannot be longer than six words. However, it is possible to register a name in English and Welsh (in Great Britain)[23] or English and Irish (in Northern Ireland),[24] with a limit of six words for each language, and both names appearing on ballot papers. It is also possible to register a name in Welsh or Irish without a translation.

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[17] Schedule 1 para 1(1): The requirements for naturalisation as a British citizen […] are, in the case of any person who applies for it […] (c) that he has a sufficient knowledge of the English, Welsh or Scottish Gaelic language; and (ca) that he has sufficient knowledge about life in the United Kingdom': British Nationality Act 1981, schedule 1, clause 1; subsection (ca) added by Nationality, Immigration and Asylum Act 2002.

[18] British Nationality (General) (Amendment) Regulations 2004, inserting new s 5A into British Nationality (General) Regulations 2003;

[19] The test is offered in all three languages, but only in Welsh in Wales and Gaelic in Scotland. One applicant took the test in Gaelic and none in Welsh. Demand is said to be 'very low'. See HL Deb 5 January 2015, col WA HL3824 and HL3825.

[20] Selected headings in passports also appear in Gaelic and Welsh, although this initiative is not associated with any specific statutory provision. Irish also appears in UK passports (for the time being) by virtue of its status as a language of the European Union.

[21] Nationality Instructions, chapter 18 and Annex E; see further Fransman (2011: 471).

[22] British Nationality (General) (Amendment) Regulations 2013. One view, expressed by a Home Office minister, appears to be that an English qualification is required and proficiency in Welsh or Gaelic is insufficient, because 'as English is the language spoken throughout the UK, an ability to speak English enables interaction wherever an individual chooses to live': HL Deb 5 January 2015, col HL3825. Some administrative documents similarly hold that applicants must demonstrate competence in English through holding a qualification, even if they take the Life in the UK test in Welsh or Gaelic (Home Office, 2015a; Home Office, 2013), although other documents affirm the existence of the Welsh/Gaelic route, advising that applicants relying on knowledge of one of these languages 'should indicate this in a covering letter' (Home Office, 2015b; Home Office, 2015c).

[23] Initially, Registration of Political Parties Act 1998, sch 1, para 2; now, Political Parties, Elections and Referendums Act 2000, sch 4, para 2(1).

[24] Political Parties, Elections and Referendums Act 2000, sch 4, para 2(3).

Names in other languages are permitted, but the (required) English translation will not appear on ballot papers. Similar provisions apply to (optional) party descriptions, which appear on ballot papers in certain elections subject to a word limit, although only in respect of Welsh.[25] The absence of provision for names and descriptions in Gaelic and Cornish has been raised in Parliament.[26]

Issues have also arisen regarding the language of ballot papers. When the first round of elections to the new Police and Crime Commissioner posts took place in England and Wales in 2012, the relevant legislation did not provide for a power to produce ballot papers in Welsh. This meant that emergency legislation was required;[27] the Electoral Commission was strongly critical of the UK Government for its failure to take account of linguistic considerations (Electoral Commission, 2012; Electoral Commission, 2013), as were members of the House of Lords.[28] The Law Commissions propose that a general electoral structure be put in place, so that provisions germane to multiple elections (such as bilingual ballot papers) would be clearly valid and applicable without the need for specific provisions for each new office or institution.[29] That said, debates on electoral law and language are not restricted to Westminster. The power to organise the referendum on Scottish independence was devolved to the Scottish Parliament, which then debated (and rejected) the suggestion that the referendum question appear in Gaelic as well as English.[30]

A link between language and national identity is also found in other, perhaps surprising places. The Films Act 1985 (as amended) prescribed that, for the purposes of calculating the 'Britishness' of a given film (as part of the 'cultural test' for tax relief), one of the criteria is whether the film is in a 'recognised regional or minority language'.[31] Recognised languages were defined as Gaelic, Welsh, Irish, Cornish, Scots and Ulster-Scots; these are of course the languages recognised for the purposes of the ECRML. Recent changes to film tax credits extend the language component of the cultural test to languages 'recognised for official purposes' in the UK or elsewhere in the EU/EEU, meaning that the languages in question no longer appear in the legislation.[32] Nonetheless, associated guidance makes it clear that this includes the languages formerly designated, as well as languages from other Member States (British Film Institute, 2015).

Because public authorities (especially local authorities) draw much of their authority from legislation, whether a given language can be used in certain official contexts can often be found in general legislation rather than measures specific to language. For example, the Road Traffic Regulation Act 1984 (ss 64 and 65) enables the making of regulations in relation to road signs, which are a common area of activity regarding the use and visibility of language in the UK (Dunbar, 2005: 470; Jones and Merriman, 2009; Puzey, 2012: 127-147). Indeed, the Public

[25] Electoral Administration Act 2006, s 49, inserting new s 28A in Political Parties, Elections and Referendums Act 2000. The facility for bilingual descriptions in Welsh/English but not Irish/English is reinforced in the different wording of the application forms for registration of a political party (forms RP1 GB and RP1 NI).
[26] HC Deb 4 June 1998, 6th series, vol 313 col 517; HC Deb 25 October 2005, 6th series, vol 438 col 238-9.
[27] Police and Crime Commissioner Elections (Welsh Forms) Order 2012 (SI 2012/2768).
[28] HL Deb 29 October 2012, 6th series, vol 740 col 462.
[29] Joint Consultation Paper LCCP 218 / SLCDP 158 / NILC 20 (2014) [2.18].
[30] Referendum (Scotland) Bill Committee, 'Stage 1 Report on the Scottish Independence Referendum Bill' (SP Paper 379, 26 August 2013) [49-56]; Public Petitions Committee, 17 September 2013 (petition PE1483); Scottish Parliament Official Report, 12 September 2013.
[31] Films (Definition of 'British Film') Order 2006, SI 2006/643, inserting new paragraph 4D into Films Act 1985, Sch 1, clause 3(d).
[32] Films (Definition of 'British Film') Order 2015, SI 2015/86, amending Films Act 1985, Sch 1, para 4A(3)(d). See also (in respect of television) the Cultural Test (Television Programmes) (Amendment) Regulations 2015, SI 2015/1449.

Health and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1949 (s 19(4)) prohibited Northern Irish local authorities from erecting signs in Irish (or more precisely requiring that 'they shall not cause such name [by which a street is known] to be put up or painted otherwise than in English'). This is seen by one present-day critic as a legislative attempt to prevent the (local) undermining of 'British cultural hegemony' (Mac Ionnrachtaigh, 2011: 140), although as de Napier points out, the statutory wording presented something of a paradox given the clear Irish-language origins of many 'English-language' place names in Northern Ireland (de Napier, 2003: 32). This provision was repealed in 1995,[33] thus making bilingual street signs lawful (but not mandatory); the recent introduction of a general power of competence for Northern Irish local authorities (already the law elsewhere in the UK, and allowing local authorities to carry out any actions that individuals may do, unless prohibited), gives a sounder legal basis for action and expenditure on bilingual signs more generally.[34]

UK-wide legislation on minority issues could have an impact on the official status of a language, through providing for the rights of speakers. The UK has ratified the Council of Europe's Framework Convention on National Minorities; although there is some overlap between the Convention and the ECRML (discussed below), there are also some specific requirements of note, such as in relation to the above-mentioned question of road signs. Infamously, the Race Relations Act proved inapplicable to the Welsh language due to the lack of an ethnic basis,[35] although language could be considered as a factor in identifying a protected group.[36] Even though the legislation on race has been replaced by the broader body of equality law, the relationship between language and the law on minority rights remains under-explored (Craig, 2013: 693).

The question of UK-level responsibilities also arises regarding the obligations and expectations desired for departments and bodies of the (central) government. Given the limits of the 2005 Act as an Act of the Scottish Parliament, discussions have taken place between UK departments, the Scottish Government, and *Bord na Gàidhlig* (facilitated by the Scotland Office) regarding 'voluntary arrangements' for the use of Gaelic. This is necessary because the *Bord* does not have the power to require central departments to adopt language plans, although it is reported that there is a non-legislative 'spirit of co-operation' in some situations.[37] On the other hand, the position was initially easier in respect of Welsh, because the obligations stemmed from the 1993 Act (of the UK Parliament, well before devolution), albeit with a focus on activities in Wales, and not available for use against Crown bodies. (It was also alleged that compliance with the Act was also affected – often negatively – by the priorities set by individual UK ministers (Williams, 2010: 51-52)). The 2011 Measure, though, is certainly affected by the general restraints placed on the National Assembly for Wales. In particular, statutory standards for the use of Welsh under the 2011 Act can only be applied to UK departments with the consent of the (UK) Secretary of State for Wales (s 43). In practice, many Crown bodies did prepare schemes under the 1993 Act on a voluntary basis, in cooperation with the Board; where schemes were prepared, the Board could investigate implementation, but not compel action. However, the limits to this approach were demonstrated in the 2014

[33] Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1995, SI 1995/759, art 11.
[34] Local Government (Northern Ireland) Act 2014, s 79; also the subject of discussion under the Framework Convention (Advisory Committee on the Framework Convention for the Protection of National Minorities, 2017: [111]).
[35] *Jones v Gwynedd County Council* [1986] ICR 833. Dunbar has called for the problematic provisions to be amended (2006b: 186).
[36] *Mandla v Dowell Lee* [1983] 2 AC 548.
[37] Scottish Parliament Official Report, 2 February 2005, col 14093; HC Deb 8 February 2005, 6th series, vol 430 col 1332.

judicial review case *R (Welsh Language Commissioner) v National Savings and Investments*,[38] where it was found that Crown bodies must therefore have had an implied power to prepare a language scheme, and so could use that same power to amend or revoke such a scheme without the approval of the Board.[39]

IIIE Irish in the Republic of Ireland

Although the constitutional provision for Irish as the first official language has symbolic importance, the practical task of regulating language use is even in the Constitution itself clearly one for the legislature. Article 8(3) allows for provision to be made by law 'for the exclusive use of [English or Irish] for any one or more official purposes, either throughout the State or in any part thereof'. (The significance of this provision is the subject of debate; one theory (that it was in anticipation of the possible incorporation of Northern Ireland into the new state) advanced by constitutional scholar Leo Kohn regarding the equivalent text in 1922 Constitution is noted by Hardiman J in *Ó Beoláin v Fahy* [2001] 2 IR 279). A major focus of legislative activity has been in relation to *Gaeltacht* areas (districts, mostly on the west coast, recognised as areas of strength for the Irish language), although there is no direct reference to the *Gaeltacht* in the Constitution. Comprehensive legislation on Irish was not adopted until 2003. Before then, an unusual position persisted where scholars and judges alike struggled to identify the obligations upon the state in terms of the use of Irish (Walsh, 2010: 48; Nic Shuibhne, 1999). Some relevant bodies were however created by statute – *Bord na Gaeilge* (now incorporated into the cross-border *Foras na Gaeilge*) in the Bord na Gaeilge Act 1978, and institutions concerned with the economic development of *Gaeltacht* areas: *Gaeltarra Éireann* in the Gaeltacht Industries Act 1957, and its successor *Údarás na Gaeltachta* in the Údarás na Gaeltachta Act 1979.

The Official Languages Act 2003 now sets out a number of duties (e.g. the publication of documents and the use of stationery, advertising and the like), provides for a system of language schemes, and establishes a Commissioner (Ní Dhrisceoil, 2016; Ó Laighin, 2008; Ó Laighin, 2003). More recently, the Gaeltacht Act 2012 implemented a major review of *Gaeltacht* policy, including the creation of language planning areas and the related recognition of service towns and language networks. In 2017, the first statutory instruments under the 2012 Act, defining the first wave of language planning areas in advance of the agreement of new language plans for those areas, have been adopted. However, statutory provision for the *Gaeltacht* predates the 1937 Constitution, being adopted in early post-independence legislation such as the Housing (Gaeltacht) Act 1929 (particularly its Schedule) and redefined (as a power to make secondary legislation defining *Gaeltacht* areas) in the unusually titled Ministers and Secretaries (Amendment) Act 1956. (The Act is so named as it was also the basis for the foundation of a new 'Department of the *Gaeltacht'* within the executive branch

Irish is the subject of a wide range of other statutory provisions, recently assessed by Walsh as falling into a number of categories (Walsh, 2016). The largest categories are general policy (which he describes as characterised by being 'plentiful … and often vague, imprecise and symbolic') and provisions (including those mentioned above) in respect of the *Gaeltacht*, though other areas where multiple provisions are found include financial incentives, public sector employment, education, and broadcasting.

[38] [2014] EWHC 488 (Admin). As noted at [4], the case mostly took place through the medium of Welsh – a new departure for the Administrative Court.

[39] Fortunately for the Welsh Language Commissioner, the court found that in this specific case, NS&I's withdrawal of its Scheme was unlawful, on the grounds that the Scheme created a legitimate expectation that the Commissioner would be consulted before changes.

Given the supremacy of the Irish Constitution, and the role of the courts in enforcing it, some of the areas dealt with in UK legislation have arisen through litigation in Ireland.[40] Even since the Act, issues have continued to arise. A notable decision was *Ó Maicín v Ireland* [2014] IESC 12, where the Supreme Court dismissed an application by a defendant to have his case heard by a bilingual jury (that is, capable of hearing evidence in Irish and English, without the assistance of translation in either case), although the Court did hold that a non-absolute 'right to conduct official business fully in Irish' was found in the Constitution. In a dissenting opinion, Hardiman J emphasised the nature of Ireland as a 'bilingual state' by constitutional requirement, and criticised the conditions upon this that the majority in the Court would accept.

IV. Transnational influences

IVA British-Irish Council

The impact of the Belfast Agreement on language in Northern Ireland and the Republic of Ireland has already been considered. However, the third strand of the Agreement (on broader co-operation across the islands) also has a part to play, albeit in 'softer' policy terms. The British-Irish Council, established as a result of the Agreement, involves eight governments (UK, Ireland, Scotland, Wales, Northern Ireland, and in addition the Isle of Man, Jersey, and Guernsey). As well as its high-level work, it works through a number of 'sectors'. One of those sectors is 'indigenous, minority and lesser-used languages'. Led by the Welsh Government, its activities have included a seminar on 'language policy and legislation', and a 2017 discussion of technological and economic issues. Its future work includes workforce planning, adult learners, and arts and digital technology. It is notable how the Council has provided a further forum for comparative discussion of both legal and policy issues, although its most recent meeting was not attended by representatives from Northern Ireland, on account of the lack of functioning institutions that persists to the time of writing. A possible weakness, as highlighted by the Framework Committee, is that the structure (developed in the context of the Agreement rather than with specific reference to language) has excluded consideration of Cornish; while Cornish is recognised under the ECRML (see below) on the same basis as (for instance) Manx Gaelic and Ulster-Scots, it is the only such language not to be part of BIC discussions (Advisory Committee on the Framework Convention for the Protection of National Minorities, 2017: [149]). (In theory, the UK could, as the Government responsible for Cornish issues, find a way of addressing this).

IVB European Charter for Regional or Minority Languages (ECRML)

The influence of international standards and requirements on the formation of language legislation and the status of languages is important. International law regarding language informs the present article because it brings into focus the status of the various languages. Even if specific commitments are modest and penalties non-existent, the need for a state to document its approach – and to subject itself to scrutiny - provides relevant evidence on the steps taken to recognise one or more languages.

International human rights law provides a general protection for 'persons belonging to … linguistic minorities', in article 27 of the International Covenant on Civil and Political Rights. This is expressed in negative terms, prohibiting restrictions on their use of the language. However, the *lex specialis* on the matter, at least within the Council of Europe, is the 1992 European Charter for Regional or Minority Languages (ECRML). States are required to report on progress in implementing the ECRML; a committee of experts then writes its report, having gathered further evidence and considered the state's self-evaluation. Finally, a Committee of

[40] E.g. *Ó Monacháin v An Taoiseach* [1986] ILRM 660 (conducting a case in Irish); *Ó Murchú v. Cláraitheoir na gCuideachtaí* (High Court, 1988) (application forms for company registration).

Ministers makes recommendations for priorities to be pursued by each state within the next cycle.

The UK is (and proposes despite Brexit to continue to be) member of the Council of Europe, but was initially sceptical of the ECRML; it abstained from the vote on the final text (Nic Craith, 2003: 57). However, it subsequently signed (2000) and ratified (2001) the Charter. Given the above-mentioned absence of specific constitutional provision for language in the UK, ratification may mark more of a shift as it would for other states, where the 'hierarchy' of languages would often be well understood in domestic constitutional terms well before ratification.

Ireland, however, has not signed the ECRML, although the provisions that allow for a language with official status to be the subject of ratification was originally devised with the case of Ireland in mind (Fennell, 2003: 183). In parliamentary debates in Ireland, it appears as if a more specific objection to the ECRML was how it might interfere with the campaign (then underway and ultimately successful) to secure status for Irish as a Treaty language within the EU (Ní Dhrisceoil, 2016: 52).

The UK was required to set out the languages to which it applies, and also to make specific commitments (from lists set out in the Charter) in respect of some of these. These commitments are set out in part 3 of the Charter, and the UK has, as noted in Part I of this article, designated Welsh, Gaelic and Irish for this purpose. Part 2 of the Charter applies generally (i.e. without States choosing commitments), and applies to these three languages, as well as to Scots, Ulster Scots, Cornish, and Manx Gaelic. Reaching this decision was not without its complications; whether to include Irish in part 3 was the subject of discussion, with potential equivalence with Gaelic and with Ulster Scots pointing in opposite directions (Muller, 2010: 72-73).

Although most of the languages recognised and protected under the ECRML do not have official status, it can apply to 'less widely used official languages', such as Swedish in Finland (Blair, 2003: 40). Therefore, the evolving status of Welsh in the UK, and any future designations of official status, should not conflict with the Charter for the time being. Indeed, it has been argued that approaching Welsh as both a minority language and an official language has been beneficial, as compared with the position taken by Ireland of staying out of the Charter system entirely (Ó Conaill, 2009: 29).

The main activity in relation to the ECRML is a cycle of reporting, with the UK having completed four cycles since 2001. (The fifth cycle has suffered a long delay, with the UK periodic report due in 2014 not submitted until November 2017; it was eventually published in early 2018).

The UK's decision to sign and ratify is identified by one scholar as the result of an ideological battle and in the same category as the Welsh Language Act in terms of significance in the history of law and language in the UK (Ager, 2003: 185). Nonetheless, although the reporting and monitoring system is valuable, the UK could be accused of having taken an 'unimaginative' approach to ratification - undertaking to do various things that were already happening or in preparation (Dunbar, 2006a: 14).

There is no formal territorial limitation within the UK regarding the ratification of the Charter. Nonetheless, the role of the devolved institutions and therefore of the territories related to devolution is clear. In particular, the UK Government prefaced its 2013 report (the most recent available, at least until the 2017 report is published) by noting how the responsibility for implementing much of the charter lies within the three devolved administrations (United Kingdom, 2013). Indeed, the Charter is referred to in devolved legislation (*Bord na Gàidhlig* has a statutory function of reporting to the Scottish Government on how the Charter has been

implemented in respect of Gaelic[41]) and in the Belfast Agreement. The interaction between different levels of administration and accountability also arises – in an even more complex fashion – in respect of Cornish. As well as recognition for Charter purposes, the UK has also recognised the position of Cornwall as part of its compliance with the Framework Convention on National Minorities. Although Cornwall is in a very different position to Scotland, Wales or Northern Ireland, in being integrated into England and served thus far by local government, a limited set of powers are being devolved (on a non-legislative basis) to Cornwall. The recent removal of designated funding (initiated after Charter adoption) providing support for the language (Snapes, 2016) highlights the uncertainty regarding responsibility for supporting Cornish and ensuring that Charter obligations are fulfilled.

Conversely, the significance of the devolved institutions can be observed from the very limited information provided by the UK in its most recent periodic report under the Charter, where because the Northern Ireland Executive could not agree a response, the UK Government only reported on non-devolved functions. (A similar situation arose regarding the most recent report of the UK on the Framework Convention on National Minorities, as noted by the Advisory Committee in 2017; the committee also criticised the UK for failing to engage with relevant bodies in Cornwall). The gravity of this failure is best understood when it is recalled that, as Ó Riagáin argued shortly after ratification of the Charter, that the obligation on the UK to report on Irish to an 'independent international forum' (Ó Riagáin, 2003: 52) was a new and potentially significant valuable exercise, placing language in the context of post-Agreement activity on community relations in Northern Ireland.

It is now useful to return to the question of the official status of languages, with the ECRML in mind. It is not the case that international law (even the ECRML) necessarily requires the granting of a particular status to a recognised language. However, the UK is obliged under international law to act in accordance with Part 2 and to implement its Part 3 promises. As such, Dunbar argues that the Welsh Language Act and Gaelic Language Act are 'consistent with and [promote] the achievement of' these obligations (Dunbar, 2006b: 194). Subsequently, the relationship between the Charter and legislation has become more explicit. In its report on the third cycle (2009/10), the Committee of Experts urged the UK 'to provide an appropriate legislative base for the protection and promotion of Irish in Northern Ireland'. In its most recent report (2013/14), this was strengthened; the Committee 'strongly urge[d] the authorities to provide an appropriate legislative base for the protection and promotion of Irish in Northern Ireland' (Committee of Experts on the European Charter for Regional or Minority Languages, 2014: [14]). The Committee of Ministers, which has been calling for a comprehensive policy on Irish since earlier reports, has added that this be done 'preferably' through legislation after the third and fourth cycle.[42] On the other hand, although much of what appears in the reports on the UK's commitments could valuably inform debate in Ireland (given the similarities in certain aspects of language policy, including those mentioned in Part VA below), this form of scrutiny will remain unavailable for so long as Ireland declines to ratify the ECRML.

V. Analysis

VA Models of language law

One approach shared by the UK and by Ireland (perhaps surprising in light of the differences in status and in constitutional tradition) has been the use of 'scheme-based' legislation with limited specific requirements. There are however a number of differences of note. In Ireland, the approval of language schemes under the 2003 Act is a function vested in a Minister, while

[41] Gaelic Language (Scotland) Act 2005, s 1(2)(d).
[42] Recommendation CM/RecChL(2010)4; Recommendation CM/RecChL(2014)3.

in both Scotland and Wales, this is a responsibility of a board or agency (Ní Dhrisceoil, 2016: 63). Indeed, in light of the operation of the 2003 Act in Ireland, Ó Laighin suggests (2008: 251-252) that there has been a deliberate preference given to means of promotion that cannot be enforced by individuals (especially through litigation) .

Longer-term goals are of course important. This is most obviously the case in the context of Scotland, where the language of aspiration was used in the 2005 Act as a deliberative alternative to an outright declaration of status. The later legislation in respect of Welsh breaks new ground through its declaratory approach and the setting of standards, although some aspects of the 2011 Measure draw upon (while strengthening) the 1993 Act. The approach taken by the Irish courts to article 8 of the Constitution also reflects an implied distinction between constitutional aspiration and enforceable rights.

However, language legislation across the board has tended to handle linguistic rights in isolation from the approach taken to equality more generally. In the latter case, delivery-based approaches under race and disability law have neither precluded the creation of individual rights nor other methods of enforcement. In England, Wales, and Scotland, the Equality Act 2010 provides for various means of access to court, including judicial review and breach of statutory duty. For different reasons, neither equality nor minority discourse has been to the forefront of language issues in the Republic of Ireland. The Irish Constitution was influenced by the constitutional texts of other European states in areas such as human rights (Ní Dhrisceoil, 2016: 50-51). However, this approach was not taken in respect of language, which as discussed above is treated in the Constitution as a question of status but not (minority) rights. This decision meant that, as Ní Dhrisceoil argues, a 'more robust institutional legacy and supportive linguistic framework' (2016: 51) has not developed in respect of Irish in Ireland.

What practical impact can language legislation, and varying forms of words around status, have? Buchanan wondered, at the time of the adoption of the 2005 Act, whether the 'day-to-day behaviour of the Scottish civil service' would be affected by the infrastructure of aspirations and pledges that it would require (Buchanan, 2005: 272). Moreover, a focus on language schemes could confer upon a language a status of 'existence value only' (Oliver, 2006: 167), with a concentration on symbolic recognition rather than practical utilisation. Nonetheless, the presence of a strengthened institution for Welsh and a new one for Gaelic (and, in Irelandthe the Commissioner established by the 2003 Act so as to give greater effect, through enforcement, to the existing constitutional provisions), and the statutory requirements on specific public authorities to draw up plans in respect of their own functions may tip the balance towards practical approaches in due course. Conversely, the lack of similar institutions and requirements in respect of Irish in Northern Ireland (despite repeated commitments) puts Irish and Irish-speakers in a comparatively weak position.

In his 1987 lecture on minority languages in the UK, Michael Beloff concluded that although differences regarding race and gender could ultimately be overcome, 'a single language, like a single law, provides a necessary source of unity in any state' (1987: 155). Setting aside objections to this as a statement of principle, it can also be contested from the standpoint of three decades later. For one thing, the idea of a 'single law' (if that were ever true, given the existence of three jurisdictions in the UK throughout the 20th century) is not simple. Although devolution has happened within the context of parliamentary sovereignty and in accordance with legislation passed by Westminster, the practical reality for those living in the UK is that there are significant and growing differences in law in different parts of the kingdom. The debate surrounding the Scottish independence referendum has prompted some supporters of union to point to equality between nations in the UK (Brown, 2014: 8; Colley, 2014: 9). Moreover, the different statuses of Welsh, Gaelic and Irish beg a significant question, which

arises in contrast to the (nominally) clear position under the Constitution of Ireland: has the UK now moved, within a united if no longer unitary state, beyond a single (official) language?

VB Language and territory

I noted in Part II how official status could vary as to whether it is formulated on a territorial basis. The leading UK statutes in respect of Gaelic and Welsh could be described as territorial and non-territorial in different respects. They are territorial in that, as a consequence of the territorial limitations to the legislative competence of the Scottish Parliament and the National Assembly for Wales, the devolved legislation cannot have any function outwith Scotland or Wales. Within Scotland and Wales, though, the 2005 Act and 2011 Measure are, at least in theory, non-territorial in that they do not identify Gaelic-speaking or Welsh-speaking districts, operating instead across Scotland or Wales.

In Ireland, the most obviously territorial approach is that taken in respect of the districts (mostly on the west coast) designated as *Gaeltacht* districts and now the subject of the new language planning process (as discussed in Part IIIE, above). Other legislative provisions and language policies operate without reference to territory (Ó Riagáin, 2008: 55-56). The latter has been criticized by Fennell, who argues (1993: 6) that a focus on *national* bilingualism has led to the neglect of Irish as a community language in the *Gaeltacht*; Mac Siomóin (2014: 17) adds that the *Gaeltacht* plays the role of 'salv(ing) the national conscience, even when it has become abstract and insipidly aspirational, morphing into a quasi-living folk museum'. Reflecting both critiques, Ó hIfearnáin identifies how the tradition of romantic nationalism in Ireland denies the existence and manifestation of a linguistic minority and so treats speakers as an homogenous group (Ó hIfearnáin, 2014).

When the Welsh language movement was seeking legislative recognition of Welsh, significant internal debates took place on whether to work at the Welsh level or to focus on more discrete areas of linguistic strength within Wales (Morgan, 1981: 374; Watkin, 2007: 191). The influential Hughes Parry report in 1963 rejected the identification of sub-regions within Wales for the purposes of language law; its author's biographer cited this as authority for the 'important and enduring principle that the Welsh language is the language of the whole of Wales' (Parry, 2010a: 144). On the other hand, the first modern attempt to legislate for Gaelic – the 1981 Private Member's Bill - took a territorial line (albeit not very precisely drawn) and would have identified Gaelic-speaking districts.

In truth, the actual legislation for Welsh and Gaelic, as applied, reflect a blended approach. Despite the provisions of the 2005 Act appearing to apply to all of Scotland, *Bord na Gàidhlig* has the power to select the local authorities that are asked to write language plans. As such, despite the backstop of the national plan required under section 2 of the Act, the *Bord* can (and does) exercise its powers in a way that concentrates some of its efforts in Gaelic-speaking areas. The Welsh Language Commissioner similarly can focus on particular areas through its scheduling of work (as the Welsh Language Board could previously with its schemes), although the move to a standards-based approach, in the context of the stronger statement of official status in the 2011 Measure and the 2012 provisions on the bilingual National Assembly, may bring about a more Wales-wide approach in due course.

In a broader sense, the choice of Welsh and Scottish legislators to work at the national level (i.e. Wales and Scotland) provides crucial support for the status of the language within each jurisdiction. However, the result is the continued silence on the status of language within the United Kingdom. Where there has been action, it can raise further questions rather than provide any resolution. For instance, there is no evidence of a deliberative process in support of Irish being considered deserving of status in electoral law but not citizenship law. Despite the

significance of Charter ratification (including as a possible basis for a hierarchy of recognised languages), why is legislation (now superseded) on tax breaks for film breaks, of all things, the only statutory provision where the Charter languages were set out?

Moreover, the relationship between (central) UK administration and the question of language can be difficult to ascertain. The awareness of language issues at UK level may be less extensive than within the new Welsh and Scottish institutions, particularly in the wake of new commitments and strategies adopted within the ambit of devolved legislation. Moreover, as highlighted by the Committee of Experts, the high level of consultation between devolved bodies and minority language speakers is not reflected at UK level, with little such activity detected (Committee of Experts on the European Charter for Regional or Minority Languages, 2014: [81]). In the case of Northern Ireland, the current impasse in the political process has meant that the option of *Westminster* legislation providing for the status of Irish has been the subject of occasional discussion. Indeed, the emergence of Northern Ireland as out of step with a prevailing willingness to consider language issues within the UK (de Varennes, 2003: 16) has been reinforced by the level of activity in Scotland and Wales as contrasted with the prospect that the legislation promised in 2006 for Northern Ireland (and indeed the adoption of the strategies required by the associated legislation for both Irish and Ulster-Scots) might still be some distance away.

The uneasy settlement of language in the UK, if one focuses upon the UK-wide dimension rather than devolution, can be identified if one considers, for instance, the position of speakers of recognised languages outside of the 'home' territory of that language. This has (intentionally or unintentionally) been part of the history of language in the UK, such as the reaction to wartime broadcasts in Welsh becoming accessible across the UK, 'amplify(ing) the plurality of Britishness' (Johnes, 2012: 21). The 1993 Act, applying UK-wide, clearly created opportunities for Welsh speakers outwith Wales to engage with public bodies through Welsh (Williams, 2010: 50). UK-wide policy has also contemplated, occasionally, the position of Irish-speakers across the UK, including migrants from the Republic of Ireland. For instance, (unimplemented) proposals in the 1980s considered the development of Irish-language media, with a focus on Northern Ireland *and* on large cities in England and Scotland (Mac Póilín, 2003: 89). Generally, migration between parts of the UK (noted as significant in the case of young Welsh-speakers moving to England (Jones, 2010: 128, 137)), and between the UK and Ireland, emphasizes such issues. Indeed, recent scholarship on Gaelic in Scotland highlights the phenomenon of Irish nationals and Irish speakers learning Gaelic in Scotland or sending their children to Gaelic-medium education in Scotland (McLeod and O'Rourke, 2017). (This issue is less obviously observed in respect of Welsh, most likely on account of it sitting within a different branch of the family of Celtic languages). In summary, the way in which devolution has (in some cases) facilitated legal and policy engagement with language questions arguably brings into sharper focus for the UK questions that have long troubled the Republic of Ireland (as set out in Part IIIE, above) in how to reflect constitutional commitments and political and sociolinguistic realities at the 'national' level. This, in turn, poses questions about the relationship between language, identity, and nationalism, which I will now discuss.

VC Language, identity, and nationalism

The difficulties that the UK and Ireland have faced in dealing with language issues are not unexpected. In particular, the languages discussed in this article have a complex relationship with (national) identity, and what is true in respect of one language is not necessarily true in respect of another. This explains in part the trouble with considering of the position of these languages with regard to the UK as a whole.

How does the relationship between language and nationalism affect the legislative approach to language, and status in particular? It is generally agreed that the link between Gaelic and Scottish political nationalism is relatively weak; 'the fires of Scottish nationalism have often burned independently of Gaelic, or indeed, of interest in Gaelic as a spoken language' (Edwards, 2010: 10), and indeed half of supporters of Scottish independence were reported as not seeking an increase in the number of Gaelic speakers (McLeod, 2014: 6), with opinions on Scottish independence itself within the Gaelic-speaking community being varied (ibid). Parry (2010b: 336) compares Gaelic and Welsh, arguing that the link is sometimes detrimental to advocacy for the protection and promotion of language. In turn, McCoy (2011: 236-237) compares Gaelic and Irish, highlighting the support of opponents of devolution for Gaelic and marvelling at the cross-party support for Gaelic (in contrast with the deep divisions on the matter in Northern Ireland). Indeed, Protestant and Unionist attitudes to Irish have varied over time, as has the (very limited) use of Irish within unionist political activities. McGimpsey (1994: 7-11) cites banners welcoming Queen Victoria in 1849 and at the Ulster Unionist Convention in 1892 as examples of earlier Unionist use of Irish, and criticises both nationalist and unionist communities in Northern Ireland for reinforcing a view that a Protestant speaker of Irish is a 'crypto-nationalist'. Nationalist party Sinn Féin is associated with advocating the rights of Irish speakers, although not without criticism (Zenker, 2013: 129-131). Furthermore, nearly nine in ten speakers of Irish in Northern Ireland are Catholic (Mac Giolla Chríost, 2005: 148), although there are socio-economic and political dimensions to the demographics of the language community too (Mac Giolla Chríost, 2000).

What does seem to be happening in practice is that the first responsibility for language issues is falling to the devolved institutions and thus avoiding, in part, answering questions regarding the relationship between language and the United Kingdom. This is a result of the territorial limits of the new legislation and the specific devolution or non-reservation of the necessary powers. Furthermore, the most elaborate provision for recognized minority languages within the legislative process is within the devolved bodies. Finally, it is clear from the periodic reports that practical responsibility for implementing the ECRML is the task of the devolved institutions.

At first glance, all of this seems eminently sensible. It makes sense that the new Scottish Parliament attend to the question of Gaelic. It is logical that the bilingual National Assembly for Wales be the primary forum for debating the rights of Welsh speakers (not least in light of problems such as the lack of attention to bilingual ballot papers). It is proper that, in the context of the desire of the parties to the Belfast Agreement that the people of Northern Ireland determine its post-conflict direction, a question like language be worked out across communities.

However, the result is less obviously optimal. Although the US has had the experience of having official language status at the state but not federal level (Schildkraut, 2005: 13), the last two decades of activity across the UK has led to a demonstrably uncertain status for non-English languages at the UK level. Something akin to the 'linguistic impact analysis' undertaken in some circumstances in Finland (Suksi, 2014) would allow for a reasonable decision on how to deal with recognised languages in Westminster legislation, as would a clear legislative statement of the status of the Charter languages within the UK as a nation. One could even conceive of a role for UK authorities, as with their Canadian counterparts (Parry, 2015: 202), as 'guarantor(s) of the development and maintenance' of the status of the languages in question. In any event, the vesting of responsibility for language matters with devolved institutions is calling into question the UK's fulfillment of its international legal obligations under the Charter. The recent situation where a committee of the UK Parliament justified making new provision for Welsh (but not any other language) at Westminster on the grounds

that its status (uniquely) arose out of an Act of Parliament (the 1993 Act)[43] has, perhaps unintentionally, highlighted the vulnerability of Gaelic and Irish in that their status arises or would arises from devolved legislation alone (and an ignorance of the greater provision now made for Welsh under later legislation of the National Assembly for Wales).

VI. Conclusion

A simple statement that the UK has no official language or recognises English as its only *de facto* official language, and that Ireland is a fully bilingual state with constitutional priority given to Irish, cannot accurately reflect the current position of language status and language rights across these islands. Applying Pinto's taxonomy (Part II, above) points to a convergence around the 'hybrid' category, even though the textual position in each component of the UK and in the Republic of Ireland clearly varies in each case. The old idea that granting a legal status to a language is a practice foreign to UK law (Part IIIA, above) is no longer sustainable, in light of the developments in respect of Welsh and Gaelic after devolution, and in a less sustained way at UK level. The collective impact of the Belfast Agreement, the British-Irish Council, and the European Charter for Regional or Minority Languages is of a greater significance for language issues, even in a constitutional context. As new legislation is debated in the coming years (e.g. the White Paper on Welsh, any new provisions in Northern Ireland if the institutions are restored), the UK itself may need to address what this growing body of status-related legislation means for the constitutional identity of the UK. As Ireland continues to address a longer-term project of constitutional reform, and sees the impact of the evolving commitments under the 2003 Act and the new approach to language planning under the 2012 Act (while also engaging in the debate regarding Northern Ireland through various means), the relationship between constitutional commitments and meaningful status will become more apparent – providing useful lessons for other jurisdictions including those making up the UK.

[43] Procedure Committee, 'Use of the Welsh language in the Welsh Grand Committee at Westminster' (2016-17) HC 816 [4].

References

Advisory Committee on the Framework Convention for the Protection of National Minorities. (2017) *Fourth Opinion on the United Kingdom*. Available at: https://rm.coe.int/16806fb9ab (accessed 5 February 2018).

Ager D (1996) *Language policy in Britain and France : the processes of policy*. London: Cassell.

Ager D (2003) *Ideology and image : Britain and language*. Clevedon: Multilingual Matters.

Andrews JA and Henshaw LG (1984) *The Welsh language in the courts*. Aberystwyth: University College of Wales.

Andrews L (1997) The very dogs in Belfast will bark in Irish: the Unionist governmetn and the Irish language 1921-43. In: Mac Póilin A (ed) *The Irish language in Northern Ireland*. Belfast: Ultach Trust, pp.49-94.

Arraiza J-M (2011) Blueprints for Babel: legal policy options for minority and indigenous languages. *European Public Law* 17: 111-138.

Arzoz X (2009) Language rights as legal norms. *European Public Law* 15: 541.

Arzoz X (2010) Accommodating Linguistic Difference: Five Normative Models of Language Rights. *European Constitutional Law Review* 6: 102-122.

Bambust I, Kruger A and Kruger T (2012) Constitutional and judicial language protection in multilingual states: a brief overview of South African and Belgium. *Erasmus Law Review* 5: 211-232.

Bankowski Z and Mungham G (1980) Political trials in contemporary Wales: cases, causes and methods. In: Bankowski Z and Mungham G (eds) *Essays in law and society*. London ; Boston: Routledge & Kegan Paul, pp.53-70.

Beloff M (1987) Minority languages and the law. *Current Legal Problems* 40: 139-157.

Blair P (2003) The European charter for regional or minority languages. In: Ó Riagáin D (ed) *Language and law in Northern Ireland*. Belfast: Cló Ollscoil na Banríona, pp.38-44.

British Film Institute (2015) *High-End Television Cultural Test Guidance Notes*. Available at: http://www.bfi.org.uk/sites/bfi.org.uk/files/downloads/bfi-british-high-end-television-certification-cultural-test-guidance-notes-2015-07.pdf (accessed 5 February 2018).

Brown G (2014) *My Scotland, our Britain : a future worth sharing*. London: Simon & Schuster.

Bryant C (2006) *The nations of Britain*. Oxford: Oxford University Press.

Buchanan J (2005) The Gaelic Communities. In: Hassan G and Warhurst C (eds) *Anatomy of the New Scotland: power, influence, and change*. Edinburgh: Mainstream, pp.270-177.

Caimbeul T (2000) The politics of Gaelic development in Scotland. In: McCoy G and Scott M (eds) *Aithne na nGael / Gaelic Identities*. Belfast: Institute of Irish Studies, p.53-66.

Colley L. (2014) *Acts of union and disunion : what has held the UK together - and what is dividing it?* London: Profile.

Committee of Experts on the European Charter for Regional or Minority Languages. (2014) *Application of the Charter in the United Kingdom*. Available at: https://rm.coe.int/16806dcc8d (accessed 5 February 2018).

Craig E (2013) A right to cultural identity in a UK bill of rights? *European Public Law* 19: 689-714.

Davies J (2014) *The Welsh Language: A History,* Cardiff: University of Wales Press,.

de Napier S (2003) An dlí agus cúrsaí teanga i dTuaisceart Éireann. In: Ó Riagáin D (ed) *Language and law in Northern Ireland*. Belfast: Cló Ollscoil na Banríona, pp. 22-37.

de Varennes F (2003) Language rights and human rights: the international experience. In: Ó Riagáin D (ed) *Language and law in Northern Ireland*. Belfast: Cló Ollscoil na Banríona, pp.5-16.

Department of Culture Arts and Leisure (NI) (2015a) Proposals for an Irish Language Bill.

Department of Culture Arts and Leisure (NI) (2015b) *Strategy to enhance and develop the Ulster-Scots language, heritage and culture, 2015-2035*. Available at: https://www.communities-ni.gov.uk/sites/default/files/consultations/dcal/11-strategy-to-enhance-and-develop-the-ulster-scots-language-heritage-and-culture-2015-2035 - bilingual.pdf (accessed 5 February 2018).

Department of Culture Arts and Leisure (NI). (2015c) *Strategy to enhance and protect the development of the Irish language, 2015-2035*. Available at: https://www.communities-ni.gov.uk/sites/default/files/publications/dcal/The Irish Language Strategy 2015 to 2035.pdf (accessed 5 February 2018).

Dunbar R (2005) The Gaelic Language (Scotland) Act 2005. *Edinburgh Law Review* 9: 466-479.

Dunbar R (2006a) Gaelic in Scotland: the legal and institutional framework. In: McLeod W (ed) *Revitalising Gaelic in Scotland.* Edinburgh: Dunedin Academic Press, pp.1-24.

Dunbar R (2006b) Is there a duty to legislate for lingustic minorities? *Journal of Law and Society* 33: 181-198.

Dunbar R (2007) Diversity in addressing diversity: Canadian and British legislative approaches to linguistic minorities and their international legal context. In: Williams C (ed) *Language and Governance.* Cardiff: University of Wales Press, pp.104-158.

Edwards JR (2010) *Minority languages and group identity : cases and categories.* Amsterdam: John Benjamins.

Electoral Commission (2012) *Briefing note: Draft Police and Crime Commissioner Elections (Welsh Forms) Order 2012* Available at: http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/151358/Police-and-Crime-Commissioner-Elections-Welsh-Forms-Order-2012-Briefing-Wales.pdf (accessed 5 February 2018).

Electoral Commission (2013) *Report on the administration of the elections held on 15 November 2012*. Available at: http://www.electoralcommission.org.uk/__data/assets/pdf_file/0003/154353/PCC-Elections-Report.pdf (accessed 5 February 2018).

Electoral Commission (u.d.) *Overview of names, descriptions and emblems* Available at: http://www.electoralcommission.org.uk/__data/assets/pdf_file/0009/107694/to-names-rp.pdf (accessed 5 February 2018).

Fennell D (1993) *Heresy : the battle of ideas in modern Ireland*. Dublin: Blackstaff Press.

Fennell D (2003) *Cutting to the point : essays and objections, 1994-2003.* Dublin: Liffey Press.

Fishlock T (1972) *Wales & the Welsh.* London: Cassell.

Fransman L (2011) *British Nationality Law*. Haywards Heath: Bloomsbury.

Geoghegan P (2014) *Protestants go for Gaelic in Northern Ireland* Available at: http://www.aljazeera.com/indepth/features/2014/04/protestants-go-gaelic-northern-ireland-201442313264170963O.html (accessed 5 February 2018).

Home Office (2013) *Statement of Intent, changes to the requirement from October 2013*. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/182545/statement-of-intent-koll.pdf (accessed 5 February 2018).

Home Office (2015a) *Knowledge of language and life in the UK: version 17, published for Home Office Staff* Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/425879/KoLL_v17_0.pdf (accessed 5 February 2018).

Home Office (2015b) *Naturalisation Requirements (Booklet AN)*. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/432525/AN_Booklet_Jun_2015.pdf (accessed 5 February 2018).

Home Office (2015c) *Naturalisation Requirements (Guide AN)*. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/445022/an_guide_13_jul_2015_final.pdf (accessed 5 February 2018).

Hutchinson R (2005) *A waxing moon : the modern Gaelic revival,* Edinburgh: Mainstream.

Johnes M (2012) *Wales since 1939.* Manchester: Manchester University Press

Jones H (2010) Welsh speakers: age profile and out-migration. In: Morris D (ed) *Welsh in the 21st century.* Cardiff: University of Wales Press, pp.118-147.

Jones R and Merriman P (2009) Hot, banal and everyday nationalism: Bilingual road signs in Wales. *Political Geography* 28: 164-173.

Kachuk P (1994) A Resistance to British Cultural Hegemony: Irish-Language Activism in West Belfast. *Anthropologica* 36: 135-154.

Kennedy D (1988) *The widening gulf : northern attitudes to the independent Irish state, 1919-49.* Belfast: Blackstaff Press.

Mac Giolla Chríost D (2000) The Irish Language and Current Policy in Northern Ireland. *Irish Studies Review* 8: 45-55.

Mac Giolla Chríost D (2005) *The Irish language in Ireland : from goídel to globalisation.* London: Routledge.

Mac Ionnrachtaigh F (2011) Ón bhun aníos: resisting and regenerating through language in the North of Ireland. In: Kirk J and Ó Baoill D (eds) *Sustaining minority language communities: Northern Ireland, the Republic of Ireland, and Scotland.* Belfast: Cló Ollscoil na Banríona, pp.132-155.

Mac Póilín A (2003) Irish language television in Northern Ireland. In: Ó Riagáin D (ed) *Language and law in Northern Ireland.* Belfast: Cló Ollscoil na Banríona, pp.88-112.

Mac Siomóin T (2014) *The Broken Harp*. Dublin: Nuascéalta.

May S (2012) *Language and minority rights : ethnicity, nationalism and the politics of language.* New York: Routledge.

McCausland N (2015a) Northern Ireland can't afford the astronomical cost of an Irish Language Act. *Belfast Telegraph*, 22 January.

McCausland N (2015b) Sinn Fein wasting money on vanity language projects. *Belfast Telegraph*, 4 June.

McCoy G (2011) The culture of Gaelic in Ireland and Scotland. In: Kirk J and Ó Baoill D (eds) *Strategies for minority languages: Northern Ireland, the Republic of Ireland, and Scotland.* Belfast: Cló Ollscoil na Banríon, p.235-246.

McGimpsey C (1994) The Irish language and the Unionist tradition. In: Mistéil P (ed) *The Irish language and the Unionist tradition.* Belfast: Ulster People's College : Ultach Trust, pp.7-16.

McLeod W (2006) Securing the status of Gaelic? Implementing the Gaelic Language (Scotland) Act 2005. *Scottish Affairs* 57: 19-38.

McLeod W (2014) Gaelic in contemporary Scotland: challenges, strategies and contradictions. *Europa Ethnica* 71: 3-12.

McLeod W and O'Rourke B (2017) *'New Speakers' of Gaelic from Outside the UK*. Available at: http://www.soillse.ac.uk/wp-content/uploads/Soillse-NonUK-New-Speakers-Final-ReportUR2-2.pdf (accessed 5 February 2018).

Mitchell D and Miller M (2017) Reconciliation through language learning? A case study of the Turas Irish language project in East Belfast. *Ethnic and Racial Studies*.

Morgan KO (1981) *Rebirth of a nation : Wales, 1880-1980.* New York: Oxford University Press.

Moriarty G (2017) Unionists have 'nothing to fear from Irish language', says DUP leader. *Irish Times.* Dublin.

Morris R (1998) Great mischiefs – an historical look at language legislation in Great Britain. In: Kibbee D (ed) *Language legislation and linguistic rights.* John Benjamins, pp.32-54.

Muller J (2010) *Language and Conflict in Northern Ireland and Canada: A Silent War,* Basingstoke: Palgrave.

Ní Dhrisceoil V (2013) Language conflict in Northern Ireland: revisiting the Irish language rights debate. *Public Law*: 693-701.

Ní Dhrisceoil V (2016) Antipathy, paradox and disconnect in the Irish state's legal relationship with the Irish language. *Irish Jurist* 55: 45-74.

Nic Craith M (2003) Facilitating or generating linguistic diversity: the European Charter for Regional or Minority Languages. In: Hogan-Bruun G and Wolff S (eds) *Minority languages in Europe: frameworks, status, prospects.* Basingstoke: Palgrave.

Nic Shuibhne N (1999) *Cearta Teanga Mar Fhíorchearta Daonna?* Dublin: Bord na Gaeilge.

Ó Conaill S (2009) An Ghaeilge mar theanga oifigiúil seachas teanga mhionlaigh: an dearcadh mícheart? In: Fahey E and Ní Chonchúir C (eds) *Súil ar an dlí.* Dublin: First Law.

Ó hIfearnáin T (2014) Paradoxes of engagement with Irish language community management, practice and ideology. In: Austin K and Sallabank J (eds) *Endangered languages: belief and ideologies in language documentation and revitalization.* Oxford: Oxford University Press.

Ó Laighin P. (2003) *Acht na gaeilge - acht ar strae : léirmheas ar Acht na dTeangacha Oifigiúla 2003,* Baile Átha Cliath: Coiscéim.

Ó Laighin P (2008) Irish and the legislative perspective. In: Nic Pháidín C and Ó Cearnaigh S (eds) *A new view of the Irish language.* Dublin: Cois Life.

Ó Riagáin D (2003) An Chair Eorpach: uirlis sholúbtha le cur chin cinn teangacha. In: Ó Riagáin D (ed) *Language and law in Northern Ireland.* Belfast: Cló Ollscoil na Banríona, pp.52-57.

Ó Riagáin P (2008) Irish Language Policy 1922-2007. In: Nic Pháidín C and Ó Cearnaigh S (eds) *A New View of the Irish Language.* Dublin: Cois Life.

O'Rourke B (2011) *Galician and Irish in the European context*. London: Routledge.

Oliver J (2006) Where is Gaelic? Revitalisation, language, culture and identity. In: McLeod W (ed) *Revitalising Gaelic in Scotland: policy, planning and public discourse.* Edinburgh: Dunedin Academic Press.

Parry RG (2010a) *David Hughes Parry : a jurist in society.* Cardiff: University of Wales Press.

Parry RG (2010b) History, human rights and multilingual citizenship: conceptualising the European Charter for Regional or Minority Languages. *Northern Ireland Law Quarterly* 61: 329-348.

Parry RG (2015) Is Ireland a bilingual state? *Northern Ireland Law Quarterly* 66: 199-221.

Patten A and Kymlicka W (2003) Introduction. In: Patten A and Kymlicka W (eds) *Language rights and political theory.* Oxford: Oxford University Press.

Pinto M (2014) Taking Language Rights Seriously. *King's Law Journal* 25: 231-254.

Puzey G (2012) Two-way traffic: How linguistic landscapes reflect and influence the politics of language. In: Gorter D, Marten H and Van Mensel L (eds) *Minority Languages in the Linguistic Landscape.* Basingstoke: Palgrave Macmillan, pp. 127-147.

Schildkraut DJ (2005) *Press 'one' for English : language policy, public opinion, and American identity.* Princeton, N.J. : Woodstock: Princeton University Press.

Snapes L (2016) Apocalypse Kernow! Cornish-speakers speechless at Westminster cuts. *The Guardian*, 6 May.

Spolsky B (2004) *Language policy.* New York: Cambridge University Press.

Suksi M (2014) Mergers of municipalities, linguistic rights and amendments to the constitution. *European Public Law* 20: 369-393.

United Kingdom (2013) *Fourth periodical report: European Charter for Regional or Minority Languages*. Available at: https://rm.coe.int/16806f0f0b (accessed 5 February 2018).

Walker BM (2012) *A political history of the two Irelands : from partition to peace.* New York, NY: Palgrave Macmillan.

Walsh J (2010) *Contests and Contexts: The Irish Language and Ireland's Socio-economic Development*. New York: Peter Lang.

Walsh J (2016) Enactments concerning the Irish language, 1922–2016. *Dublin University Law Journal* 39: 449-466.

Walsh J and McLeod W (2008) An overcoat wrapped around an invisible man? Language legislation and language revitalisation in Ireland and Scotland. *Language Policy* 7: 21-46.

Watkin TG (2007) *The legal history of Wales.* Cardiff: University of Wales Press.

Williams C (2009) Foras na Gaeilge and Bwrdd yr Iaith Gymraeg: yoked but not yet shackled. *Irish Studies Review* 17: 55-88.

Williams C (2010) From Act to Action in Wales. In: Morris D (ed) *Welsh in the 21st century.* Cardiff: University of Wales Press, pp.36-60.

Zenker O (2013) *Irish/ness is all around us : language revivalism and the culture of ethnic identity in Northern Ireland.* New York: Berghahn.