

American Languages, Cultural Pluralism, and Official English

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The demand for bilingual education dates back to the inception of our nation. In 1787, the German college at Lancaster was established to provide bilingual education in German and in English. In 1837, the Pennsylvania legislature authorized the founding of German-language schools on an equal basis with English-language schools, both at public expense. Louisiana, prior to 1864 and after 1879, provided for public education in English and French. Many schools of this time, and earlier, were monolingual in languages other than English. Whatever the merits of the current debate about bilingual education, it has existed as a legitimate, state-supported form of education since our nation's beginning. The statement that this is a demand "never voiced by immigrants before" is simply false for two reasons: false, because bilingual education, at least in German and French, has been a feature of our educational landscape, literally for centuries; and false, because Hispanic populations have lived within the current borders of the United States since before this nation existed. The Hispanic population is both a colonial population with ancient ties to this country, in the same sense as the English colonists, and an immigrant population, with reference to current immigrants. To refer to the entire Hispanic population, and particularly the Mexican-American population of the Southwest and California, as "immigrants" denies the longevity of the Hispanic populations of this country.

American nativism and racism have, of course, targeted many groups throughout our history. Native Americans, African Americans, Mexican Americans, and Asian Americans, among other groups, have been subjected to unequal treatment and oppression because of their differences from the majority culture. This chapter discusses the restrictive use of literacy and language requirements in our immigration laws, describes the official English movement and its use of language to exclude certain Americans from political participation, and concludes with an evaluation of official English.

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Despite the absence of federal laws declaring English the official language, a number of federal laws do, in effect, produce this result. Our current federal immigration and naturalization laws require English literacy for naturalized citizenship and a literacy requirement for admission to the United States. In addition, the Immigration Reform and Control Act of 1986 required aliens newly legalized under its amnesty provision to demonstrate "minimal understanding of ordinary English" in order to become permanent resident aliens.¹

The English-literacy requirement for citizenship is of tremendous symbolic importance. It is an important expression of federal policy in favor of English. It is through our naturalization laws that, in clearest form, the nation spells out the criteria that must be met by those who would join the American nation. English literacy has not, however, always been a requirement for citizenship. Nor has literacy always been a requirement for initial admission to the nation. The evolution of the English-language literacy requirement further demonstrates that nativism finds expression through language restrictions.

A strong popular movement favoring coerced assimilation occurred for the first time near the beginning of the twentieth century. Until around 1880, immigration to the United States had been open and unrestricted. Most assumed that American society would simply assimilate new immigrants. Indeed, because most of the immigrants until this time were from northwestern Europe, and especially from Great Britain, Germany, and Scandinavia, traditional sources of the American population, their racial and cultural characteristics matched those of the existing population relatively well, allowing them to assimilate with relatively little friction.

By 1890, immigrants from these countries began to be outnumbered by ones from southern and eastern Europe: Italy, Poland, and the Austro-Hungarian empire. These new immigrants brought with them their distinctive cultural traits. In response, a strong popular movement, fueled by American nativism, developed in favor of restrictions on immigration to the United States. The first goal of proponents of restricted immigration was a literacy test for immigrants that, in theory, would exclude a large proportion of those seeking admission to the United States. The test, "though ostensibly selective in theory, would prove restrictive in operation."² The purpose was clear: to exclude people whose ethnicity differed from that of the majority. Advocates hoped the test would reduce immigration by 25 percent.³

Opponents of the new European immigration tried three times, without success, to enact legislation that included a literacy requirement in some language for admission to the United States. Such legislation passed the Congress on three occasions. It was consistently vetoed by successive presidents because it was such a departure from prior, liberal immigration policy. Congress, however, enacted a provision requiring a literacy test over President Wilson's veto in 1917, on the eve of America's entry into World War I. The literacy test excluded "[a]ll aliens over sixteen years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish."⁴ Increasing literacy rates in southern Europe and the postwar migration of educated Europeans, however, made a simple literacy test ineffective as an exclusionary device.

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The symbolic importance of an English literacy requirement for naturalization should not be underestimated. It is in the naturalization laws that the criteria for belonging to America, for participating in its government, are most clearly set out. As one leading commentator put it, "[a]n English literacy requirement . . . establishes the fact that the United States is an English culture and that its citizens will have to learn English in order to participate fully in it. The very existence of a literacy test establishes the 'official' character of the language."⁸ To date, this represents the maximum degree to which English is officially and legally recognized as the language of the United States.

From the panorama of the legal treatment of ethnicity and language several distinctive features of nativist movements stand out. Nativism tends to grow and flourish at times of national stress, often in response to unwelcome immigration or wartime. Nativism triggers restrictive laws aimed at persons whose ethnicity differs from that of the core culture, ostensibly to serve the goals of national unity or national security. Nativist movements seek to reinforce their narrow view of American cultural identity by restricting cultural traits deemed "foreign." They also strive to disenfranchise certain Americans, or to impede the naturalization of aspiring Americans, because of their difference from the core culture.

The official English movement of the 1980s is part of this ignoble tradition. Former Senator S. I. Hayakawa, acting through U.S. English, an organization he founded with Dr. John Tanton, sought an amendment to the Constitution making English the official language of the United States. Subcommittees of the Senate Judiciary Committee, in 1984, and the House Judiciary Committee, in 1988, conducted hearings on proposed official English amendments. Despite persistent efforts and publicity, proponents of official English have not yet succeeded in achieving a federal constitutional amendment.

The official English movement now appears to have a two-fold strategy: first, to obtain official English laws or constitutional amendments in the states, and, second, to enact a federal statute making English the official language of the federal government. Since the movement's ultimate goal is still a federal constitutional amendment, it appears that official English proponents will attempt to strengthen their position by arguing that the presence of many state laws and a possible federal statute increases or proves the necessity for a federal constitutional amendment.

The official English movement has been quite successful at the state level. Seventeen states now have laws declaring English to be the official language within their borders. These laws have usually been enacted by direct popular votes on referenda by overwhelming margins. Moreover, a federal statute to codify English as the official language of the federal government was introduced in 1990 and 1991. These legislative efforts of U.S. English continue unabated.

The official English movement belongs squarely within the matrix of American nativism, in modern form. The cause of the official English movement is the immigration of people unpopular in the eyes of the majority. Its manifestations are those of earlier nativist movements: a desire to restrict immigration; an appeal to national unity or, conversely, the familiar spectre of national disunity and the disintegration

of American culture caused by new immigration; and, most important, the desire to disenfranchise certain Americans.

Many commentators agree that the cause of the official English movement is the large, and largely unwelcome, immigration of many Hispanics and Southeast Asians during recent decades. Since the repeal of national origin quotas in 1965, increasing numbers of immigrants have come from non-European countries, thus changing the racial and cultural balance carefully preserved by the prior quota system. In addition to legal immigration, a large influx of aliens from Latin America arrived, many of whom subsequently were legalized during the amnesty offered in 1987 and 1988. According to one estimate, 300,000 Hispanic immigrants a year flow into the southern and western regions of the United States. Like all other such groups, these immigrants have brought with them their native languages. The influx of Spanish-speaking Hispanic immigrants has antagonized many Americans. Immigrants from Southeast Asia have also encountered hostility, violence, and language restriction. The racial and cultural differences of recent immigrants from the core culture have not gone unnoticed.

Part of U.S. English's original program was to "control immigration so that it does not reinforce trends toward language segregation."⁹ The organization intended to lobby for legislation to restrict immigration that would reinforce the maintenance of certain languages, particularly Spanish, which, after English, is the second most-used language in this country. This means limiting the immigration of Hispanics, who are depicted as advocates of "language segregation." Its original emphasis on restricting immigration is not surprising. This has been a long-time goal of Dr. John Tanton, founder and former chairman of U.S. English.

The official English movement renews the claim that national unity depends on ethnic purity—really conformity with the Anglo core culture—this time in the form of language. This perceived threat to the English language, however, is not supported by fact. English is ubiquitous. Between 94 and 96 percent of the American population is English-speaking. Fully 85 percent of the population claims English as its mother tongue. Furthermore, English enjoys virtual hegemony as an international language of business, commerce, and interaction between nations. The unparalleled international status of English as "the world's most prestigious, most effective, and most sought-after vehicle of communication" only reinforces its importance.¹⁰ Given the national and international status of English, concerns about its submergence, echoed throughout our history, are greatly overstated. Since fact does not support claims of deterioration of the English language, nor of national disunity, something else must be going on.

Voting

Since its inception, one of the official English movement's principal goals has been to eliminate bilingual, or more correctly, multilingual voting ballots. This can be accomplished only through the Congress's repeal, or refusal to extend, provisions in the 1975 amendments to the Voting Rights Act. Proponents of official English argue that

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English-only ballots create incentives for citizens to learn English and to realize that they cannot enjoy full participation in American life without learning English. Furthermore, multilingual ballots supposedly impair the political process because they make some voters dependent on "interpreters or go-betweens," because they preserve "minority voting blocks," and because voters whose primary language is not English will not be "as fully informed as possible" when they go to the polls.¹¹ Proponents of official English thus charge that multilingual ballots reduce political participation, an assertion glaringly at odds with the obvious access to political participation that multilingual ballots provide to non-English speakers.

These arguments deserve brief response. First, English-only ballots create no meaningful incentive to learn English, particularly given the overwhelming social and economic incentives to learn English. English-only ballots disenfranchise citizens who, for various reasons, have retained a language other than English. Second, voters who rely on American newspapers printed in languages other than English, such as Miami's main newspaper, the *Miami Herald*, which is published daily in both Spanish and English editions, can be fully informed about the issues in an election. The movement's concern about "minority voting blocs" defined by language both expresses fear of the political power of Hispanics and the offensive assumption that minority group members think and vote alike. If proponents of official English are truly concerned about ethnic voting blocs, they should also be equally concerned about English-speaking ethnic voting blocs. Their concern, however, is only about ethnicity, Hispanic or Asian, different from that of the core culture.

Language as Symbol

The historical record demonstrates both the significant legal recognition and protection given to different languages and the nativist restrictions imposed through the law on language. While many aspects of this history are virtually unknown within the legal academy, scholars of language and politics and sociolinguistics have long been aware of the political significance of language. The work of scholars in these disciplines provides a framework within which to assess the current meaning and symbolism of the official English movement.

Language is both our principal means of communication and a social symbol, malleable and capable of manipulation for the achievement of social or political goals. For this reason a study of context, for our purposes the history of the legal treatment of ethnicity and different American languages, is fundamental for an understanding of the symbolic meaning of language. The context contains many components, social and legal. In America we have (and always have had) many languages coexisting, with English dominant. Spanish, for example, is the second most-used American language. Sociolinguists sometimes refer to this situation as diglossia, defined as "[a] situation where two languages coexist in the same speech community but differ in domains of use, attitudes toward each, and patterns of acquisition and proficiency."¹² As we can infer from this definition, coexistence does not imply equal dominance, prestige, or spheres of influence.

Discussions of different languages and other aspects of ethnicity are discussions of human differences. And "it is almost an axiom of human society that . . . [h]ierarchy is found everywhere superimposed upon difference."¹³ So it is with languages. Different languages have very different prestige values in our society. These differences manifest themselves through bias, conscious or unconscious, for or against certain languages. The perceived intelligibility, for example, of languages is influenced by these prestige rankings. For instance, if the people who speak a particular language have prestige and power, people perceive their language as easy to understand. Conversely, the languages of groups perceived as lacking in prestige and power, or groups who are the objects of prejudice, are often perceived as difficult to understand.

Discourse itself, the expression of ideas, and the ordering of discourse, who gets to express ideas, who gets to express them first, and which ideas get expressed, also reflect hierarchy and relationships of power in society. As Michel Foucault wrote, "history constantly teaches us, discourse is not simply that which translates struggles or systems of domination, but is the thing for which and by which there is struggle. . . . [D]iscourse is the power which is to be seized."¹⁴ For example, access to public forums or the press is an ample power indeed. The presence or absence of certain languages, their encouragement within or elimination from certain public forums, like the ballot in public elections, reflect the results of this struggle and the presence or absence of domination. Furthermore, discourse and the order of discourse are governed by ritual, and are thus endowed with social significance. Accordingly, we pay more attention to those discourses made significant through rituals with social sanction than to others.

Given the symbolic and psychological values attached to language, important consequences attend governmental intervention and establishment of language policies. In a democracy, the attitudes and feelings of "government" are those of the majority or its representatives. Thus the majority can manipulate language and language laws to express its approval or disapproval of favored or disfavored groups within the society. Often in our society favored and disfavored groups are defined by their ethnicity: race, national origin, religion, ancestry, and language. Language often has been the basis for discrimination against groups whose language is not English. Language is a fundamental symbol of ethnicity. This is just as true of English as of Spanish or any other language. English is a crucial symbol of the ethnicity of America's dominant core culture. Language can be a symbol of group status, a symbol of dominance, and a symbol of participation in or exclusion from the political process. Campaigns to make a language standard or official can thus be seen as attempts to create or reinforce the dominance of the culture of which the language forms an integral part.

As we have seen, legal history demonstrates that many American languages have co-existed within these borders. Yet, different languages have never threatened the unity of the nation. Indeed, even if one accepts the assumption that other languages somehow threaten the dominance of English, then the threat to English is currently at its minimum point, given the unprecedented domestic and international prestige and influence the English language holds.

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The official English movement appears to be, then, another round in the "dialectic of plurality and conformism," the paradox generated by the confrontation of American cultural pluralism with the demand for conformity to core culture. Official English is the demand for national identity through linguistic homogeneity, a homogeneity that has never existed in America's people. It is a demand for unity based on conformity, a demand clearly at odds with pluralism and core principles of American liberty.

Our country, and its government, must include all who belong. Cultural pluralism need not lead to distrust. To disenfranchise Americans, or to exclude Americans "symbolically" because of the language they speak, is an old wrong of exclusion. Rather than repeat this wrong, we must expand the concept of "American" to include the full measure, linguistic, racial, and cultural, of Americans.

NOTES

1. See IMMIGRATION REFORM AND CONTROL ACT OF 1986, Pub. L. No. 99-603, 100 Stat. 3359, 3394 (codified at 8 U.S.C. § 1255a(b)(1)(D)(i) (1987 & Supp. 1992)).
2. Robert Divine, *AMERICAN IMMIGRATION POLICY, 1924-1952* at 4 (1957).
3. *Id.* at 5; Denis Baron, *THE ENGLISH-ONLY QUESTION* 57 (1990).
4. IMMIGRATION ACT OF 1917, ch. 29, § 3, 39 Stat. 874, 877 (repealed 1952).
5. Commission on Naturalization, *Report to the President* (Nov. 8, 1905), Reprinted In H.R. DOC. No. 46, 59TH CONG., 1ST SESS. 11 (1905).
6. 21 F.2d 867, 868 (E.D. Mich. 1927).
7. NATIONALITY ACT OF 1940, ch. 876, § 304, 54 Stat. 1140 (repealed 1952).
8. Arnold H. Leibowitz, *English Literacy: Legal Sanction for Discrimination*, 45 NOTRE DAME L. 7, 14 (1969).
9. Guy Wright, *U.S. English*, S.F. CHRON., Mar. 20, 1983, at B3.
10. Joshua A. Fishman, "English Only": *Its Ghosts, Myths, and Dangers*, 74 INT'L. J. SOC. LANGUAGE 125, 129 (1988) (citing Joshua A. Fishman, et al., *THE RISE AND FALL OF THE ETHNIC REVIVAL* (1985)).
11. The English Language Amendment: Hearing on S.J. Res. 167 Before the Subcomm. on the Constitution of the Senate Comm. on the Judiciary, 98th Cong., 2d Sess., at 20 (testimony of Sen. Huddleston).
12. Joan Rubin, *Language and Politics from a Sociolinguistic Point of View*, in LANGUAGE AND POLITICS, 389 (William O'Barr and Jean O'Barr eds., 1976).
13. William O'Barr, *Boundaries, Strategies, and Power Relations*, in LANGUAGE AND POLITICS, at 405, 415.
14. Michel Foucault, *The Order of Discourse*, in LANGUAGE AND POLITICS 108, 110 (Michael J. Shapiro ed., 1984).