The Decline of Linguistic Plurality: Bottom-Up Solutions to Protect Languages in the United States

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Language rights are a developing form of civil rights.¹ Some rights are best and most expeditiously protected through self-governing citizens.² Thus, in order to change the current state of linguistic pluralism in the United States, two needs must be met. The first need is economically viable programming creating the incentive to learn. The second need is accessible social outlets for linguistic immersion without geographical displacement. It is about learners and immersion. The rule of law can, however, also play a vital role in such an endeavor. Administrative agencies can stimulate linguistic plurality through creative and positive legislation. Government policies and popular discourse can be structured to stimulate the willingness to learn foreign languages. The ability to promote foreign language learning will result in a more protected civil right. A civil right enforced by self-governing citizens and promoted by the government will result in a stronger domestic and global community.³

Suppose you⁴ want to learn a foreign language other than Spanish, German, or French. Imagine you are in elementary school but the standardized tests are all in English and are the focus of your state’s educational goals.⁵ Now, you are in high school and want to learn a foreign

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¹ See Sandra Del Valle, Language Rights and Law in the United States: Finding Our Voices 4 (2003) (describing the civil rights nature of languages and stating that the complication that arises in incorporating language rights into civil rights frameworks is that language law is still developing).

² See Don Eberly, The Rise of Global Civil Society 29 (2008) (explaining that "building and maintaining the democratic state is done by citizens operating within communities" and "the transformation of communities are not mostly orchestrated from above; they come from the bottom up and inside out" (emphasis added)). This Note will promote bottom-up solutions to linguistic plurality.

³ See id. (promoting community and nation building as growing from "basic institutions such as family, neighborhood, congregation, and civic association").

⁴ "You" in this Note refers to an American citizen or immigrant whose first language is English.

⁵ This part of the hypothetical is based on the current implementation of the No Child Left Behind Act of 2001, Pub. L. No. 107-110, 115 Stat. 1425 (2002). This act has been criticized for its strict adherence to standardized testing. See Mark R. West & Paul E. Peterson, The Politics and Practice of Accountability, in No Child Left Behind? The Politics and Practice of School Accountability 1-2 (Mark R. West & Paul E. Peterson eds., 2003) (explaining that funding for No Child Left Behind is subject to state
language. Overwhelmed by college applications and other pressures, there is no time or monetary incentive to devote your time to such practice. Because demand for the foreign languages is low, the teachers of non-standard foreign languages do not exist. Finally, you are in college. The cost of education and interest rates on student loans are so high that you simply cannot engage in effective language learning. Alternatively, imagine that you are privately attempting to learn a foreign language. You buy the essential tools to learn the language, but there is no economically feasible outlet to utilize your skills. Everyone speaks the same dominating language, so why should you bother?

Now imagine that foreign language learning is incorporated as early as kindergarten. Language is a part of developmental learning, chosen as any other extraordinary skill. Once in high school, you are proficient in at least one other non-standard foreign language. The teachers exist because quotas are not guesswork. Students’ learning is tracked so that the administration knows how many students will enroll in particular language courses. The outlets also exist because more people are involved. Not only do you have the network good of English, but you also possess a unique skill set. Multiple languages exist and are welcome in the community. Language rights are protected. Protection does not only exist by federal mandate, but also in socially responsible citizen participation.

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7. Essential tools include textbooks, foreign language dictionaries, and commercial language learning software.

8. Extraordinary skills include the ability to play a particular sport or musical instrument. The "choice" involved is discussed in Part IV.A, below.

9. Non-standard foreign languages refer to those languages other than Spanish, German, or French.
I. Introduction

At once a unifying and dividing force, language is extremely powerful. The ability to communicate is vital to socioeconomic and political norms. Until now, the focus on linguistic diversity has been primarily discussed as a top-down approach. Implementing linguistic plurality and protecting languages have been accomplished by federal mandates subsidizing foreign language teachers and pumping up national security. These approaches fail, however, to address underlying problems with current trends in language learning and rights in America.

Currently, under-utilized products, bad policy, and inefficient agencies oversee linguistic pluralism in the United States. As stated above, the keys to linguistic pluralism are the incentive to learn and economically feasible social outlets. This Note, therefore, seeks to address the bottom-up approach to linguistic pluralism through learning and immersion. Part I explains the current competing views on foreign language learning in the United States. Part II explains why linguistic pluralism is necessary and why it is not difficult to administer. Part III describes current top-down programs and their shortcomings. Part IV discusses possible solutions to learning non-standard foreign languages in current contexts.

II. Competing Views on Language Learning in America

In the United States, two broad competing movements exist related to language learning and language rights. The first addresses English as a pure network good. This group, commonly referred to as the "English-Only" proponents, is dedicated to utilizing the English language to enforce a common linguistic society. They often seek to separate cultural identity

10. See EBERLY, supra note 2, at 29 (explaining that, conversely, transformation actually comes from a bottom-up approach).
11. See infra Part IV (explaining the current state of foreign language learning).
12. "Bottom-up" refers to language learning. It addresses the problem from the perspective of the language learner as they attempt to utilize certain programs.
13. It is important to acknowledge that this Note does not address the difficulties in teaching English to immigrants in the United States. A plethora of scholarship is dedicated to this endeavor and need not be delved into here. Rather, this Note seeks methods to encourage language learning of native English speakers in America.
14. "English-Only" is used to reference a group of people seeking English as the official language of America. Most scholarship on "English Only" is written as backlash against the policy instead of advocating the virtues of its position. See generally MACEDO, DENDRINOS, & GOUNARI, THE HEGEMONY OF ENGLISH 21 (2003) (framing the English-
from language. In contrast, the second group emphasizes culture over communication. They focus on cultural identity loss and minority oppression.¹⁵ Both ends of the language debate express valid points. The problem is the failure of either to promote sustainable change in national linguistic policy. This Note finds itself in the middle of the competing groups. The prescription found herein seeks to legitimize both sides of the argument, while offering solutions that will bridge the gap between the camps.

A. "English Only": Separating Culture from Network Goods

The standardizing effect of English is important. Conservatives sometimes take this importance as justification for official English language policy. As recent as 2006, Congress heard English-Only arguments.¹⁶ The Committee hearing proffered the obvious: no one is actually interpreted to be pondering an "English-Only" America.¹⁷ English-Only advocates argue that making English the official language of America will express the importance of learning the language well.¹⁸ Congressional witnesses gave arguments related to the importance of learning English to create societal norms.¹⁹ A valid point exists in their arguments. It is to newcomers’
advantage to learn English in order to benefit from the network goods of society. These network goods are available both within the country and on a global scale.

The problem with the current Pro-English movement is that it is primarily discussed alongside anti-immigration reform. The argument is stretched to its literal limits. "Only" is used as an absolute, requiring the forfeiture of linguistic diversity. Cases exist representing real acts of discrimination and intolerance. Some English-only speaking individuals do not want to be bothered with the choice of English versus another language. English is all they want to see and hear. These constituents and their representatives back proposals of wide-sweeping federal legislation, mainly in the form of amendments to immigration bills, seeking comprehensive reform.

What exactly is trying to be accomplished through federal English-Only legislation? English is not in danger. Is legislation necessary to prove that English is important? Both advocates and opponents of English-Only are stating that English is the unofficial language of the United States. The legislative proposals create rifts in society because they are too aggressive and self-defeating. Such proposals are viewed by opponents to

will create a strong national identity and promote "assimilation").

20. See id. at 20–21 (rendering a statement backed by 65 national and local organizations criticizing the mischaracterization of immigrants as individuals that do not want to learn English).


22. An example of the push for such amendment is the Inhofe Amendment. This amendment was proposed by Senator James Inhofe from Oklahoma in conjunction with the Comprehensive Immigration Reform Act of 2006. See English as the Official Language, supra note 16, at 52 (prepared statement of Sen. James Inhofe of Okla.) (condemning the federal government's use of multiple languages to create a "government office that looks and sounds like an outpost of the United Nations, with signs in a host of languages and staff sounding like a modern-day Tower of Babel").

23. As of 2006, twenty-seven states have passed English-Only laws. English as Official Language, supra note 16, at 2. See also id. at 66 (prepared statement of James Crawford, Director, Inst. for Language & Educ. Policy) (stating that legislation is unnecessary to establish the dominance of English; people are learning English and want to learn English at a rapid rate).

24. Statistics show that the prevalence and proficiency of English speakers is overwhelming. See id. at 67 (statement of James Crawford, Director, Inst. for Language & Educ. Policy) (evidencing that the 2000 census shows that only 1.3% of United States
be vehicles to drive out other languages. It appears from the discourse that talks of constitutional amendments are largely unhelpful and should be abandoned in favor of bottom-up solutions outlined below.  

B. Multi-Linguists Only: Culture over Communication

Proponents of a multilingual America find themselves entrenched in discrimination discourse. This happens because of the tendency to fuse cultural identity with language. This fusion results in cries of discrimination. Suits have been brought under various constitutional challenges when English is proffered as the primary communicative language. Two weaknesses exist in their arguments. The first is the subtext of anti-colonialism and racism. The second is the common-sense realization that communicating in one language is extremely beneficial. English is an especially standardizing language. These cases offer, however, a reason to acknowledge and advocate linguistic pluralism. Multi-linguists do not want to witness language loss. It is difficult not to agree with this ideal.

Multi-linguist arguments lose muster in inflated language and broad ideals. Attacking English-Only proponents as foolish and racist will carry little ground in academic discourse. These statements indicate broad truths that would be better served by moderate language. For instance, are residents do not speak English at all).

25. *See id.* at 67 (stating that "official English is truly 'a solution in search of a problem' ").

26. *See Crawford,* supra note 14, at 8 (labeling English-Only arguments as "distaste for diversity"); *see also id.* at 9 (stating that language is a "secondary theme in U.S. ethnic conflicts").


28. *See Crawford,* supra note 14, at 54 (referring to language loss as "death"); *see also id.* at 55 (describing language loss as perishing "extinction" or "through disease or genocide").

29. *See id.* at 10 (stating that language restrictions create privileged groups and are used to indirectly promote goals of racial discrimination); *see also English as the Official Language,* supra note 16, at 66 ("English Only policies are foolish in an era of globalization.").
arguments for English-Only really racist? Is one labeled an ethnic minority because they are of a different genetic race or because they speak a certain language? The former is true; the latter is not.\textsuperscript{30} It would be better to say that language implicates ethnicity in some instances. An ethnic minority living in the United States that only speaks English is not who the multilingualists are talking about. This ethnic minority is protected by racial antidiscrimination policies backed by the Constitution. A pure linguistic minority is not currently meant to be protected by equal protection statutes.\textsuperscript{31} This is why such protection and solutions should be afforded and addressed from the bottom-up. The protections for linguistic minorities do not currently exist from the top-down.\textsuperscript{32} The legislation and judicial precedent required to afford constitutional protection for linguistic minorities may take decades to formulate and administer.\textsuperscript{33}

**III. The Necessity of Linguistic Pluralism: Finding the Middle Ground**

The middle ground\textsuperscript{34} acknowledges that although English is a vital network good, linguistic pluralism is still necessary for pragmatic and

\textsuperscript{30} It would be difficult to find a scholarship or application that provided benefits for linguistic minorities only. The boxes on most forms relate to genetic ethnicity. An ethnic minority that only speaks English is still an ethnic minority. A Caucasian woman who speaks only Tagalog is not an ethnic minority.

\textsuperscript{31} As stated above, however, language is a civil right. It is not, however, a civil right protected to the extent of race or ethnicity.

\textsuperscript{32} CAROL L. SCHMID, THE POLITICS OF LANGUAGE: CONFLICT, IDENTITY, AND CULTURAL PLURALISM IN COMPARATIVE PERSPECTIVE 65-74 (2001) (surveying the interpretation of English-Only laws). The problem with Schmid's analysis is that none of the federal laws or cases she describes expressly protect linguistic minorities. The legislation functions as an aid to allow linguistic minorities to vote and be educated. The legislation does not, however, protect the languages. It protects the ethnic minority individual. \textit{Id}.

\textsuperscript{33} An example of this long-range process is the fight for civil rights in the United States. First, popular opinion needs to be addressed. After constituents express enough concern, the political process itself can be extremely slow and arduous.

\textsuperscript{34} As previously stated, this Note assumes a middle ground stance between English-Only proponents and "hypertolerant" multilingual advocates. The position of the middle ground is best summarized by then-Senator Barack Obama of Illinois in the Presidential Primary debate on February 21, 2008:

But I also want to make sure that English-speaking children are getting foreign languages because this world is becoming more interdependent and part of the process of America's continued leadership in the world is going to be our capacity to communicate across boundaries, across borders, and that's something frankly where we've fallen behind. One of the failures of No Child Left Behind, a law that I think a lot of local and state officials have been
philosophical reasons. The pragmatic reasons tend to be the most recognized reasons for learning foreign languages in the United States. "Most recognized" also refers to the reasons most likely to be funded by the federal government. The philosophical reasons are more likely to be funded and supported by private institutions and individuals. Lack of federal funding or initiatives for these justifications is not a reason to discount their value.

A. Pragmatic: National Security and the Global Economy

September 11, 2001 forever changed the face of national security in America. The national security concern is the ability to understand and communicate in foreign languages to anticipate and defend against conflict in domestic and foreign arenas. This justification for increased foreign language learning in this regard transcends partisan politics. Because of troubled by, is that it is so narrowly focused on standardized tests that it has pushed out a lot of important learning that needs to take place. And foreign language is one of those areas that I think has been neglected. I want to put more resources into it.


36. The inability to understand foreign languages has occurred at least twice in America's history. The first was the events that transpired at Pearl Harbor on December 7, 1941. Scholars acknowledge that the inability to understand the Japanese language was detrimental in uncovering the plot. The result was the formation of the Central Intelligence Agency. See RHODRI JEFFREYS-JONES, THE CIA AND AMERICAN DEMOCRACY xix (3rd ed. 2003) (detailing the lack of U.S. officials equipped to understand Asian languages, specifically Japanese, in World War II). The second instance is September 11, 2001. See id. at xviii (evidencing two messages in Arabic received at least one day prior to the September 11th attack that were "intercepted but not translated in time to be useful"). The problem was not obtaining the information or translating it from code, but, rather translating it from another widely used foreign language.

37. "Partisan politics" refers to congressional deadlock that occurs between Republicans and Democrats in Congress. The concept is not politically charged, although its implementation is partisan to say the least.
its pragmatic and common-sense character, this concern is the best candidate for federal interest and funding for non-standard foreign language education.\textsuperscript{38}

Similarly pragmatic, the domestic and global economy needs linguistic diversity in day-to-day relations among non-English speaking people, multinational corporations, and different nations with complex linguistic traditions. Those who counter this argument with English hegemony must realize that a little communication goes a long way. Attempting to conduct business in both English and the native language of an economic counterpart will increase respect and ease otherwise hostile negotiations.\textsuperscript{39}

This is especially important in American-based subsidiaries whose parent company is located in a non-English speaking part of the world. Foreign-based companies want individuals running their American branches to first know their way around the American economy, and second, to speak the foreign language of the parent company.\textsuperscript{40}

\textbf{B. Philosophical: Biodiversity and Tolerance}

In addition to pragmatic notions justifying linguistic diversity, philosophical notions are important to consider. Biodiversity acknowledges the concern of language loss and the problems with sustainability.\textsuperscript{41} This theory posits that one does not engage in language learning only because of its security or economic value, but rather for preservation.\textsuperscript{42} The world, including the United States, has an interest in sustaining multiple languages and cultures.

\textsuperscript{38} The shortcomings of implementing foreign language learning in relation to national security concerns is outlined in Part III.B, below.


\textsuperscript{40} This formula of enlisting "local elites" has worked for many nations for many years. See Amy Chua, Day of Empire: How Hyperpowers Rise to Global Dominance—and Why They Fall 340 (2007) (explaining that successful hyperpowers have "found ways to co-opt and enlist services of local elites"); see also Gundling, supra note 39, at 41 (stating that the most efficient way to overcome linguistic diversity is to hire local individuals that speak the target language).

\textsuperscript{41} Biodiversity is not used here in its strict sense. It is used to express the notion that languages, like species of life, need to be looked after in this era of English hegemony. Other scholars have proffered the same view. See Crawford, supra note 14, at 55 (equating the loss of linguistic diversity to biodiversity of biological species).

\textsuperscript{42} Id.
Tolerance, both real and perceived, is a justification for linguistic plurality. In a survey of dominant historical societies, one scholar posits that the rise of every great society was aided by tolerance. These societies declined as they became increasingly less tolerant. This survey offers the position that sustainability can be achieved through tolerance. Adhering to this view, if the United States is increasingly perceived as intolerant and unilateral, its status as a world leader and its dollar will continue to decline.

C. Perceived Limitations

Given the importance of linguistic pluralism, why has America failed to effectively teach languages? First, language is tied to context. Historically, America has been contextually isolated. This is no longer true. Technology has diminished America’s contextual barrier. Second,

43. See Chua, supra note 40, at xxi (positing that pluralistic and tolerant societies have been historically successful). Chua states:

For all their enormous differences, every single world hyperpower in history—every society that could even arguably be described as having achieved global hegemony—was, at least by the standards of its time, extraordinarily pluralistic and tolerant during its rise to preeminence. Indeed, in every case tolerance was indispensable to the achievement of hegemony. Just as strikingly, the decline of empire has repeatedly coincided with intolerance, xenophobia, and calls for racial, religious, or ethnic ‘purity.’ But here’s the catch: It was also tolerance that sowed the seeds of decline. In virtually every case, tolerance eventually hit a tipping point, triggering conflict, hatred, and violence.

Id. To Chua, tolerance:

simply means letting very different kinds of people live, work, and prosper in your society—even if only for instrument or strategic reasons. To define the term a little more formally, tolerance in this book will refer to the degree of freedom with which individuals or groups of different ethnic, religious, racial, linguistic, or other backgrounds are permitted to coexist, participate, and rise in society.

Id. at xxiii.

44. See supra note 43 and accompanying text.

45. See Aldous Huxley, The Doors of Perception 23 (1954) (discussing the contextual barrier of individuals born to a specific society). Aldous Huxley writes:

Every individual is at once the beneficiary and the victim of the linguistic tradition into which he has been born—the beneficiary inasmuch as language gives access to the accumulated records of other people’s experience, the victim in so far as it confirms him in the belief that reduced awareness is the only awareness and as it bedevils his sense of reality, so that he is all too apt to take his concepts for data, his words for actual things.

Id. This was previously America’s dilemma. Now, America is not contextually isolated. It has the means through technology to broaden its world view. See generally infra Part V.B.
language is a network good and English governs. This is still true, but linguistic pluralism is necessary for the reasons mentioned above. The move toward English as the primary communicative language is not a reversible trend. Individuals born in America to English-speaking parents have the benefit of being born into a language of inherent privilege in global scope. English is the world's commonly spoken language. In a world of English linguistic hegemony, pluralism is more necessary than ever. English speakers must address the world carefully and lend it a helping hand. No culture wants to be dominated and devalued. America can create the kind of social capital under any of the justifications above. By aiding foreign language learning, it will help the world and itself.

IV. The Current State of Foreign Language Learning

Given the access to information and prevalence of programs it is surprising that the United States continually fails to effectively teach foreign languages. The problem is the approach. Language programs in the United States suffer from top-down tunnel vision. The sections below analyze the major techniques and promulgators of foreign language learning currently employed and why they continue to fail.

46. This information is to distinguish languages such as Chinese, spoken primarily within only one country. English is prevalent throughout most continents. See CIA WORLD FACTBOOK, https://www.cia.gov/library/publications/the-world-factbook/fields/2098.html (last visited Dec. 18, 2008) (listing countries and percentages of language spoken within each country) (on file with the Washington and Lee Journal of Civil Rights and Social Justice). One should note the prevalence of English throughout various countries. See also CHUA, supra note 40, at 328 (stating English is the dominant world language).

47. See CHUA, supra note 40, at 328 (acknowledging that English is the dominant world language and many people live under America's "shadow"). Chua also argues that no "glue" exists to bind America to these people. Id. This Note argues, however, that the glue is perceived tolerance and social capital that extends past America's borders.


49. "Top-down" refers to instructions coming from the federal government in the form of congressional legislation, agency mandates and policies, and presidential initiatives as outlined in this Section.
A. Department of Education

Hidden within the Department of Education exists the Office of English Language Acquisition (OELA). Until 2003, this Department was known as the Office of Bilingual Education and Minority Language Affairs (OBEMLA). This Department acknowledges two goals. The first is to "provide national leadership to help ensure that English language learners and immigrant students attain English proficiency and achieve academically." This fits its nomenclature. The first goal is dedicated to national English language proficiency. The second is to "assist in building the nation's capacity in critical foreign languages." This second goal is shadowed by the Department's newly acquired name and its first goal.

B. No Child Left Behind Act (NCLB)

The No Child Left Behind Act of 2001 (NCLB) is an accountability measure designed by Congress. The Act requires nation-wide standardized testing geared toward helping all students pass a standard high school exit examination. Money is given to the States that adhere to the strictures of the Act. Each state administers the program pursuant to


51. See MACEDO, supra note 14, at 7 (referencing the name change as a signal of a "substantive shift" in the way bilingual education was approached by the federal government).


53. Id.

54. Id.

55. See Frederick M. Hess, Refining or Retreating? High Stakes Accountability in the States, in NO CHILD LEFT BEHIND? THE POLITICS AND PRACTICE OF SCHOOL ACCOUNTABILITY 55 (Mark R. West & Paul E. Peterson eds., 2003) (explaining that the accountability standards of the Act are meant to "drive school improvement").

56. See id. (describing the ultimate goal of the Act to be standardized education evidenced by high school exit exams).
specific guidelines.\textsuperscript{57} The Act is criticized for its strict adherence to standardized testing.\textsuperscript{58}

Title V of NCLB is titled "Promoting Informed Parental Choice and Innovative Programs." Part D, Subpart 9 of this Title is dedicated to "Foreign Language Assistance Programs." \textsuperscript{59} The Secretary of Education may only allocate five percent of the budget for Part D funds to fund foreign language learning.\textsuperscript{60} The entire budget for Part D in 2007 was $675,000,000, so foreign language learning at a maximum will receive $33,750,000 per year.\textsuperscript{61} Seventy-five percent of this figure is to expand foreign language education at the elementary school level. Twenty-five percent is left for secondary education. This budget is for the entire country and is based on competitive application.\textsuperscript{62} Each state's educational agency assumes full responsibility for creating and implementing the program\textsuperscript{63} and must renew its application every three years.\textsuperscript{64}

\section*{C. National Security Language Initiative (NSLI)}

In early 2006, George W. Bush announced the National Security Language Initiative (NSLI).\textsuperscript{65} The initiative is a plan "to further strengthen national security and prosperity in the 21st century through education, especially in developing foreign language skills."\textsuperscript{66} The plan focuses on "critical need" languages. The budget requested by the President was $114,000,000.\textsuperscript{67} Given the small budget, the initiative proffers three extensive goals. The first is to "expand the number of Americans mastering critical need languages and [to] start [their foreign language education] at a


\textsuperscript{58} See supra note 34 and accompanying text.

\textsuperscript{59} No Child Left Behind Act, Title V, Part D, Subpart 9.

\textsuperscript{60} Id. § 5492(e).

\textsuperscript{61} Id. § 5401.

\textsuperscript{62} Id. § 5492(a)(1).

\textsuperscript{63} Id. § 5101(b).

\textsuperscript{64} Id. § 5492(a)(2).


\textsuperscript{66} Id.

\textsuperscript{67} Id.
younger age. The second is to "increase the number of advanced-level speakers of foreign languages, with an emphasis on critical needs languages." The third goal is to "increase the number of foreign language teachers and the resources for them." In 2007, the proposal sought to reach 400 students and 400 teachers. A recent publication from the State Department on the program noted that Fulbright scholarships were issued to 130 students in "critical need" languages for the 2007–2008 year as part of NSLI. In June 2007, the Policy Coordinating Committee for Strategic Communication and Public Diplomacy issued a proposal to expand NSLI.

D. Teacher Loan Forgiveness Programs (TLFP)

Federal Perkins loan programs cancel current teachers' student loans if they teach a foreign language. The teacher must be employed full-time and teach in a designated shortage area. Federal Perkins loans carry the lowest interest of the various federal student loans available. The loans are difficult for most students to obtain because they are subject to low income restrictions and school quotas. This loan cancellation program,
however, will only continue to function as long as the shortage of foreign language teachers remains.

E. Shortcomings of Current Programs and Initiatives

Inherent in all of the programs, agencies, and initiatives listed above is a piece-meal, top-down approach to linguistic plurality. America needs a unified, positive, and proactive initiative for linguistic pluralism. Law can reinforce and support the endeavor. The federal government needs to change the way they fund and the way they talk about foreign language education. Top-down programs and bad policies yield waste by promoting empty classrooms. Where are all of the students to fill the empty classrooms that the above programs and policies create? Why are they not coming to class?

1. Changing the Formula

Both the NSLI and TLFP increase the number of teachers without creating incentives for students to engage in foreign language learning. Any successful program will focus on language learning as well as language teaching. Good programs are worthless without students. NSLI in particular focuses on educators rather than learners. The program references a teaching corps. It also requires funding to reach the same amount of students and teachers. By increasing the bottom (i.e. the students and learners), there should be little if any need to increase the top. Increasing the top also results in a zero-sum for teachers. The TLFP only works if there is a shortage. Once the shortage is breached, there will be no more teacher loan forgiveness.

77. This section addresses both the incentive on the part of those that speak English as a first language as well as those that want to continue their first language while being required to learn proficient English.

78. See Powell, supra note 65 (supporting bringing in teachers and sending teachers abroad to further teaching of foreign languages); see also Federal Perkins Loan Teacher Cancellation, supra note 73 (increasing the number of teachers through the incentive of loan cancellation).

79. See Powell, supra note 65 (targeting the same of amount of students and teachers in any given year, for example 400 students and 400 teachers in 2007 and 3,000 students and 3,000 teachers by 2011).

80. See Federal Perkins Loan Teacher Cancellation, supra note 73 (stating that the loan cancellation is for subjects evidenced by shortages).
Another reason for empty classrooms is the increase of federal student loan interest rates.81 A contemporaneous increase of spending on foreign language learning and rising student loan interest rates results in the same bad formula.82 The factors that motivate new learners are monetary. Students understand what a dollar is worth. Students wishing to engage in foreign language study need monetary initiatives. Students need to be bribed, not panhandled, in today's competitive educational environment.83

As mentioned above, students have gained Fulbright grants through NSLI.84 One must wonder, however, if they would need such grants if their education was affordable in the first place. Further, the immersive factor of such grants is limited given the immersion they can get at home.85 Instead of 130 people per year learning a foreign language, foreign language learning in America as a whole should be increased by better programs with better funding.86

The increase of spending by the federal government on foreign language learning has been marginal. As mentioned above, NCLB allocates five percent of an already marginal budget for foreign language learning.87 Additionally, loan cancellation through the TLFP is available on the lowest funding, lowest interest loan a student can currently obtain.88 This does not subsidize a student's entire cost of higher education.


82. By increasing student interest rates, students are not engaging in foreign language learning at the collegiate level. By focusing on the educators, classroom instruction may be increasing, but students are not coming to class because they have no incentive.

83. Instead of asking students for money by raising interest rates, the government should be bribing students to engage in these types of studies.

84. Although Fulbright grants reward students for studying foreign languages, their funding is limited.

85. See supra Part IV.B (discussing in-country immersion).

86. See American Fulbrighters, supra note 71 (referencing NSLI and the number of Fulbright grants awarded in 2007–2008).

87. See supra notes 59–64 and accompanying text.

88. The Federal Perkins loan is available only to students that meet certain criteria. The ceiling for family income is capped, and the loans are given to universities who hand them out on a quota system. Federal Perkins Loan Program, supra note 76.
2. Changing the Discourse

In addition to bad formulas and underfunding, the programs and policies mentioned above are supported by negative and reactive discourse. Negative and reactive policies fail in two ways. First, they do not get students into the classroom. Second, they further isolate the United States.

The National Security Language Initiative does little to stimulate foreign language learning in the United States. It lacks positive incentive mechanisms to engage in foreign language studies. The program is reactive. It fathoms learning the languages of our "enemies" for self-preservation goals. The problem with reactivity is hindsight. How does the government know who the next enemy will be? Additionally, the program finger points. If a language is placed on the National Security list, it implicates speakers of those languages as enemies. Why would a teacher or student actively immerse themselves in the language of the enemy? Some may, but many will not.

In addition to identifying our enemies, the federal government reminds everyone of their priorities. The name change mentioned above from OBEMLA to OELA is evidence of such prioritizing. Scholars state that it "signal[ed] a substantive shift that points to the conservative ideology of the Bush administration." Whether intended or not, it is undeniable that the name change resulted in a mismatch of "nomenclature" versus policy. The second goal of the program was to promote foreign language teaching, but the name signals English only.

89. A White House briefing by Dina Powell stated that the NSLI "will dramatically increase the number of Americans learning critical need foreign languages." POWELL, supra note 65. Also in this briefing, it is stated that "[d]eficits in foreign language learning and teaching negatively affect our national security, diplomacy, law enforcement, intelligence communities and cultural understanding." Id. From the name of the initiative to its intentional listing of priorities, the NSLI is cloaked in self-interested unilateralism. Id.

90. Currently, the list includes Arabic, Chinese, Russian, Hindi, and Farsi. POWELL, supra note 65.

91. Macedo, supra note 14, at 7.

92. See id. (stating that "[t]he change is not merely a function of nomenclature but rather signals a substantive shift that points to the conservative ideology of the Bush administration").

It is not surprising that No Child Left Behind also proffers its priorities. The focus on standardized testing in English sends a message to educators and students that foreign language learning is tangential and esoteric. The conflicting and negative policies of NCLB and NSLI leave students with a lot of scary talk, a lot of unused funds, and no foreign language learning.

V. Bottom-Up Solutions

As mentioned above, the ultimate needs for foreign language learning in the United States are effective programming and accessible social outlets. The country needs incentive on the one hand and a vehicle on the other. The incentive is positive and proactive programs; the vehicle is immersive technology. Both involve bottom-up solutions that involve learners in linguistic plurality. If the government is slow to change, community participation may bring about more efficient and effective change. Foreign language study should be seen as a progression. First, students must get involved from an early age. Second, students must obtain subsidies to continue language learning. Lastly, students must have access to affordable outlets to utilize their ability.

A. Effective Programs

Changing the formula means bribing students through positive and proactive mechanisms. Currently, the aforementioned programs focus on persuading teachers to teach foreign languages rather than persuading learners to learn foreign languages. Vehicles exist, but there are no drivers. The focus needs to be on learners. Teaching is not the only outlet.

94. See supra note 34 (citing Senator Barack Obama's Presidential Primary debate when arguing that one of the failures of NCLB is pushing other critical subjects to the back of the line).

95. See supra Part I ("The first need is economically viable programs to create the incentive to learn; the second is accessible social outlets for linguistic immersion without geographical displacement.").

96. See EBERLY, supra note 2, at 30–31 (explaining that the government is limited, but the community, in working together, can "buil[d] on bonds of trust, shared values, and mutual obligation" to a "dynamic" role in society).

97. The exception is Fulbright Scholars mentioned in Part IV.E, above. The problem with relying on these scholarships to generate the social capital needed for true language sustainability is that the program has relatively few participants.
to utilize a foreign language. As mentioned above, the economy and society in general will benefit from linguistic plurality.\textsuperscript{98}

First and foremost, the discourse surrounding foreign language education must change. Foreign language should not merely be portrayed as another weapon securing the nation.\textsuperscript{99} Rather, foreign language should be viewed as another vital skill for the reasons mentioned above.\textsuperscript{100} Agencies purportedly dedicated to the goal of linguistic plurality should not be deemed to support only English acquisition. Community participation in foreign language learning should increase if the United States changes the way it talks about foreign language learning.

Second, non-standard foreign language learning should be compulsory and based on aptitude. Absent natural virtuosic ability, most extraordinary skills are obtained through compulsion. The same skills required to read music, sing songs, and draw pictures apply to foreign languages. These skills are acknowledged and cultivated from an early age.\textsuperscript{101} Unless the second language is an "at-home" language, students should be proactively given another language.\textsuperscript{102} Further, the home should not been seen as a foreign language learning vehicle, but rather as another possible outlet. With the outlets referenced below, no reason exists to limit foreign language learning to the minimum two years in high school of a standard foreign language.\textsuperscript{103} The proactive nature of this type of programming will open the door to a wider range of languages. America does not need to fathom any "critical need" languages because there will be an effective language base. Initially this may seem like a top-down approach. It is rather a calculated bet that by initiating language learning at an early age of a broader range of languages, the possibility that the skills will follow

\textsuperscript{98} See supra Part III.A–B (stating the pragmatic and philosophical necessities of linguistic pluralism).

\textsuperscript{99} See supra Part IV.C (referencing the NSLI and the Bush administration's attempt to increase national security through foreign language learning); see also supra Part IV.E (explaining the problems with NSLI, namely its negativity and focus on "languages of our 'enemies' ").

\textsuperscript{100} See supra Part III.A–B (arguing the necessities of linguistic plurality).

\textsuperscript{101} See EBERLY, supra note 2, at 349 (explaining the importance of "music, movement, and books" for literacy at a young age).

\textsuperscript{102} If an "at home" second language is available, the student should be given the opportunity to increase the skill and formality of that language. Additionally, they may want to consider a third foreign language if their aptitude suggests this possibility. This remedy would help distinguish between students that do not speak English as a first language. They could learn English and increase their knowledge of their "at home" foreign language.

\textsuperscript{103} This requirement references the general college requirement that upon entering a student must have two years of a foreign language.
students throughout their lifetime will increase. Further, it is implemented through self-governing individuals making up the community.\textsuperscript{104}

Lastly, funding for effective foreign language programs should be increased, and student loan interest rates must be lowered. The zero-sum formula mentioned above is costing American taxpayers dollars without achieving any results.\textsuperscript{105} At the elementary and secondary education levels, more funding should be issued and NCLB should be reexamined. Foreign language learning should not be a mere subsection under "Promoting Informed Parental Choice and Innovative Programs."\textsuperscript{106} It should be a priority due to the learning utility it provides.\textsuperscript{107} Additionally, standardized testing must take a back seat to a more complete educational experience.\textsuperscript{108} At the post-secondary level, the cost of advanced foreign language education should be subsidized. As there are teacher forgiveness loans, there too must be other areas of expertise that attain loan forgiveness with regard to foreign language learning.\textsuperscript{109} This includes advanced degrees in medicine and law.

\textbf{B. Social Outlets}

In today's modern world, one needs a theme park, not a zoo. The key to any good language learning technique is immersion. The zoo only offers a solution to pure biodiversity concerns.\textsuperscript{110} Languages are currently encased in textbooks and on compact discs. In contrast, the theme park offers a workable solution. The theme park suggested is linguistic

\textsuperscript{104} As stated above, this kind of participation is classic nation building and community politics. See supra notes 2-3 and accompanying text (referencing Don Eberly's scholarship on communities and self-government).

\textsuperscript{105} See supra Part IV.E (discussing the zero-sum formula of advancing funds while also increasing the cost of education).

\textsuperscript{106} No Child Left Behind Act, supra note 57, at Title V.

\textsuperscript{107} See supra note 101 and accompanying text (arguing that foreign language education engages the same skills used in many other disciplines).

\textsuperscript{108} See supra note 5 (concerning the lack of complete education due to the focus of standardized testing mandated in NCLB).

\textsuperscript{109} This means not letting an international lawyer graduate without advanced studies in foreign language. This means not letting International M.B.A. programs graduate students without knowledge of a foreign language. This means not allowing doctors serving metropolis areas to earn the money they earn without being able to communicate in at least one other language.

\textsuperscript{110} Languages held within textbooks only offer survival on paper. This is only one way to look at the languages without experiencing the language.
immersion through technology. They provide accessible social outlets to utilize foreign language skills.

The digital divide is closing. The lines in these theme parks are getting shorter because they are getting broader and more accessible. Digital applications are network goods that can be utilized to stimulate the bottom-up approach. Languages are currently packaged to consumers with unilateral utility. Even those that want to learn a language have limited, if any, social outlets to practice their newly acquired skill. There is no immersive value in talking to a mirror or sporadically in every day speech. The greatest asset of globalization is the lack of need to leave the comfort of one's home to engage in an international experience.

Virtual worlds, videogaming, internet applications, and broadcast television are all social outlets and utilities allowing the interested learner to engage and immerse. Unlike the majority of scholarship available on the subject of language learning and virtual worlds, this is not confined to a classroom approach. This fathoms the product in the hands of learners stimulating the kind of community interest and involvement that is

111. See Benjamin M. Compane, Ed. The Digital Divide 274–76 (2001) (noting that even by the year 2000 the digital divide was narrowing).

112. Currently, language learning consists mainly of language software and classroom interaction. By themselves, these tools do not offer an immersive experience, which is necessary to facilitate heightened language learning.

113. This concept is more eloquently stated by Martha Cutter citing Susan Power's novel, The Grass Dancer. Martha Cutter, Lost and Found in Translation 245 (2005) ('I saw the language shrivel, and though I held out my hands to catch the words, so many of them slipped away, beyond recall. I am a talker now and chatter in my people's ears until I grow weary of my own voice.').

114. This is not to say that foreign study is not an important aspect of the global culture. It simply means that as to those that lack the time or resources to engage in foreign travel, they can also have a world experience by the use of networking goods.

115. Although fair to mention television as a language learning tool related to technology, it differs from the utility of the other three suggestions. Television broadcasting is like language learning compact discs in that it provides a unilateral, one-way street to foreign language learning (i.e. it is not interactive). At the same time, it is difficult to fully disregard the incentive that can be obtained through broadcast television. Additionally, the intrigue of world events as they unfold through broadcast television aids foreign language learning. With the number of television watchers increasing in and around the globe, it is hard to image language learning without this background tool.

necessary for both higher degree and widespread language learning. This is grassroots linguistic politics with the entertainment value of a theme park.

The technology exists. Second Life is an example of such an outlet. The same concept can be applied to language learning. The ability to get individuals involved in the process can be effective if these tools are utilized properly. The problem is the existence of the level of interest necessary to stimulate such an outlet. Second Life answers this problem by contemplating group physics. Group physics enables people to occupy the same "geography of space" in the virtual world. Speakers of various foreign languages are given the ability to stand in the same room and occupy the same space without leaving the room. Such interaction and viability renders the experience of virtual worlds unparalleled.

Today, no one challenges the likeability and utility of the popular video game console Nintendo Wii. Selling out before it even hits the shelves, the Wii has proven that interaction and immersion are favored entertainment in modern society. Wii immerses the individual in both the physical and mental aspects of videogaming. Utilizing these avenues is extremely appealing. The "collective action" and immersion of both virtual worlds and video games is useful for linguistic plurality.

In addition to virtual worlds and videogaming, the internet is a useful immersion tool. It lacks the "group physics" of Second Life, but it has the

117. See The State of Play: Laws, Games, and Virtual Worlds 162 (Jack M. Balkin & Beth Simone Noveck eds., 2006) (describing the attributes of Second Life as "allow[ing] users to create interactively, while sharing the act of creation with other users" and "encourag[ing] teams to work together on larger scale projects and creat[ing] the strong interpersonal bonds that are critical to online world success").

118. See id. at 277 (explaining that virtual worlds can stimulate citizen participation in the political process by engaging in online public debate).

119. See id. at 266–67 (describing the technology as "spatially oriented and ha[ving] its own geography of space"). Noveck goes on to note that:

[in a virtual world, unlike a website, I can occupy a plot of 'land,' build a house there, invite guests over to break bread, drink tea . . . , or form a discussion . . . I can also see who is present and in what capacity vis-à-vis the group. These spaces are persistent and exist whether or not I am in the world.

Id. at 267.


121. See The State of Play, supra note 117, at 267 (stating "[t]he whole idea of the virtual world or the videogame is to engage in collective action"). This collective action encourages agreement among dissimilarly situated individuals in a given virtual society. Id.
potential to gather large groups of linguistically diverse people with ease. Facebook is a widely used and recognized social outlet bringing together an enormous population of students and others all over the globe.  

The immersion here is the creation of internet applications dedicated to foreign language interaction.

C. Obtaining the Technology: The Sell and the Global Digital Divide

The outlets mentioned above are an easy sell. These are products that will ease America outside the bounds of limited, top-down language learning. The difficulty is getting people to buy or invest above and beyond what is deemed or perceived to be necessary. It is, however, a purchase of insurance against the loss of language, the threat to national security, and the stagnation of America's role in the global economy.

Although the focus here is on technology within the United States, one cannot ignore technology from the "other side." The problem with immersion is the need for a native speaker. Virtual worlds and other technologies can take us far in language learning. Some of the internet applications will require working social capital. Certainly countries predominant in some of the languages hoping to be preserved do not have the resources to build the other side of the equation. To bring the argument full circle, by increasing the language capabilities of the United States, the rest of the world will benefit from increased tolerance and social legitimacy. The hope is that the language learners in the United States will become responsible citizens in the protection of civil rights both domestically and globally.

VI. Conclusion: The Byproducts

The United States will soon experience a shift in executive administration. This new administration will have the unique opportunity to


123. The other side is represented by technology-deprived countries, which are home to many native speakers of the linguistic minorities discussed herein.

124. This is not to say that these societies and countries are not independently legitimate. This legitimacy refers more to the acknowledgement of United States foreign relations workers that have the capacity and manpower to aid these nations.

125. At the time this paper is written (Spring 2008), the 2008 general election for office
to restructure America's position in the global community from one of unilateral aggressivism and protectionism to multilateral cooperation and proactivism. The byproducts of the push for linguistic plurality in the bottom-up way are four-fold. First, it will keep the nation secure without stigmatizing potential adversaries. Second, it will stimulate negotiation rather than mere domination in the global economy. Third, it will keep languages "alive." Lastly and most importantly, it will promote general tolerance through greater understanding. This internal push for tolerance will have an effect on external perception and relations.

Advocating linguistic plurality in a positive and proactive way will increase participation in domestic and foreign affairs. As the world gets smaller and political situations become more dire, such participation will be vital. Some suggest that civil society and the social capital generated from increased participation can solve problems by creating responsible citizenries.126 This Note endorses this conclusion. Creating a more tolerant America through linguistic plurality will yield responsible global citizens. In addition to protecting language rights, promoting linguistic plurality with create a more involved and responsible community.

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126. See EBERLY, supra note 2, at 280 ("Civil society is a generator of vital social capital. In the real world of people's daily lives, civic associations are often formed to solve a community problem, to promote an idea, or to meet a social need."). The social need in this Note is speakers of non-standard foreign languages.