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Université de Montréal

Fragmented Voices: Language, Community and Rights

par

Catherine Montgomery

Département de sociologie

Faculté des arts et sciences

Thèse présentée à la Faculté des études supérieures

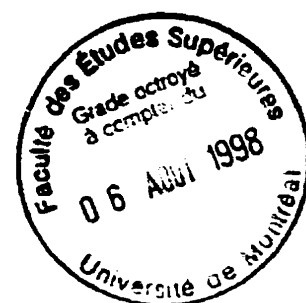
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Cette thèse intitulée:
Fragmented Voices: Language, Community and Rights

présentée par
Catherine Montgomery

a été évaluée par un jury composé des personnes suivantes:

<u>Danielle Juteau, département de sociologie,</u> <u>Université de Montréal</u>	présidente du jury
<u>Christopher McAll, département de sociologie,</u> <u>Université de Montréal</u>	directeur de recherche
<u>Rajendra Singh, département de linguistique</u> <u>Université de Montréal</u>	membre du jury
<u>Glyn Williams, Department of Sociology,</u> <u>University College of North Wales</u>	examineur externe

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SUMMARY

Attempts at intervening in the domain of language can be traced throughout history. According to several authors, however, such measures, and their inscription in law, became more generalised from the nineteenth century onwards (Capotorti, 1991; Braën, 1987; Leclerc, 1986; Tabory, 1980; Fouques DuParc, 1922). Today, the idea of legislating language has acquired a certain legitimacy. What does it mean though, to have a 'right' to language? The objective of this thesis is to provide the basis for a sociological reflection on language rights as objects of struggle in the relations between ethnolinguistic communities. The articulation between right and language in the context of these relations constitutes the principal axis of investigation. With increasing scientific interest in the pluralism of contemporary societies, a second objective is to explore the possibilities for breaking out of the rigid dichotomy of 'minority' and 'majority' which tends to characterise language rights debates. The following questions orient this reflection: What meaning should be attributed to the concepts of language and/or national 'minority' and 'majority' in the context of pluralism? What is the sociological 'content' of rights claims to language which would enable an understanding of the relationship between movements for the protection of language and the political projects of 'minority' and 'majority' communities? In what way is language tied into these claims, both in terms of the construction and differentiation of communities?

'Minority' and 'majority' communities do not exist in isolation. Rather, the fact of being a 'minority' presupposes a relation of power with a community designated as 'majority'. Furthermore, it was suggested that each of these global categorisations could be broken down into smaller groupings of actors characterised by 'multiple subjectivities' (Williams, 1996; Fenet, 1990). The theoretical model developed to explore this hypothesis is inspired by a 'territorial' approach which suggests that all societies are made up of multiple collective actors, each occupying distinct 'social spaces'. In part, these spaces may be structured around language as a constructed value for the community. In Bourdieu's terms, this is expressed as the 'linguistic market' (Bourdieu, 1982). The construction of a 'linguistic market' is also attached to struggles for the

control of other forms of 'markets', described as being the domains of activity which are essential to the social reproduction of the community (e.g. the workplace, commerce, health and social services, educational institutions, and juridical activity) (Bourdieu, 1982; McAll, 1992; Williams, 1992, 1996). With respect to the 'right' to language more specifically, the social space of the community may also be structured around the attribution of advantages to its members (e.g. the extension of rights of participation in the 'markets' controlled by the community) or the denial of such advantages to outsiders (e.g. limited access to these 'markets'). From this point of view, the meaning of the language right can be stated as the right of participation in the vital domains of social reproduction. The following definition was proposed: *Language rights are negotiated claims between collective actors occupying distinct social spaces and competing for the control of different 'markets'.*

This model was applied to a case study of language legislation in Quebec since the adoption of the *French Language Charter* in 1977. The corpus consisted of 28 briefs presented to Parliamentary Commissions on language legislation in 1977, 1983 and 1993 by collective actors representing various sectoral and 'ethnic' interests: unions, business organisations, educational organisations and Francophone, Anglophone, Jewish, Italian and Cree interest groups. The *French Language Charter* represents an attempt to establish a new 'linguistic market', its objective being the construction of a legitimate language (Bourdieu, 1982). This vision of what should constitute the 'linguistic market', however, is not shared by all actors. While on a global level language rights debates in Quebec remain largely embedded in the Anglophone-Francophone duality, closer analysis reveals more complex processes of boundary construction. The actors examined had different conceptions of what should, ideally, constitute the right to language, attributed different values to the role of language in the community and, especially, considered different 'markets' to be essential to the preservation of the communities represented by them. Thus, the global categorisations of language and/or national 'majority' and 'minority', in this case-study, reveal multiple boundaries characterised by class relations, Francophone-Anglophone relations, 'host society'-immigrant relations and 'coloniser'-native relations.

RÉSUMÉ

Au cours des siècles, on peut identifier différentes tentatives d'intervenir dans le champ linguistique: la légende de Babel à l'origine de la multiplication des langues, le remplacement du grec par le latin dans les décrets officiels sous l'empire romain (Daoust et Maurais, 1987), l'imposition de la langue Quechua sous l'empire des Incas (Cerrón-Palomino, 1989) et la création de l'*Académie française* dans le but de promouvoir la langue française au dix-septième siècle (Cooper, 1989), pour ne citer que quelques exemples. Selon plusieurs auteurs, de telles mesures, ainsi que leur inscription en droit, sont devenues de plus en plus généralisées à partir du dix-neuvième siècle (Capotorti, 1991; Braën, 1987; Leclerc, 1986; Tabory, 1980; Fouques DuParc, 1922). Aujourd'hui, près des trois-quarts des constitutions étatiques contiennent des garanties linguistiques (Gauthier, *et al.*, 1993). Ce chiffre ne tient même pas compte des autres formes de droits linguistiques tels des garanties législatives, des politiques officielles, des directives administratives, ou encore des pratiques favorisant l'utilisation d'une langue.

L'idée d'intervenir dans le champ linguistique a donc acquis une certaine légitimité. Il ne s'agit pas de nier les débats que suscitent de telles interventions, mais plutôt de souligner que l'idée d'avoir un droit à la langue est devenu concevable. Ceci se manifeste aussi dans des discours médiatique et politique où l'on parle de droits linguistiques de la majorité ou de la minorité, de droits légaux, de droits collectifs et individuels, de droits officiels, de droits historiques, de droits égaux, de liberté de choix en matière de langue, et ainsi de suite. Parlant du contexte québécois, Sheppard suggère que les discours sur le 'droit' à la langue sont devenus de "véritables slogans" (Sheppard, 1973: 121).

Que veut donc dire -- avoir un 'droit' à la langue? La présente thèse a comme objectif de fournir les bases d'un regard sociologique sur les droits linguistiques comme objet de tension entre communautés ethno-linguistiques. L'articulation entre droit et langue constitue l'axe principal de cette réflexion. Compte tenu de l'intérêt scientifique croissant pour le

pluralisme des sociétés contemporaines, un deuxième objectif est d'explorer la possibilité de sortir de la polarisation des débats linguistiques qui tend à présenter la 'majorité' et la 'minorité' comme étant des communautés homogènes et statiques, plutôt que caractérisées par une pluralité d'appartenances et d'intérêts sectoriels.

Peu abordé dans la littérature sociologique, la question des droits linguistiques a été par contre étudiée dans les disciplines juridique et sociolinguistique. Dans la littérature juridique examinée, les droits linguistiques se trouvent 'expliqués' par des règles de droit, mais les processus sociaux qui sous-tendent ces règles ne sont pas explorés. Quant à la littérature sociolinguistique, il y a une tendance à concevoir les droits linguistiques comme étant le produit d'une différence de statut entre les *langues*, plutôt qu'entre les communautés qui les utilisent (McAll, 1992). Dans un cas comme dans l'autre, la dimension sociale des droits linguistiques, surtout en ce qui concerne les relations de pouvoir, est peu développée et la complexité des relations sociales est réduite à des systèmes de signification relativement fermés.

La spécificité d'un regard sociologique sur les droits linguistiques, telle que présentée ici, met les relations sociales au cœur de la réflexion théorique et fait ressortir le rôle joué par différents acteurs collectifs dans la construction de ces droits. Les questions suivantes ont orienté cette réflexion: Quelle est la signification des concepts 'minorité' et 'majorité' dans un contexte de pluralisme? Quel est le 'contenu' sociologique des droits linguistiques qui permettrait de mettre en rapport la revendication de ces droits et les projets politiques des communautés dites 'minoritaire' et 'majoritaire'? Quel est le rôle joué par la langue dans la construction et la différenciation des communautés?

À l'instar des conceptions juridique et sociolinguistique de 'minorité' et de 'majorité' linguistique, il est suggéré que leur signification ne peut se résumer à un inventaire de traits, tels langue, 'ethnicité', ou territoire. Être 'minoritaire' présuppose une relation à l'autre, 'majoritaire'; les deux existent dans une relation dynamique fondée sur un rapport de force (Guillaumin, 1972; Elbaz et Murbach, 1991). En même temps, certains auteurs proposent l'hypothèse que les communautés désignées 'minoritaires' et 'majoritaires' sont construites

autour de 'multiples formes de subjectivités' (Williams, 1996; Singh, 1996; Fenet, 1990). Devant une telle hypothèse, les droits linguistiques ne seraient non seulement le produit d'un rapport de force entre 'minoritaire' et 'majoritaire', mais surtout le fruit d'une interaction complexe entre multiples acteurs au sein d'une société donnée.

Le modèle théorique élaboré pour comprendre les droits linguistiques dans le contexte du pluralisme s'inspire d'une perspective 'territoriale', qui consiste à dire que toute société, à tout moment, est composée de multiples acteurs collectifs, chacun occupant un 'espace social' distinct (Weber, 1978; McAll, 1992; Bourdieu, 1982). Cet espace pourrait comporter plusieurs facettes. Dans le cas des droits linguistiques, la langue constitue une facette et fait partie de ce que Bourdieu nomme un 'marché linguistique'; c'est-à-dire, la construction de la langue comme valeur au sein d'un espace social déterminé (Bourdieu, 1982). Cependant, la langue comme valeur est rattachée aux intérêts ou projets de la collectivité. On pourrait donc suggérer que le 'marché linguistique' est toujours lié au contrôle d'autres formes de 'marchés'. Ces autres 'marchés' sont décrits comme étant des domaines d'activités essentielles à la vie de la collectivité; par exemple, le milieu de travail, le commerce, les institutions de santé ou de l'administration, l'éducation, le domaine juridique, et ainsi-de-suite (Bourdieu, 1982; McAll, 1992; Williams, 1996). Ce sont ces domaines qui se trouvent à être au centre de la législation linguistique

Quant à la signification plus spécifique du 'droit' à la langue, il est proposé que l'espace social de l'acteur collectif est structuré autour de l'attribution des avantages ou droits de participation dans ces 'marchés'. Ces droits peuvent être définis de façon inclusive (c'est-à-dire, d'étendre les chances de participation au plus grand nombre) ou de façon exclusive (c'est-à-dire, de restreindre l'accès aux membres privilégiés). Dans ce sens, la signification sociologique du 'droit' à la langue ne se limite pas au 'droit' de parler sa langue dans tel ou tel domaine d'activité, mais s'étend aussi, et surtout, au droit de participation dans les principaux domaines de la vie sociale. De ce point de vue, les droits linguistiques sont définis comme étant le produit d'une négociation entre acteurs collectifs, situés dans des espaces sociaux distincts, qui luttent pour le contrôle de certains 'marchés' clés.

Bien que l'intention première de la thèse était d'entamer une réflexion théorique sur le thème des droits linguistiques, un cas d'étude de la situation linguistique au Québec a permis de valider le modèle théorique. L'histoire du Québec est marquée par des luttes linguistiques, surtout entre les 'anglophones' et les 'francophones', mais aussi entre ces communautés, les autochtones et les immigrants. Des tentatives de légiférer dans le domaine de la langue n'étaient que sporadiques au cours du dix-neuvième siècle et au début du vingtième siècle (Bouthillier and Meynaud, 1971; Noël, 1990; Braën, 1987). Ce n'est que depuis les années soixante que le Québec a commencé à se doter d'une véritable politique linguistique, qui s'est concrétisée par l'adoption de la *Charte de la langue française* en 1977, bien que celle-ci a été modifiée à quelques reprises depuis.

Le rapport entre langue, droit et communauté est examiné du point de vue des acteurs clés présents dans les débats linguistiques au Québec depuis l'adoption de la *Charte*: groupes patronaux, syndicaux, scolaires et 'ethniques' (francophone, anglophone, juif, italien et cri). Le corpus consiste de mémoires présentés en Commission parlementaire sur les droits linguistiques en 1977, 1983 et 1993. L'analyse du discours porte sur deux thèmes principaux: 1) qu'est-ce qu'un droit linguistique, selon chacun des acteurs (façon de nommer, 'contenu' du droit, arguments justificatifs) et 2) qu'en est-il du rapport entre langue et communauté (façon de nommer, valeur pour l'acteur, rôle dans la différenciation des communautés).

La *Charte de la langue française* représente une tentative d'établir un nouveau 'marché linguistique', l'objectif étant de promouvoir le français comme langue légitime au Québec. Cependant, cette conception de 'marché linguistique' n'est pas partagée par tous les acteurs examinés. Trois types de conceptions ont été identifiés: le droit à l'unilinguisme français, le droit au bilinguisme anglais-français et le droit à la reconnaissance de langues autres que l'anglais et le français. Seuls les syndicats (FTQ, CSN) et la SSJB¹ réfèrent de façon systématique au 'droit au français'. Pour ces acteurs, l'utilisation de l'anglais ne constitue pas un 'droit', mais un 'privilège'. Pour les organismes patronaux et d'affaires, la

¹ *Société Saint-Jean Baptiste* - Association pour la défense des droits francophones.

PSBGM² et l'Alliance Québec³, le terme 'droit' est utilisé surtout pour parler de la minorité anglaise et peu utilisé par rapport au français et les francophones. Quant aux Congrès juif et italo-canadien et le Grand Conseil des Cris, ils ne font aucune mention du 'droit au français', bien que le terme 'droit' est utilisé par rapport à d'autres langues (y compris des langues autre que l'anglais et le français).

Les acteurs se différencient aussi par la façon dont ils conçoivent le rôle de la langue dans la construction d'un projet de société. Les syndicats (FTQ, CSN) et la SSJB partagent la vision du français comme langue commune dans tous les domaines d'activités, telle que proposée dans la Charte. Les acteurs patronaux (CPQ, CCGM) appuient le français comme langue commune dans les domaines 'culturels', mais font exception pour les domaines reliés à l'économie, où l'anglais est présenté comme "la langue par excellence des affaires internationales" (CCGM, 1993). La commission scolaire protestante (PSBGM) et l'Alliance Québec proposent un 'marché linguistique' fondé sur le français et l'anglais comme langues communes dans tous les domaines d'activités. Quant aux Congrès Juif et Italo-Canadien ainsi que le Grand Conseil des Cris, ils proposent une vision qui, d'un côté, renforce l'utilisation de l'anglais et du français et d'un autre, reconnaît leur spécificité en tant que communautés qui ne sont 'ni anglaise ni française' (Congrès Italo-Canadien, 1977). Le Congrès Italo-Canadien et le Grand Conseil des Cris font des demandes spécifiques pour la protection juridique des langues des 'autres minorités' (c.à.d., immigrantes et autochtones).

L'analyse démontre ainsi différentes formes de luttes sous-jacentes à ces conceptions du droit linguistique et du rôle de la langue dans la construction d'un projet de société: entre les communautés 'anglophone' et 'francophone', entre les communautés immigrantes et la société d'accueil, entre les peuples autochtones et les 'blancs', entre la classe ouvrière et la bourgeoisie. Dans chacun des cas, ces luttes sont liées aux tentatives de contrôler ou de préserver des domaines d'activités considérés comme étant essentiels à la reproduction sociale des communautés représentées par les acteurs examinés. Ceux-ci sont les 'marchés', dans les termes de Bourdieu: le milieu du travail, le commerce,

² Protestant School Board of Greater Montreal.

³ Association pour la défense des droits 'anglophones'.

l'administration, les établissements scolaires et de santé, les institutions religieuses et 'culturelles'. Donc, le droit linguistique apparaît comme étant 'élastique' dans le sens qu'il est constamment renégocié dans l'interaction entre différents acteurs collectifs (Arnaud, 1981). De plus, la 'communauté nationale' n'est pas seulement divisée entre blocs 'majoritaires' et 'minoritaires', définis de façon homogène, mais est composée plutôt de nombreux acteurs collectifs qui luttent pour le contrôle de différents 'marchés'.

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*Le cours des choses. Ce qui les détermine. Un rien.
Parfois tout peut commencer par un rien, une phrase
perdue dans ce monde plein de phrases et d'objets et
de visages...*

Antonio Tabucchi, 1985
Any Where Out of the World

...The course of things. Recently, I tried to place myself back in time and to reconstruct the chain of events which led me to the doctoral programme in Sociology. And while the events themselves remain somewhat blurred in my memory, the people that these events have enabled me to meet come vividly to mind. Christopher McAll, my Director, who knows the meaning of mixing work and pleasure, and whose 'Hebridean' sense of humour (whatever that means) has been a constant source of encouragement. Carole Racine, responsible for graduate student files, whose warm personality first became known to me by way of a letter of welcome to the Master's programme, while I was in Israel in 1988. Pierre, who was there during my Master's and my Doctorate. An adept, I would say, in 'thesis therapy'. The members of the 'Doctoral Group', especially Maurice and Georgiana, who understand that the thesis process is more than an academic pursuit; it is a lifestyle. Marie-France, for the memorable thesis-sprint week spent in Eastman. To different degrees, and in different ways, my thesis is the product of all of these people. It is the series of chance encounters, made throughout the doctoral process, which comprise the 'real stuff of which theses are made'.

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NOTRE LANGUE

William Chapman (1890)¹

Notre langue naquit aux lèvres des Gaulois.
 Ses mots sont caressants, ses règles sont sévères,
 Et, faite pour chanter les gloires d'autrefois,
 Elle a puisé son souffle aux refrains des trouvères.

Elle a le charme exquis du timbre des Latins,
 Le séduisant brio du parler des Hellènes,
 Le chaud rayonnement des émaux florentins,
 Le diaphane et frais poli des porcelaines.

Elle a les sons moelleux du luth éolien,
 Le doux babil du vent dans les blés et les seigles,
 La clarté de l'azur, l'éclair olympien,
 Les soupirs du ramier, l'envergure des aigles.

Elle chante partout pour louer Jéhova,
 Et, dissipant la nuit où l'erreur se dérobe,
 Elle est la messagère immortelle qui va
 Porter de la lumière aux limites du globe.

La première, elle dit le nom de l'Éternel
 Sous les bois canadiens noyés dans le mystère.
 La première, elle fit monter vers notre ciel
 Les hymnes de l'amour, l'élan de la prière.

La première, elle fit tout à coup frissonner
 Du grand Meschacébé la forêt infinie,
 Et l'arbre du rivage a paru s'incliner
 En entendant vibrer cette langue bénie.

Langue de feu, qui lui comme un divin flambeau,
 Elle éclaire les arts et guide la science;
 Elle jette, en servant le vrai, le bien, le beau,
 À l'horizon du siècle une lueur immense.

Un jour, d'après marins, vénérés parmi nous,
 L'apportèrent du sol des menhirs et des landes,
 Et nos mères nous ont bercés sur leurs genoux
 Aux vieux refrains dolents des ballades normandes.

Nous avons conservé l'idiome légué
 Par ces héros quittant pour nos bois leurs falaises,
 Et, bien que par moments on le crût subjugué,
 Il est encor (*sic*) vainqueur sous les couleurs anglaises.

¹ William Chapman (1850-1917) was born in the Beauce region of Quebec of an English-Canadian father and a French-Canadian mother. The poem, which appeared in several versions, often had to be memorised by schoolchildren for their studies (cited in Bouthillier and Meynaud, 1971: 239).

Et nul n'osera plus désormais opprimer
Ce langage aujourd'hui si ferme et si vivace...
Et les persécuteurs n'ont pu le supprimer.
Parce qu'il doit durer autant que notre race.

Essayer d'arrêter son élan, c'est vouloir
Empêcher les bourgeons et les roses d'éclorre;
Tenter d'anéantir son charme et son pouvoir,
C'est rêver d'abolir les rayons de l'aurore.

Brille donc à jamais sous le regard de Dieu,
O langue des anciens! Combats et civilise (*sic*),
Et sois toujours pour nous la colonne de feu
Qui guidait les Hébreux vers la Terre promise.

INTRODUCTION

- 1972 *The North Korean Constitution includes an article which reads "[the Constitution] defends our language from the policy of the imperialists and their stooges to destroy it [...]" (in Turi, 1977).*
- 1975 *The Constitution of Laos explicitly prohibits the use of the language of monarchy in order to "démontrer la véritable indépendance du Laos et pour maintenir la culture nationale, scientifique et populaire" (in Gautbier, et.al., 1993: 34)*
- 1977 *The White Paper on language policy in Quebec contains the following statement: "Le Québec que nous voulons construire sera essentiellement français. Le fait que la majorité de sa population est française y sera enfin nettement visible" (in Plourde, 1988).*
- Early 1980s *The separatist Lombard League in Italy declares that Lombardian is a distinct language from Italian. As a manifestation of their claims, they crossed out the final vowels on street signs in Lombardy. Opponents ridiculed the gesture, claiming it as evidence that Lombardian is not fit to be a language on its own (Billig, 1995).*
- Mid-1980s *Debates over the inclusion of the Manipur language in the language register of the Indian Constitution provoke violence between factions (Aggarwal, 1992).*
- 1991 *A Malaysian ruling declares that all signs on commercial buildings and shops in the state of Kelantan will have to be written in Jawi. The ruling was expected to receive a cool reception amongst Chinese shopowners (NLPN, Vol 6 :4, 1992).*
- 1994 *A Pepsi billboard announcing "yeh hi hai right choice baby", in mixed Hindi and English, sparks demonstrations in Delhi over the continued imperialism of the English language in India (NLPN, Vol 8 : 4, 1994).*
- 1994 *The Supreme Court of the United States authorises a Californian company to require its employees to speak only in English in the workplace (Libération, 21 June 1994, p. 56).*
- 1994 *Glasgow University accepts a dissertation on 'Scots spellin' written in lowland Scottish (or 'Lalland'), a first since the Scottish Education Act had banned the use of 'Lalland' in the schools in 1872 (Billig, 1995).*
- 1994 *Draft legislation is introduced in France which would make the French language obligatory in advertising, consumer labels and public places. The government's objective is to "faire la chasse aux anglicismes" (La Presse, 24 February, 1994 : E8).*
- 1996 *A hundred intellectuals sign the 'Frankfurt Declaration' protesting against a proposed orthographic reform of the German language (La Presse, October 8, 1996: C1+).*
- 1996 *The Algerian government adopts legislation for generalising the use of Arab as the national language. Opponents protest that the law does not reflect the diversity of languages spoken in Algeria (La Presse, December 18, 1996: C7).*

Tension over language is widespread in the contemporary world scene. In Quebec, we are reminded almost daily of this tension. Even in countries where language is not an object of debate *per se*, the 'fact' of conflictual relations between ethnolinguistic communities has nonetheless entered into the generalised knowledge that people have of the political world. Billig makes this observation in his discussion of the presentation in a British newspaper of Flemish demands for separation:

Although the story was presented as a sudden, stunning declaration, no background explanation was offered to say why Flemish-speakers might wish to establish their own state. By omission, the paper was indicating that readers could be expected to understand such national aspirations. Other days, the paper might carry stories about French-speaking separatists in Canada, Basque-speakers in Spain or even Welsh-speakers in the United Kingdom. Language groups wanting their own state are not mysterious for newspaper readers today [...] We do not need to be told why communities speaking a particular language might wish to establish their own nation-state. We do not need to be told what a state is; nor what a language is. All this is common sense, or, rather, 'we' are assumed to possess such common-sense ideas about nations (Billig, 1995: 13).

These common-sense ideas are what Billig refers to as 'banal nationalism'. 'Banal', not in the sense of unimportant, but in the sense of bits of information which we have integrated into our knowledge of contemporary world politics and which have attained a certain degree of legitimacy as ideas.

The idea of legislating language has also acquired a certain taken-for-grantedness. This is not to ignore the heated debates surrounding such measures or their violation, nor to ignore that they are more present in some parts of the world than in others, but rather to emphasise that the existence of legislated language rights has become conceivable, believable.

This conceivability can also be traced in discourse. Sheppard, for instance, comments on the variety of ways in which language has been expressed in terms of 'right': language rights of the majority, language rights of the minority, legal rights, collective rights, individual rights, liberty of choice in matters of language, official rights, historical rights, equal rights. Rights discourses on language, he suggests, have become "veritable slogans" (Sheppard, 1973: 121). What do these discourses mean? What *is* a language right? The question itself might seem almost 'banal', at least coming from the context of Quebec. Even throughout the process of researching and writing and discussing with people about language rights, I have often come up against a sort of unspoken resistance – *oh no, not the language question again! Haven't we heard enough?* Well, have we? My own impression is that the debates surrounding language rights have become a new form of Babel, or *confusio linguarum*: voices that speak but are not really heard. These muted voices are what Billig refers to as 'gaps in discourse'. He suggests further that these gaps "which enable banal nationalism to be forgotten, are also gaps in theoretical discourse" (Billig, 1995: 8). The idea of theoretical 'gaps' describes well the status accorded to language rights in the social sciences. While language rights have been examined to some extent in juridical and sociolinguistic literature – the first emphasising their legal dimension, and the second, their linguistic dimension – their theorisation as objects of social struggle has tended to be less well developed. Sociology, described by Weber as a science whose vocation is "to arrive at a rational understanding of these 'ideas' for which men either really or allegedly struggle" (Weber, 1949: 54), provides the potential for understanding this aspect of language rights.

The objective of this thesis is to carve out a space for a sociological reflection on language rights. What does it mean, sociologically speaking, to say that the North Korean language has to be protected against the policies of the imperial 'stooges', that the Laotian people have banned the use of the language of the monarchy, that 'Scots spellin' was banned in Scotland in 1872, or that legislation declaring the official status of French in Quebec is necessary in a context where the numerical majority of the population is French-speaking? This reflection will be situated in the context of

ethnolinguistic relations as a sub-field of sociological study which enables an understanding of language as a site of struggle between communities. The articulation between right and language in the context of these relations provides the central axis for investigation. For this purpose, sociological literature on the relationship between right and community, and language and community, can be applied to the study of language rights as a particular form of language struggle on which a rights discourse has been grafted. More specifically then, the objective is to examine the role of language in the construction and differentiation of communities and the meaning of 'right' which has been attached to it.

There is also a subjacent theme which orients this reflection. Language rights debates, both in the media and in social scientific literature, tend to be polarised around a dichotomous conception of reality, opposing communities designated as language We and Other: Lombardian versus Italian speakers, Jawi versus Chinese speakers, Manipur versus Hindi speakers, Francophones versus Anglophones. In juridical literature, these are the 'national language minorities' and 'majorities'. Not only are differences between communities reduced to language traits (cf. McAll, 1991), but these communities tend to be presented as groups whose boundaries are fixed and unchanging. With increasing scientific interest in the pluralism of contemporary societies and the acknowledgement of multiple forms of belongingness, it is worthwhile questioning whether or not it is possible to break out of these polarities by presenting relations between ethnolinguistic communities as both complex and dynamic (cf. Juteau, 1993; 1996; Leca, 1986, 1991). In turn, this would mean understanding language rights not as abstract and static entities, but as dynamic social phenomena.

Although the primary intention of the thesis is to provide a theoretical reflection on these themes, such a reflection would be meaningless outside of its applicability to 'social reality'. Quebec provides a privileged observatory for this purpose. Conflictual relations between ethnolinguistic communities have marked its history. Debates over

language can be traced to the period of the Conquest, in 1760, of the British over the French; a period marked by the colonisation of one people by another which finds its expression in the imposition of one language over another. In addition to this English-French division, which has tended to reinforce the image of 'two solitudes', other forms of ethnolinguistic boundary have also characterised this history, especially with respect to the place of native and immigrant communities in Quebec society. These boundaries thus add a potential pluralist dimension to understanding the meaning of language rights.

Discourses claiming the 'right' to language, and legislative attempts to intervene in the sphere of language, appear to have been only sporadic in Quebec in the nineteenth and early twentieth centuries (cf. Bouthillier and Meynaud, 1971; Noël, 1990; Braën, 1987). It is only since the 1960s, period of the Quiet Revolution, that these claims have resulted in comprehensive legislative policies for the promotion of the French language, culminating in the adoption of the French Language Charter in 1977. It is especially this period which will be the focus for a reflection on the sociological significance of language rights in Quebec. A corpus of 28 briefs presented to Parliamentary Commissions on language legislation by key actors in the language rights debates -- representing union, business, educational and 'ethnic' ('Francophone', 'Anglophone' and 'Allophone') interests -- will provide the material for a qualitative analysis of language rights as sites of struggle.

The thesis is divided into three sections. Section One, *Setting up the Field* (Chapters 1 and 2), provides the empirical and conceptual background for introducing language rights as objects of sociological study. Chapter 1 explores the history of the legislated language right. This chapter is primarily descriptive, its objective being to examine the emergence of the legislated language right as a specific form of struggle. Chapter 2 looks at the way in which language rights have been conceptualised in the juridical sciences and sociolinguistics. The objective of this chapter is to examine the possibilities and limits of each for

understanding language rights as social phenomena, emphasising particularly those dimensions which could open up avenues for a sociological reflection on the object. The initial conceptual foundations for such a reflection are provided at the end of this section.

Section Two, *Language, Rights and Community* (Chapters 3, 4 and 5) contains the core theoretical and methodological discussion on language rights as objects of social struggle. Chapter 3 looks at the relationship between community, law and rights. Situated in the general framework of juridical pluralism, which conceives of communities as occupying distinct social spaces structured around law and right, the objective of this chapter is to draw out the dynamic basis of rights as social phenomena: the meaning of 'right' in relation to language, the relationship between right and law, and the place of collective actors in the construction of right. In Chapter 4, the interplay of community, law and rights is situated in the context of ethnolinguistic relations. Here, the place occupied by language in the social space of the community is examined from the points of view of the relationship between nation and language and the relationship between language and power. In both cases, the objective is to understand the role played by language in the construction of relations of solidarity and of difference. Chapter 5 brings together the theoretical observations of the preceding chapters and sets up the basic analytical model. The model is developed around the theme of territory, and the place occupied by language and rights in the construction of the social space of the community. Methodological considerations for the adaptation of this model for purposes of analysis are also explored.

The model is applied to the Quebec case-study in the third section of the thesis (Chapters 6 and 7). Chapter 6 presents the background necessary for an understanding of this case: the history of relations between Francophone, Anglophone, Immigrant and Native communities, language as an object of struggle in this history, and the context in which language legislation emerged in the 1960s and 1970s. The analysis of briefs presented by diverse actors to parliamentary commissions on language legislation

between 1977 and 1993 is examined in Chapter 7, followed by a discussion on the implications of the theoretical model for understanding language rights in Quebec, and as social phenomena more generally.

SECTION ONE :

SETTING UP THE FIELD.

Chapter 1.

Intervening in the *Confusio Linguarum*: Legislating Language.

It is to be observed, that these ambassadors spoke to me by an interpreter, the languages of both empires differing as much from each other as any two in Europe, and each nation priding itself upon the antiquity, beauty, and energy of their own tongues, with an avowed contempt for that of their neighbour; yet our Emperor, standing upon the advantage he had got by the seizure of their fleet, obliged them to deliver their credentials and make their speech in the Lilliputian tongue (from, "A Voyage to Lilliput", *Gulliver's Travels*, Jonathan Swift, 1726).

The Nations of Lilliput and Blefescu, divided by their armies, were also divided by their languages. While the example is perhaps drawn from fiction¹, Swift was nonetheless an astute observer of human action. Given Swift's origins as an Irishman, the idea of struggles over language would not likely have been foreign to him. Planned interventions on language can be found in different periods of Irish history. In 1366, for instance, the Statutes of Kilkenny prohibited the speaking of Irish (Ó Fiaich, 1969).²

Other early examples of language planning can also be given. The legend of Babel (Genesis 11 : 1-9) is often cited as the earliest written account of intervention in the sphere of language. The legend tells us that in the beginning all the earth was of one language and one people. The multiplication of tongues leading to the *confusio linguarum* was the punishment for human pride in wanting to build a tower which could reach the heavens. According to Borst (cited in Eco, 1995 : 1), similar accounts exist in most cultures. In the Dene culture (a North American Native people), for instance, the multiplication of languages is explained as a punishment for disrespecting the laws of nature³. In Roman times,

¹ *Gulliver's Travels* was only partly fiction. Although situated in imaginary worlds, it was a political satire on the relationship between the British (the Lilliputians) and the French (the Blefescudians).

² "All Englishmen and the Irish dwelling among them must use English surnames, speak English, and follow English customs. If any Englishman, or Irishman dwelling among the English, use Irish speech, he shall be attainted (*sic*) and his lands go to his lord till he undertake to adopt and use English" (cited in Ó Fiaich, 1969: 102).

³ "In the beginning, all men lived on a mountain top and all spoke a single language. The children went into the forest to play and they said to one another. 'Let's play a game where we do as our parents do!' So, in fun,

Emperor Tiberius reportedly demanded that the Senators replace a Greek word by a Latin one in an official decree (Daoust and Maurais, 1987: 37). In fifteenth and sixteenth century Peru, the Incans adopted policies which established Quechua as the official language of the empire. Commenting on one such policy, a Jesuit missionary wrote in 1594 that: "all subjects of the Incan empire should speak the same general language and this should be Cuzco Quechua, and at least the Lords, their children and relatives should use it, as well as people involved in governing or administering justice or supervising trades and works, and also traders and merchants themselves" (cited in Cerrón-Palomino, 1989: 16). The establishment of the *Académie française* in 1634 by Cardinal Richelieu, a Minister during Louis XIII's reign, is another frequently cited example of early language planning. The objective of the *Académie*, according to Cooper, was to 'purify' the French language and to "equip it for all domains in which an imperial language can serve" (Cooper, 1989: 10). Its foundation marked the intent of political authorities during Louis XIII's reign to replace Latin with French "as Latin had replaced Greek as a language of high culture and power" (Cooper, 1989: 10).

While other early examples could also be found, several authors suggest that such interventions in the domain of language, and particularly their inscription in law, have become more generalised since the nineteenth and twentieth centuries (Capotorti, 1991; Sheppard, 1973; Braën, 1987; Leclerc, 1986). It is this more recent history which is the object of the present chapter. What were the conditions behind the emergence of legislative attempts to promote the status of language? What is the prevalence of such legislation in the world today? What are the tensions revealed in legislating language?

they hunted and a child slaughtered a moose, skinned it and butchered it and its meat was shared in each tent. Then the people became very frightened. There was much evil where none had been before and human hearts were troubled. The spirits fled away and no one remembered the common language any more. Men no longer understood one another and they all went their separate ways. Since then, many different languages have been spoken" (Government of the Northwest Territories, 1976: 8).

I. From Religious 'Minorities' to Language 'Minorities'.

Fouques DuParc (1922) and Capotorti (1991) examine the emergence of legislated language rights since the period of the Reformation. This was the period of the persecution of religious minorities in Germany, England, France and Spain. Jonathan Swift's account of conflicts between the "Little Endians" (Protestants; those that break their eggs at the little end) and the "Big Endians" (Catholics; those that break their eggs at the large end), in *Gulliver's Travels*, is itself a satire on the repression of Catholic minorities during the rule of Henry VIII. In some cases, religious persecution also had a linguistic component. This was the case in the Scottish highlands during the seventeenth century, as described by Durkacz (1983) and Abalain (1989). Whereas the Highland communities professed their faith to the Catholic religion, those in the Lowlands had adopted the Presbyterian reform. The Catholicism of the Celtic fringe was perceived as a threat to the growing movement towards Protestantism in Britain. In 1609, the *Statutes of Iona* were adopted, containing explicit measures designed to eradicate the use of Gaelic³, which was perceived as being the principal cause behind the maintenance of Catholicism. This relationship between religion and language is implied in the following passage from an Act of Council (1616) ratifying the *Statutes of Iona*: "[l'Acte demande que] la langue commune anglaise soit partout implantée, et que la langue irlandaise, qui est l'une des causes principales du maintien de la barbarie et de la grossièreté parmi les habitants des Iles et des Hautes-Terres, soit abolie et extirpée" (cited in Abalain, 1989: 87).⁴

According to Fouque DuParc (1922) and Capotorti (1991), this period was also marked by the emergence of a number of treaties which granted protection to religious minorities as a condition of the cession of territories between states, although language

³ English-speaking settlers and Protestant pastors were sent to colonise the Highlands and anglicise its populations; the patronage of the Gaelic bards and musicians was declared illegal, it was decreed that the eldest child of all gentlemen or yeomen must be educated in English schools in the lowlands (Durkacz, 1983; Abalain, 1989).

⁴ In French in Abalain (1989). According to Abalain, the designation of Scottish Gaelic as 'Irish' (*Earse, Erse*) was common during the Reformation, a term meaning 'foreign language' (Abalain, 1989: 86-87).

itself was not explicitly mentioned in these documents. Table 1-1 below lists some of these treaties.

TABLE 1-1. Seventeenth and Eighteenth Century Measures for the Protection of Religious Minorities

- *Treaty of Vienna* (1606) between the King of Hungary and the Prince of Transylvania. Recognises the right of the Protestant minority of Transylvania to exercise their religion.
- *Treaty of Westphalia* (1648) between France and the Holy Roman Empire and their respective allies. Recognises the right to religious freedom for Protestants in Germany and the equality of Protestantism with Catholicism.
- *Treaty of Oliva* (1660) between Sweden and Poland. Catholics are given the right to exercise their religion in the region of Livonia ceded by Poland to Sweden.
- *Treaty of Nijmegen* (1678) between France and Holland which guarantees the freedom of religion to the Catholic minority living in territories ceded by France to Holland.
- *Treaty of Ryswick* (1697) again between France and Holland, with a similar clause to the above.
- *Treaty of Paris* (1763) between France, Spain and Great Britain which recognised the freedom to exercise the Catholic religion.

(Summarised from Fouques DuParc, 1922; Capotorti, 1991).

By the time of the American and French Revolutions, Chauvin de Callières suggests that the freedom of religion had become a recognised principle in law (although not necessarily in practice): “la tolérance ayant été proclamée par l'Encyclopédie et les philosophes des lumières, la chasse aux minorités religieuses perdait logiquement sa raison d'être” (Chauvin de Callières, 1980: 147). Whereas the treaties of the Reformation were often agreements between states, Fouques DuParc (1922) argues that the recognition of minorities in law became increasingly extended by states to their own constituent populations during the nineteenth century. Writing on human rights more generally, Hannah Arendt also comments on the primacy of the nation-state in the granting of human rights:

The whole question of human rights, therefore, was quickly and inextricably blended with the question of national emancipation; only the emancipated sovereignty of the people, of one's own

people, seemed to be able to insure them. As mankind, since the French Revolution, was conceived in the image of a family of nations, it gradually became self evident that the people, and not the individual, was the image of man (Arendt, 1968: 171).

According to Fouques DuParc (1922) and Capotorti (1991), the growing primacy of the nation-state, combined with the general principle of the protection of religious minorities, opened the way to the legal recognition of other types of communities, identified on the basis of linguistic and 'ethnic' criteria. These communities were named the 'national minorities' (Capotorti, 1991: 2).

Another movement was also in place during this period which contributed to the recognition of language as one of the defining characteristics of the so-called 'national minorities'. Anderson (1991) refers to this process as the 'vernacularization of the nation'; that is, the process by which pan-European aristocratic languages, such as Latin and French,⁵ were gradually replaced by vernaculars⁶ as languages-of-state. According to Anderson, several factors facilitated this process. First, the development of centralised bureaucracies, characteristic of the nation-state⁷, necessitated a language of mediation between the functionaries and the mass populations.⁸ Second, the invention of the printing press provided the technical means for spreading the use of vernaculars. Populations were becoming increasingly literate and the prospect of greater economic

⁵ According to Anderson (1991) and Leclerc (1986), Latin had been the vehicular language of the Catholic world: the language of the clergy, the abbeys, education, the courts, philosophy and the sciences. Although it was still used in the eighteenth century in some domains, such as education, its use was gradually supplanted. Anderson suggests that Austro-Hungary was one of the last of the European nation-states to replace Latin as an administrative language, where it continued in use into the 1840s. The use of Latin was largely supplanted by French as the language of the European aristocratic community in the eighteenth century. As Leclerc argues, this was the period known as *gallomania*, that is, the period characterised by the love of all things French. Elites in Turkey, Portugal, Russia, Yugoslavia, Norway and twenty or so other states abandoned Latin as the language of court and now conversed *en français* (Leclerc, 1986: 413).

⁶ Vernacular languages are defined here as the languages of the people; that is, languages which are indigenous to the populations of the nation-state.

⁷ Cf. Weber (1978) on bureaucracy.

⁸ Vernaculars had existed as administrative languages before the emergence of the nation-state. Anglo-Saxon, for instance, had been the language of the English court, literary and administrative domains before being subsequently replaced by Latin, and later by French, after the Norman Conquest (Anderson, 1991; Fishman, 1973; Williams, 1975). Anderson suggests, however, that the use of

gain soon turned printers towards vernacular publications.⁹ Third, the growth of the human sciences, particularly in the field of linguistics, provided a major impetus for the valorisation of vernacular languages. Fishman also adds that the vernacular had become a military necessity under the nation-state (“how were recruits to be instructed if they did not understand the language of their leaders?” -- Fishman, 1973: 43), although it could certainly be assumed that throughout history military recruits have had to understand their leaders. While these processes were gradual, Anderson suggests that by the nineteenth century there was a growing consciousness of language for language's-sake. To paraphrase Hobsbawm, such a consciousness had not always existed and “one's own idiom [was] not so much a group criterion as something that all people [had], like legs” (Hobsbawm, 1992: 57).

One of the first instruments in the nineteenth century acknowledging that communities should not be persecuted on the basis of language was contained in the *Final Act of the Congress of Vienna* of 1815 in which the Polish community was granted the right to use its language in official affairs, alongside German (Capotorti, 1991). A second example can also be found in a Turkish constitutional document of 1856 in which the Sultan of Turkey claimed that: “tout mot et toute expression ou appellation tendant à rendre une classe de mes sujets inférieure à l'autre, à raison du culte, de la langue, ou de la race, sont à jamais abolis du protocole administratif” (cited in Fouques DuParc, 1922: 91).¹⁰

From the mid- to late-nineteenth century, as Hobsbawm (1992) and Seton-Watson (1977) argue, the political landscape of Europe was marked by a growing number of movements for political autonomy, especially among 'national' communities in the Habsburg and Ottoman Empires. Hobsbawm suggests that there had been a relative absence of politicisation in these states during the early part of the century, a fact which he attributes to the classical theories of economics which predominated in

vernaculars in administrative domains, rather than Latin or French, became more generalised with the consolidation of the nation-state.

⁹ See Febvre and Martin for a history of printing and books (Febvre and Martin, 1958).

¹⁰ In French in source text.

that period. According to these theories, nation-states were structured around the principles of economies of scale whereby economic viability was considered to be dependent on size.¹¹ *Kleinstaaten* (small states), unlike *Grossstaaten* (large states), could never hope to become economically independent. Hobsbawm describes the implications of the liberal conception of the nation for communities living within *Grossstaaten*: “the national heterogeneity of nation-states was accepted, above all, because it seemed clear that small and backward nationalities had everything to gain by merging into greater nations [...]” (Hobsbawm, 1992: 34). He argues further that the freedom of expression, of association and of conscience – the ideals inherited from the American and French Revolutions – also became the seeds of the self-determination of the *Kleinstaaten*. Language played a role in many of these movements, as Seton-Watson suggests:

The most important factor in the determination of national movements [...] in the three multi-national empires, was language : this does not of course mean that religious and economic factors did not also play their part, and massive social discontent always underlay them all [...] Social and cultural developments, brought about by the policies of consciously modernising rulers, created in all five cases [Czechs, Slovaks, Romanians, Ukrainians, Hungarians] intellectual elites which increasingly identified themselves with the uneducated and underprivileged majorities of their language groups ; they came to think of the language group as a nation ; and spread this language-based national consciousness down into the lower strata of the community (Seton-Watson, 1977 : 148).

While Seton-Watson’s suggestion that language was *the* most important factor in these movements for self-determination is debatable¹², several authors confirm that language was a recurrent theme in the debates surrounding movements for political autonomy in these states (Anderson, 1993 ; Smith, 1993 ; Hobsbawm, 1992).

¹¹ See also Bauer on the specific context of Austro-Hungary (Bauer, 1987).

¹² A theoretical discussion on the language-nation relationship is presented in Chapter 4.

By the second half of the nineteenth century, language guarantees of national minorities were written into the Constitutions of several western nation-states: Austria (1867; Article 19), Canada (1867; Articles 133 and 93), Hungary (1868), Switzerland (1874; Article 116), Belgium (1878 and 1898). As Fouques DuParc suggests, the rights of national minorities, and with them, the right to language, had become viable objects in law:

[...] ces droits nationaux naissaient, grandissaient, se développaient, prenaient une expression juridique, faisaient l'objet de projets et de discussions dans les pays, qui, par leur nature, étaient appelés à les connaître [...] Ces pays étaient le préimage d'une Europe organisable (Fouques DuParc, 1922: 8-9).

Their consecration in law, however, did not always coincide with their acknowledgement in practice. As Seton-Watson suggests, movements for the autonomy of 'national minorities' were perceived as threats to the sovereignty of the *Grossstaaten* (Seton-Watson, 1977). Consequently, several of these states implemented policies which he refers to as 'official nationalisms'. The doctrine of 'official nationalism' corresponded in practice to measures designed to assimilate minority communities, including exclusionary hiring practices in the civil service and restrictive educational policies. While Seton-Watson examines 'official nationalism' particularly in relation to Central and Eastern Europe, Anderson (1993) adds that similar programmes were also carried out by ruling communities in London, Paris, Berlin, Madrid and Washington. Thus began the *anglicization* of populations in the Celtic fringe¹³, in India¹⁴, in Quebec¹⁵ and of immigrant populations in the United States¹⁶; the *francization* of 'patois' speakers in France¹⁷ and of the colonials of several African states¹⁸ and the *castillanization* of catalan

¹³ See Durkacz (1983) and Abalain (1989).

¹⁴ See Khubchandani (1977, 1997) and Dasgupta (1993).

¹⁵ See Chapter 6, *infra*.

¹⁶ See Baron (1990) and McAll (1991).

¹⁷ See Balibar and Laporte (1974).

¹⁸ See Calvet (1974), Grandguillaume (1990) and Leclerc (1986).

speakers¹⁹. These 'official nationalisms' represented attempts to impose linguistic homogeneity on heterogeneous nation-states.

II. Language Guarantees in the Twentieth Century.

A. *International Human Rights Instruments.*

As Arendt has commented, the twentieth century has been marked by the institutionalisation of the 'national minority' in law, particularly in relation to the numerous international human rights instruments adopted since World War I (Arendt, 1968:154-5). Like the language guarantees of the nineteenth century, however, these instruments have been characterised by a tension between the recognition of minority rights *in principal* and the resistance of states to implement these rights *in practice*.

The Peace and Minorities Treaties of 1919-1920, adopted in the wake of World War I, constituted the first of a series of international minority rights instruments. They provided a model for the creation of stable international bodies for the safeguard of human rights (Capotorti, 1991; Tabory, 1980). Minority guarantees were entrenched in five conventions, signed between the Allied Forces and the newly created or expanded States (Poland, Czechoslovakia, Serbia, Romania, Greece). Parallel guarantees were also imposed by peace treaties with four of the conquered States: Austria, Bulgaria, Hungary and Turkey. The treaties contained four types of language guarantees:

- the free use of any language in private intercourse, commerce, religious matters, publications or the press and public meetings;
- the provision of adequate facilities for nationals, whose mother-tongue was not the official language, to use their own language before the courts;
- the provision of adequate facilities for primary schools in towns and districts, where warranted by the number of individuals belonging to a minority;

¹⁹ See Woolard (1989).

- the assurance of an equitable share of public funds (state, municipal or other budgets) designated for educational, religious or charitable purposes, in towns and districts where numbers warrant. (Tabory, 1980; Capotorti, 1991).

One of the principal contributions of the Peace and Minority Treaties, according to Hobsbawm, was the formal recognition by an international body that minority rights should exist (Hobsbawm, 1992). In effect, they created a legal precedent, thus encouraging the formation and preservation of national minorities. As Hobsbawm writes: "Given the official commitment of the victorious powers to Wilsonian nationalism²⁰, it was natural that anyone claiming to speak in the name of some oppressed or unrecognized people [...] should do so in terms of the national principle, and especially of the right to self-determination" (Hobsbawm, 1992: 136).

As Fouques DuParc (1922) and Capotorti (1991) argue, however, the actual effectiveness of the Treaties was limited for at least two reasons. First, many of the states bound by the Treaties did not respect or implement their measures. A second limitation was related to the formulation of the language provisions themselves. For the most part, the treaties gave lip service to the general principle that no one should be discriminated against on the basis of language, but did not propose actions which would otherwise encourage the preservation and protection of minority languages:

By prescribing that no laws be enacted restricting the free use by minorities of their own language in private relations, public gatherings, the press, and religious services, the treaties did not thereby demand of the Minorities States that they take positive action, but only that they refrain from discriminatory measures²¹ (Robinson, 1943; quoted in Tabory, 1980: 170).

²⁰ Based on American President Wilson's peace programme proposed in 1918, Wilsonian nationalism implied that the boundaries of European states should correspond with 'nationality'; that is, that state boundaries should be drawn along 'ethnic' lines (McNaught, Saywell, Ricker, 1980).

²¹ The distinction between non-discriminatory measures and measures encouraging the preservation and protection of language was debated in the case of *The Minority Schools in Albania* (Tabory, 1980; Dinstein, 1979). This case will be discussed in the following chapter.

There was thus a distance between the formal recognition of minority language rights in the Treaties and their actual implementation. This distance is also manifest in the international human rights instruments which followed the Peace and Minorities Treaties, such as the *Charter of the United Nations* (1947), the *Universal Declaration of Human Rights* (1948), the *Genocide Convention* (1948), the *Convention Against Discrimination in Education* (1960), the *International Covenant on Economic, Social and Cultural Rights* (1966) and the *International Covenant on Civil and Political Rights* (1966).²²

The *Charter of the United Nations* affirms “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction to race, sex, language, or religion” (cited in Tabory, 1980: 175, my emphasis), but does not otherwise contain any references to minorities *per se*. Instead, the United Nations set up a special committee – the *Sub-Commission on the Prevention of Discrimination and Protection of Minorities* – to study the meaning which should be attributed to the term ‘minority’ and the implications of granting rights to communities designated as such. As one commentator has suggested, the decision to study the question rather than act on it was a “typical example of United Nations ‘buck passing’” (Humphrey, 1968; quoted in Tabory, 1980: 176).²³

The reluctance to formally recognise the ‘minority’ status of communities was also present in the debates surrounding the adoption of the *Universal Declaration of Human Rights* (1948). While the inclusion of a specific clause on national minorities had

²² According to Tabory (1980) and Capotorti (1991), the human rights instruments which followed the Peace and Minority Treaties of 1919-20 differed from them in at least two ways. First, whereas the Peace and Minority Treaties had been created as a solution to a very particular and urgent situation (re-establishing world harmony in the wake of World War I), the instruments which followed were unrelated to specific territorial problems or solutions. Second, the later instruments were no longer directed at particular states, but rather were intended to be universal documents applicable to all regions of the world.

²³ It was only in 1971, almost a quarter of a century after its creation, that the *Sub-Commission* actually undertook a thorough study of the rights of persons belonging to ethnic, religious and linguistic minorities. This study, directed by Francesco Capotorti, was originally published in 1978 (cf. Capotorti, 1991).

been debated in early drafts of the *Declaration*, it was rejected for fear that it might encourage the mobilisation of minority communities and provoke internal division within nation-states (Capotorti, 1991; Tabory, 1980). In the same year, the United Nations also adopted the *Genocide Convention* (1948), guaranteeing the physical protection of national, ethnic, and religious groups. While early drafts of the *Convention* had contained clauses relative to the cultural (including language) genocide of peoples, these were suppressed in the final document. Once again, the threat to national sovereignty was invoked as the principal reason for not formally recognising the cultural distinctiveness of minority communities (Tabory, 1980).

Generally speaking, the instruments adopted in the 1960s provide more active measures for promoting minority community status and activities. The *Convention Against Discrimination in Education* (UNESCO, 1960), for instance, acknowledges the right for members of national minorities to be able to carry on their own educational activities, including the right to teach their own language (article 5-1). A few years later, in 1966, the UN adopted twin instruments – the *International Covenant on Economic, Social and Cultural Rights* and the *International Covenant on Civil and Political Rights* (CP Covenant). While the first contains only a clause prohibiting discrimination on the basis of language and other criteria, the *CP Covenant* contains provisions which would seem to broaden the scope of minority language guarantees. In addition to clauses on non-discrimination (article 2-1) and the equality of languages before the law (article 14), article 27 of the *CP Covenant* explicitly mentions the protection of linguistic minorities:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language (cited in Tabory, 1980).

Tabory suggests that this is the first time that linguistic minorities *per se* have been recognised in an international human rights instrument (Tabory, 1980). Furthermore, this article has become the standard reference for legal interpretation and rulings on the

question of minority rights (Vandycke, 1994). However, despite the appearance of a greater openness towards the acknowledgement of minority rights in both the *Convention Against Discrimination in Education* and the *CP Covenant*, the adoption of these instruments was not without compromise. In the case of the *Convention Against Discrimination in Education*, it was clearly stated in the text of the *Convention* that “[the guarantees must not be] exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole and from participating in its activities, or which prejudices national sovereignty” (cited in Tabor, 1980: 180). As Fenet argues, a similar preoccupation with the minority threat to national sovereignty served to limit the scope of article 27 of the *CP Covenant*. He points out, for instance, that article 27 neither defines minorities nor designates a body for protecting them. In the passage below, the Yugoslav delegate to the debates on the *CP Covenant* emphasises the assimilationist vision which underlies the final formulation of article 27:

The present article did not affect the integrity of the State and should not be allowed to obstruct the assimilation of minority groups. But that assimilation must be free and unconstrained. There was a danger that, in order to encourage assimilation, a Government might adopt measures detrimental to the interests of minority groups (cited in Fenet, 1990: 40).

The debates on the formulation of article 27 also revealed that there was a hierarchy of communities which should, and should not, be considered 'national minorities'. In the following passage, Capotorti comments on the debates concerning the status of immigrant communities:

A number of representatives expressed the opinion that 'minorities' should be understood as meaning minority groups which were clearly defined and had long existed (*sic*). In their view, the special rights accorded to the persons belonging to a minority should not be interpreted as permitting a group settled in the territory of a State as a result of immigration to form within that State separate communities which might impair its national unity or its security. They therefore opposed the inclusion in the draft Covenant of a provision which, in their view, might encourage the formation of new minorities,

artificially prolong the existence of present minorities and delay the integration of certain groups which tended to lose their distinct characteristics and to become assimilated in the population as a whole (Capotorti, 1991: 33).

In consultations with some states, it was also made clear that native/aboriginal populations were excluded from this definition, as were tribal populations in Africa or castes in certain parts of Asia (Capotorti, 1991: 33). Thus, some communities were considered to be more 'national' than others.

The inclusion of minority language guarantees in international human rights instruments bears witness to the acknowledged legitimacy that 'minority' communities should have a place in law and that there are viable and justified reasons for demanding minority protection and promotion. As the above discussion suggests, however, the absence of measures actively promoting minority communities would seem to indicate a distance between the ideal of what minority rights *could be* and their actual protection in these instruments. The guarantee of minority language rights in international law thus reveals a tension between communities defined as national or language 'minorities' and 'majorities' according to which the rights of the former tend to be conditional to the degree of threat posed to the latter. The status of immigrant, native and tribal communities within nation-states is even more uncertain.

B. *Language Rights in State Law.*

The tension between 'national minority' and 'majority' communities also underlies the adoption of language guarantees in state law.²⁴ As Turi suggests, the actual

²⁴ Sheppard discusses the relationship between the international human rights instruments and state law. While the international instruments are not legally binding on individual states, he suggests that they do serve as models for the formulation of state-based language legislation. Commenting on the Quebec and Canada cases more specifically, he writes, "[international human rights instruments] représentent une sorte de 'droit commun' de la communauté internationale civilisée, il serait impensable que le Canada et le Québec ne s'y conforment pas" (Sheppard, 1973: 88). An intermediate level of

extent of such guarantees world wide is difficult to estimate (Turi, 1977). In a study of 147 state constitutions, he identified 110 in which language was mentioned. In a later study of 172 Constitutions of sovereign states, Gauthier found that three-quarters (120) contained language clauses (Gauthier, et.al., 1993).²⁵ Using the number of words contained in these clauses as a basis of comparison between states, Gauthier suggests that India provides the most detailed example, followed in importance by Belgium, Sri Lanka, Malaysia, Cyprus, Canada, Turkey, ex-Yugoslavia, Ireland and Nicaragua. While the number of words cannot necessarily be interpreted as an indicator of the complexity of the guarantees, they are nonetheless of interest on a descriptive basis (see Table 1-2).

State	Number of words
India	1,921 words
Belgium	1,524 words
Sri Lanka	1,406 words
Malaysia	1,329 words
Cyprus	1,170 words
Canada	1,020 words
Turkey	840 words
ex-Yugoslavia	760 words
Ireland	592 words
Nicaragua	418 words

(Source: Gauthier, et.al., 1993).

language rights between the international and the national could also be said to exist in the shared institutions of the CEE, or other organizations such as the European Parliament or European Council. Such organizations are situated at the frontier of the national and the supranational. See Woehrling for an examination of the language guarantees of these organizations (Woehrling, 1992).

²⁵ The remaining quarter which did not contain language guarantees include the constitutions of Andorra, Angola, Saudi Arabia, Argentina, Australia, Bangladesh, Bhutan, Cape-Verde, Chad, Chile, Cuba, Denmark, Djibouti, United States, Ethiopia, Ghana, Guinea, Guinea-Bissau, Iceland, Japan, Madagascar, Morocco, Mexico, New Zealand, Oman, Netherlands, Poland, Dominican Republic, United Kingdom, Saint-Marino, Sao Tome, South Korea, Swaziland, Taiwan, Tanzania, Thailand, Togo, Tonga, Uruguay, Vatican, Zaïre, Zambia and Zimbabwe. (Gauthier, et.al., 1993: *avant-propos*, xv).

In addition to constitutional provisions, some states also have other legislative measures for promoting or protecting languages.²⁶ Leclerc lists the following states as having elaborated legislative measures, in addition to, or in place of, constitutional guarantees: Algeria, Burundi, Cameroon, Canada, China, Spain, Equator, Ethiopia, France, Greece, Indonesia, Iraq, Iran, Madagascar, Morocco, Mexico, Senegal, Switzerland, Czechoslovakia, Turkey, ex-USSR, Vanuatu (Leclerc, 1986: 209).

The content of these guarantees varies from one state to another. Laponce and Malherbe examine the presence of official language guarantees in constitutional documents (Laponce, 1987; Malherbe, 1995).²⁷ Laponce notes that 80% of the world's states have only a single declared official language. Of the remaining 20%, the majority (86%) attribute official status to only two languages, considerably fewer to three languages (13%) and even fewer to four languages (1%) (Laponce, 1987). According to Malherbe, English is the official language in 47 states, French in 30 states, Arab in 21 states, Spanish in 20 states, Portuguese in 7 states, German in 5 states, Swahili in 5 states, Dutch in 4 states, Malais in 4 states, Italian in 4 states and Chinese in 3 states (Malherbe, 1995: 26-27). Many constitutional documents also contain clauses of non-discrimination, similar to those found in the international human rights instruments. The following are examples from India and Bolivia:

India: "No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language, or any of them" (India, 1950, art. 29.2; in Turi, 1977).

Bolivia: "Every human being has legal personality and capacity, in accordance with the laws. He enjoys the rights, freedoms, and guarantees recognized by this Constitution, without distinction as to race, sex, language, religion, political or other opinion, origin, economic or social condition, or any other" (Bolivia, 1967²⁸, Art. 6; in Turi, 1977: 53).

²⁶ The distinction between constitutional and legislative measures, in addition to other types of language guarantees, will be further discussed in Chapter 2.

²⁷ See Appendix I for a comparison of the domains of official language-use in several states.

²⁸ Suspended since 1969 (Gauthier, et.al., 1993).

A variety of other measures directed at promoting language use in specific domains of activity may also be found in constitutional and legislative documents. Wenner provides a typology of the principal domains generally targeted by language guarantees (Table 1-3).

TABLE 1-3. Language guarantees by domain of activity	
1.	Individual uses.
a.	the right to use the language at home
b.	the right to use the language 'in the street'
c.	the right to use the language for personal names (both first and family)
2.	Individual and collective uses
a.	the right to use the language in personal communications (letters, telephone conversations, telegrams)
b.	the right to use the language in activities designed to perpetuate its use in: schools, newspapers (etc), radio and television broadcasting, movies
c.	the right to use the language in private economic activities in: business or manufacturing enterprise between workers, advertising (storefront, media), record-keeping, other communications
d.	the right to use the language in private associations in: clubs of all types, churches and religious organizations;
e.	the right to use the language in public meetings.
3.	Individual and collective uses vis-à-vis the government in courts of law, communications with the government, public notices, campaigning and running for public office, government reports (etc), national legislature (administrative agencies, departments, etc).
(Wenner, 1976 ; summarised in Tabory, 1980).	

Gauthier compares the domains of language use promoted in constitutions of sovereign states with those contained in legislative documents of 86 non-sovereign states (see Table 1-4).²⁹ Overall, he suggests that the language guarantees of non-sovereign states tend to be more detailed and touch on a greater variety of domains than those of

²⁹ The Charter of the French Language in Quebec is an example of a legislative document of a non-sovereign state. These documents include texts designated as 'Constitution', 'Constitutional Law', 'Fundamental Law', 'Statute of Autonomy', and 'Law on Autonomy'. Previously published compilations of language guarantees, such as Turi (1977), contain only those of sovereign states.

sovereign states, thus reflecting the struggle of non-sovereign states to affirm their distinctiveness (Gauthier, et. al., 1993).

TABLE 1-4: Domains protected by language guarantees in sovereign and non-sovereign states, by order of importance.	
Sovereign States (172 states sampled)	Non-Sovereign States (86 states sampled)
1. Official language status (87 states)	1. Official language status (51 states)
2. Justice (43 states)	2. Education (47 states)
3. Legislation ³⁰ (41 states)	3. Justice (45 states)
4. Language rights of minority and Aboriginal populations (29 states)	4. Legislation (15 states)
5. Education (27 states)	5. Public administration (13 states)
6. Public administration (17 states)	6. Writing and alphabet (13 states)

(Source: Gauthier, et.al., 1993).

The theme of struggle is common to all initiatives of language legislation, although in different ways. In some cases, language guarantees reflect the rejection of colonialism and of the imposition of colonial languages on colonised peoples. Calvet suggests, for instance, that language played a role in several anti-colonial movements, particularly in Asia and Africa, although he emphasises that language was never the single most important factor of mobilisation (Calvet, 1974).³¹ While French was granted official status in Senegal at the time of independence, for instance, throughout the 1960s several official declarations were made claiming official status for the principal languages used by the Senegalese people. In addition to the establishment of commissions responsible for standardising these languages, a presidential decree in 1971 declared Wolof, Peul, Sérère,

³⁰ Defined as debates, publication and diffusion of laws, primacy or equality of languages.

³¹ See Kedourie for an impressive collection of first hand accounts of actors involved in anti-colonial movements for independence in Asia and Africa (Kedourie, 1970).

Diola, Malinké and Soninké to be 'national languages' (Leclerc, 1986). In Madagascar, French and Malgache were established as official languages after independence. In 1972, with the rise to power of a socialist government, Malgache was instated as the only official language of state (Leclerc, 1986). Similarly, in the Maghreb, the governments of Morocco, Algeria and Tunisia have adopted measures of arabisation in the post-colonial period, their objective being, as Grandguillaume writes, the "restoration of the national personality in opposition to the cultural alienation associated with colonization" (Grandguillaume, 1990 : 153). While the current constitution of Algeria declares only that Arab is the official language of the state (Gauthier, et.al., 1993), the preamble of its 1962 Constitution explicitly commented on the relationship between the promotion of Arabic and the rejection of colonialism:

Islam and the Arab language have been the effective forces of resistance against the attempt by the colonial regime to depersonalize the Algerians. Algeria owes to itself to affirm that the Arab language is the national and official language and that it obtains its essential spiritual force from Islam; however, the republic guarantees respect for their opinion, their beliefs and the free exercise of their religion to all (cited in Turi, 1977: 4).

In India, the British language policy in the nineteenth and early-twentieth centuries was to train an English-speaking Indian elite which would serve as an intermediary between the colonial rulers and the mass population: "that class we may leave it to refine the vernacular dialects of the country, to enrich those dialects with terms of science borrowed from the Western nomenclature, and to render them by degrees fit vehicles for conveying knowledge to the great mass of the population" (Sharp, 1920; cited in Khubchandani, 1977: 35). The English language, then, became the language of elite circles, both British and Indian. Towards the end of the nineteenth century, there was growing discontent with the colonial administration. Movements for reform, fuelled by anti-imperialist and nationalist discourses, were increasing in number and led the way to the independence of India in 1947. Language also played a part in this movement.³² The original Indian constitution recognised two official languages (Hindi and English) and fourteen 'scheduled' or national languages (Hindi,

³² For a detailed account of the language debates leading up to the period of independence, including first hand accounts of the major actors involved, see Ahmad (1941).

Teluga, Bengali, Marathi, Tamil, Urdu, Gujarati, Kannada, Malayalam, Oriya, Punjabi, Kashmini, Assamese, Sanskrit). Sindhi was added in 1967 and Manipuri, Nepali and Konkani in 1992, bringing the total to eighteen scheduled languages (Mukherji, 1994; Khubchandani, 1997).

Whether in Africa or in Asia, the former colonial languages have maintained an ambiguous status on a political level and in day-to-day life. In Laponce's examination of the official languages of almost one hundred states, for instance, he notes that the majority are not indigenous languages, but rather the languages of colonising countries (Laponce, 1987).³³ The Francophone Summit held in Benin in 1995 also provides a good illustration of the paradoxical status of the French language in former colonial states. Writing on the 'clean up' of the city prior to the Summit, a journalist for *Le Devoir* commented on the fact that the majority of Benin's population does not speak French: "ce coin-là de la ville a été assailli par la 'Francophonie', comme l'écrivit un journal local, seulement pour souligner que la lettre 'r', et *a fortiori* ce mot-là, n'existe pas dans les langues nationales du Bénin. Une minorité de Béninois parlent le français" (Venne, *Le Devoir*, November 30, 1995 : A1; my emphasis). The status of English in former British colonies, such as India, reveals a similar ambiguity which Dasgupta refers to as the 'Auntie-Tongue syndrome'; that is, the veneration of the English language as the language of technique, technology and technicality (Dasgupta, 1993).

The theme of struggle over language in these contexts, however, is not only limited to relations between coloniser and colonised. There are also internal battles between language communities within these states. In Algeria, for instance, the adoption of Arab as the official language has been contested by other minority language communities, such as the Berbers (*La Presse*, December 18, 1996: C7). In Madagascar, Leclerc argues that the establishment of Malgache as the official language incited violent opposition from the fifty or so other 'ethnic' communities which make up the state

³³ In fact, there is currently a board game on the market which requires the players to memorise the languages, currencies and flags of world states. If you happen to land on African, Asian or South American squares the languages are easy to guess as long as you can remember who the colonisers were (are), since the game takes into account *official* languages only and not indigenous ones.

(Leclerc, 1986). Similarly, Khubchandani and Mahapatra examine the way in which state language planning in India has tended to favour the promotion of the more powerful language communities to the detriment of smaller and less powerful ones (Khubchandani, 1997; Mahapatra, 1990). As Khubchandani writes, "The 1961 Census presents an account of 1,652 'mother tongues', classified into 200 or so languages, spread over the country [...] The Constitution, however, puts its seal on only fifteen as major languages" (Khubchandani, 1997: 87). The reduction of the "imponderables to a more acceptable arena of a competing few" (Mahapatra, 1990: 5) has been the source of heated debate amongst 'minority' communities excluded from official recognition.³⁴

As Leclerc and Laponce argue, multilingualism is the *de facto* reality of most world states. Only 5.8% of world states can be said to have even a relative linguistic homogeneity (Japan, Korea, Dominican Republic, Bahamas, Ireland, Lichtenstein, San Marino) and even these states contain populations whose languages are not those of the majority (Leclerc, 1986; Laponce, 1984). Thus, language legislation also reflects struggles between language communities within the same nation-state. To borrow Hechter's terms, these cases correspond to situations of internal colonialism; that is, situations in which a dominant community tends to control economic and political spheres of activity (Hechter, 1975, 1985). Quebec, of course, provides an example of this type of situation and will be examined in more detail in Chapters 6 and 7.

The case of Spain also provides an interesting illustration. The Spanish state, as Puig Moreno argues, is linguistically heterogeneous. In addition to the dominant Castilian³⁵ community, it is also comprised of a number of minority language communities, whose mother tongues include languages such as Catalan, Basque, Euskara, Galician, Asturian and Aran. Throughout the eighteenth and nineteenth centuries, Castilian was imposed as the language of "a national, centralised and uniform state" (Puig Moreno, 1992: 271). During the Franco regime of the twentieth century, repressive measures of linguistic assimilation were

³⁴ See Aggarwal (1992) on the debates which preceded the official recognition of Manipuri as a scheduled language in 1992. See also Mukherji (1987; 1994) on tribal and peasant movements in India.

³⁵ Commonly referred to as 'Spanish'.

even stronger and the public use of all languages other than Castilian was prohibited. Woolard provides examples of such measures in Catalonia: individuals were fined or lost their positions for speaking Catalan, schools and institutions were closed, Catalans were told "Habla en cristiano" ("Speak Christian") and "No ladres; habla la lengua del imperio" ("Don't bark; speak the language of the empire") (Woolard, 1989: 28). As Puig Moreno comments, it was only in 1978, three years after Franco's death, that Catalan, Basque, Euskara and Galician languages were granted official language status in the Spanish constitution. This status was the product of a long struggle by 'minority' communities against Castilian domination. At the same time, other types of language 'minorities' were excluded from official recognition. This was the case, for instance, of the Asturian and Aran speaking communities. The first, as Puig Moreno suggests, speaks a "rural [language], lacking in prestige" and has had difficulty organising a "coherent" campaign for the valorisation of the community (Puig Moreno, 1992: 284). As for the Aran community, it is divided between Spanish and French territories. On the Spanish side, the community has no official recognition at the state level, although it does have some protection in the Catalanian region where it is located. On the French side, there are no specific provisions for the acknowledgement of Aran. In the Catalanian region itself, there is also another type of language 'minority' which has been the object of increasing tension. As Woolard (1989) and Laitin (1987) argue, Catalonia is a leading economic centre and, consequently, it has attracted a significant working class population from other regions of Spain, such as Andalusia, Extramedura and Galicia. While the early 'immigrants' learned Catalan, there has been a greater resistance amongst the younger and more recent ones to adopt it as the general language of use, thus sparking debates over future integration of the "other Catalans" (Laitin, 1987: 133). Thus, as the Spanish case illustrates, there may be 'minorities within minorities', which adds yet another dimension to understanding language rights as objects of struggle.

In some cases, these 'other' minorities may refer to native, or indigenous, populations. The following excerpt from the Nicaraguan *Statute of Autonomy for the Regions of the Atlantic Coast* (1987), for instance, provides an example of legislation acknowledging the rights of indigenous peoples:

CONSIDÉRANT: Qu'en Amérique latine et en d'autres régions du monde les populations indigènes soumises à un processus d'appauvrissement, de ségrégation, de marginalisation, d'assimilation, d'oppression, d'exploitation et d'extermination exigent une transformation profonde de l'ordre politique, économique et culturel pour obtenir satisfaction de leurs demandes et aspirations [...] Que la lutte révolutionnaire du peuple nicaraguayen, pour construire une nation nouvelle, multiethnique, pluriculturelle et multilingue ayant pour bases la démocratie, le pluralisme, l'anti-impérialisme et l'élimination de l'exploitation sociale et de l'oppression sous toutes leur formes, demande l'institutionnalisation du processus d'autonomie des communautés de la Côte atlantique du Nicaragua [...] Que le nouvel ordre constitutionnel du Nicaragua établit que le peuple nicaraguayen est, par nature, multiethnique; qu'il reconnaît les droits des communautés de la Côte atlantique à préserver leurs langues, leurs religions, leur art et leur culture. [...] (in Gauthier, et.al. 1993: 94).³⁶

Whereas most of the cases above represent struggles against the repression of minority communities, constitutional and legislative provisions in Turkey provide a counter-example in which legal means are taken to specifically prohibit minority languages and culture. Turkey's constitution, for instance, forbids political parties to mobilise populations or organise activities dealing "with the defence, development or diffusion of any non-Turkish language or culture" (in Billig, 1995: 27-28). Similarly, Turkey's law on the language of publications, adopted in 1983, also prohibits the use of minority languages. The law even declares that minority languages cannot be considered as mother tongues. Instead, Turkish is claimed to be the only mother tongue of all citizens:

La langue maternelle des citoyens turcs est le turc;

Il est interdit d'utiliser comme langue maternelle d'autres langues que le turc et de se livrer à toute activité visant à la diffusion de ces langues.

³⁶

In French in source text.

Sous réserve de l'approbation préalable de l'autorité administrative compétente, même s'il n'est pas défendu par la présente loi, il est interdit de porter dans les réunions et les manifestations des affiches, des pancartes, des calicots, des écriteaux, etc., rédigées en une autre langue que le turc, même dans les langues non interdites par cette loi, et de diffuser par des disques, des enregistrements sonores et magnétocopiques et par d'autres appareils et outils servant à diffuser des opinions en une autre langue que le turc (Law #2932; cited in Leclerc and Maurais, vol.5, 1994: 139).³⁷

Like the debates surrounding the adoption of the international human rights instruments, in Turkey minority language communities are perceived as threats to 'national' sovereignty.

III. Discussion.

The objective of this chapter has been to explore the theme of struggle in relation to the history of legislated language rights. For a sociological reflection on the meaning of language rights, it is necessary to dissect this struggle, to deconstruct it and to lay bare the processes which underlie the construction of these rights. Several observations can be drawn from the above argument which will orient the theoretical reflections of the following chapters.

Whether the case of Central and Eastern Europe, the former colonial states of Africa, Asia and South America, states characterised by relations of internal colonialism, such as Spain or Quebec, or of immigrant, native and tribal communities throughout the world, legislated language rights are somehow linked to movements for the political recognition or autonomy of communities designated as national or language

³⁷ In French in source text.

'minorities'. The meaning of language rights in these contexts would thus imply understanding the relationship between rights, language and other forms of political projects. At the same time, however, it should be clear from the above argument that the 'minority' does not exist in isolation.

Instead, the legislated language right reveals a tension which opposes the 'minority' with communities designated as national or language 'majorities'. This tension was demonstrated earlier in relation to the policies of 'official nationalism' described by Seton-Watson (1977), the reluctance in international law to take position on the meaning of 'minority', the limited measures for actively promoting 'minority rights' both in international and in state law, and the existence of measures designed specifically to suppress 'minority' communities (e.g. Statutes of Iona, Turkish constitution). Thus, the legislated language right may take on multiple meanings even within the same nation-state, the diverse conceptions reflecting struggles between communities promoting different, and often contradictory, projects.

The meaning of struggle is further complicated by the *de facto* pluralism of most nation-states. Even the broad categorisations of 'minority' and 'majority' may cover a diversity of communities, each with their own political agendas. Also, as suggested earlier, immigrant, native and tribal communities may occupy an ambiguous status within these categorisations. The concepts of 'minority' and 'majority' are thus central to the type of reflection which will be undertaken here, not only for clarifying the meaning of struggle between communities designated as such, but also for exploring the relationship between language rights and pluralism.

What does it mean, sociologically speaking, to have a right to language? Based on the arguments of this chapter, and the present discussion, a series of sub-questions can be identified which define this original research question with greater precision:

What meaning should be attributed to the concepts of language and/or national 'minority' and 'majority' in the context of pluralism?

What is the sociological 'content' of rights claims to language which would enable an understanding and the relationship between struggles for the protection of language and the political projects of 'minority' and 'majority' communities?

In what way is language tied into these claims, both in terms of construction and differentiation of communities?

While there is no unified body of theoretical work in sociology on language rights *per se*, these rights have been examined to some extent in juridical and sociolinguistic literature. The following chapter explores the possibilities and limitations of this literature for addressing the questions listed above, with the objective also of identifying other potential themes which could contribute to a sociological reflection on language rights.

Chapter 2.

Barbarians and Babel : the 'Right' to Language in Juridical and Sociolinguistic Literature.

The classical Greeks knew of peoples speaking languages other than theirs : they called these peoples *barbaroi*, beings who mumble in an incomprehensible speech [...] Linguistically and culturally speaking, they were unworthy of any attention (Eco, 1995 : 10).

The *barbarian* is the 'stranger', the 'savage', the 'primitive', the 'uncivilized' ; it lends itself to *barbaric* acts of *barbarity*, it *barbarizes* and is *barbarous* (Random House-Websters). The barbarian is also the stranger who speaks in another tongue (Eco, 1995 ; Calvet, 1987). As described by Calvet, barbarians were those "[qui] ne savaient produire que des bruits, des bredouillages, des borborygmes, en bref quelque chose que l'on tenta d'imiter de façon ridicule par une onomatopée construite sur un redoublement de syllabe à consonance, brbr, barbar (os)" (Calvet, 1987: 64). The term *Berber*, used to designate the tribal languages of the Maghreb, is itself an onomatopoeic construction on the term *barbarian*, the peoples of North Africa being considered by the West as *barbaresques* (Malherbe, 1995: 354). In the Arabian tales of the *Thousand and One Nights*, the barbarians were the strangers who "adorent des choses extraordinaires et incompréhensibles, parlent un langage obscur et barbare, et mangent des choses pourries qui sentent mauvais [...]"¹. When Samuel Johnson travelled through the Hebrides (Scotland) in 1775, he encountered "the rude speech [Gaelic] of a *barbarous* people, who had few thoughts to express, and were content, as they conceived grossly, to be grossly understood" (Samuel Johnson, 1775; quoted in Durkacz, 1983: 191). Barbarians were also to be found in the New World : in 1833, a British traveller complained

¹ *Les Mille et Une Nuits* (n.d.). (French translation by J.C. Mardrus). Paris : Robert Laffont, p. 383.

that in America "the privilege of *barbarizing* the King's English is assumed by all ranks and conditions of men" (Hamilton, 1833 cited in Mencken, 1937: 24).

These references to the 'barbarian' oppose language-We and language-Other. This We and Other, as suggested in the previous chapter, has entered the domain of law where the 'barbarian' and the 'civilised' have become the 'national language minority' and 'national language majority'. Whereas the themes of 'minority' and 'majority' in law, and the legal content of language guarantees, have been addressed to some extent in juridical literature, their language dimension has been the object of sociolinguistic investigation. The conceptualisation of these themes from juridical and sociolinguistic points of view structures the principal argument of this chapter: what meaning do they attribute to 'minority' and 'majority', to language rights, and to the relationship between language, community and right? The potential of these conceptions for contributing to a sociological reflection on language rights as sites of struggle is evaluated in the final discussion.

I. Language Rights in Juridical Literature.

A. 'Minorities' and 'Majorities' and the Right to Language.

The 'minority' is a central concept in law, particularly in the domain of human rights. And yet, as Capotorti and Tabory have suggested, the elaboration of a definition of 'minority' for legal purposes has always been problematical (Capotorti, 1991; Tabory, 1980). As suggested in the previous chapter, in the Peace and Minority Treaties of 1919-1920, the inclusion of a minority clause was discussed and rejected. The Charter of the United Nations followed suit, as did the Universal Declaration of Human Rights. And, although the Sub-Commission on the Prevention of Discrimination and Protection of Minorities was mandated to study the question in 1948, its commitment to the matter was only marginal until the 1960s and 1970s. Vandycke comments on the

reluctance of international agencies to take position on the definition of minority: "en cas de désaccord sur la définition du concept de minorité, la solution la plus simple paraît encore être de passer outre, quitte à y revenir plus tard [...]" (Vandycke, 1994: 9).

Ganshof Van der Meersch, writing on language rights for the Gendron Commission in Quebec², proposes the following definition of 'minority':

[une minorité] ne peut se définir que par rapport à un territoire déterminé: un groupe d'hommes qui y parlent une même langue, mais qui y sont moins nombreux qu'un autre groupe d'hommes qui, au sein de la même unité territoriale, parlent, de leur côté, une même langue et qui constitue la majorité linguistique (Ganshof Van der Meech, 1973: 135).

Thus, for Ganshof Van der Meersch, a shared territory and language should be at the basis of the concept of 'minority'. Braën identifies four characteristics of the 'language minority': numerical importance of the group, stable linguistic characteristics which set them apart from the 'majority', a shared sense of identity and geographical situation (Braën, 1987). In both cases, there is a tendency to define the 'minority' as a group which can be identified by observable, or quantifiable, traits: numerical size, language ('ethnicity', religion), geographic situation. Not only does the role of language in the construction of the 'language minority' remain untheorised, but there appears to be an implicit causality in these definitions which suggests that numbers, 'ethnic' traits, or geography are somehow intrinsic factors which 'cause' minority status. From this point of view, the minority appears as a neutral grouping of individuals and its relationship to the 'majority' remains unquestioned.

In his analysis of international human rights instruments, Capotorti identifies two types of criteria which tend to delimit the meaning of the 'minority': subjective and

objective (Capotorti, 1991). The subjective criterion refers to the will of minority members to protect and preserve their distinctiveness. As for the objective criteria, they refer to the identification of traits which differentiate one collectivity from another within a state (ethnic, linguistic and religious), the numerical importance of the collectivity (the 'minority' is numerically smaller than the rest of the population), and its 'non-dominant' position within the state (Capotorti, 1991: 96). While this definition still tends to reduce the understanding of the 'minority' and 'majority' to observable traits and qualities, Capotorti's reference to 'non-dominant' status at least acknowledges that there is a power dimension in the relationship between these communities. At the same time, however, he does not elaborate on the meaning, or implications, of 'non-dominant status'. It is expressed as an easily identifiable 'state-of-being', rather than a concept which requires further elaboration.

There is thus a tendency to define the minority within a closed circle of meaning in which social relations are evacuated. Vandycke compares juridical conceptions of the minority to the Durkheimian concept of 'prenotion': "la définition des juristes européens représente assez bien ce que Durkheim appelle une prénotion: elle est spontanée, repose sur le sens commun et réunit sous une même étiquette des phénomènes de nature différente [...]" (Vandycke, 1994: 9). For an understanding of language rights as objects of struggle it will be necessary to go beyond common sense meanings of minority and majority. Elaborating on the meaning of 'non-dominant status' would be an important theme for such a reflection.

² Commonly known as the Gendron Commission, the *Commission d'enquête sur la situation de la langue française et sur les droits linguistiques au Québec*, which reported in 1972, was the first major forum for debate on language rights in Quebec. See Chapter 6 for a discussion of this Commission.

B. *Conceptualising Rights Claims to Language.*

The juridical conception of language rights is characterised by a similar closure of meaning. This is suggested in the following statement by Braën: "language rights must necessarily be guaranteed by law. The guarantees exist solely by reason of the fact that they have been recognized in law, either by a constitutional document or by an enactment by a statement of policy or by a well established custom" (Braën, 1987: 14). According to this statement, the language right does not exist outside of legal guarantees. It is defined by a set of fixed, predetermined, rules as the "guarantees or rules relating to the use of one or more languages. The rules determine the linguistic relationship between the citizen and the State (public sector) or those between the citizens amongst themselves (private sector)" (Braën, 1987: 14). The tendency to explain language rights in terms of rules can also be observed in relation to a series of distinctions used to circumscribe the content of language guarantees: negative versus positive rights; economic, social and cultural rights versus civil and political rights; collective rights versus individual rights.

According to Tabory, a negative right is a guarantee which is determined by the relative absence of action or intervention (Tabory, 1980). The State (or other relevant body) intervenes only in those cases where this right has been violated. This form of language guarantee was described in the previous chapter as the prohibition of discrimination; that is, the guarantee that 'minorities' will not receive worse treatment than the 'majority'. The counterpart to a negative right is a positive right, defined by Tabory as a guarantee determined by positive action or intervention and whose objective is to promote and preserve the minority community and its language.

An important ruling on the implications of negative and positive rights with respect to language guarantees was made in 1935 by the *Permanent Court of International Justice*. The case, described by Dinstein, concerned an amendment to Albania's constitution according to which all private schools in the country were to be closed

(*Minority Schools in Albania, 1935*) (Dinstein, 1979). The amendment was contested by the Greek minority on the grounds that it violated the 1921 Albanian Declaration on the Protection of Minorities (part of the Peace and Minorities Treaties). Albania contended that since all private schools -- of the minority and majority alike -- had been closed, no minority right had been violated. The *Permanent Court of International Justice*, however, judged the matter differently, concluding that the private schools,

[...] are indispensable to enable the minority to enjoy the same treatment as the majority, not only in law but also in fact. The abolition of these institutions, which alone can satisfy the special requirements of the minority groups, and their replacement by government institutions, would destroy this equality of treatment (Case cited in Dinstein, 1979: 72).

As Tabory suggests, the Court reaffirmed in its judgement that negative rights should be accompanied by positive rights: minorities should be "placed in every respect on a footing of perfect equality with the other nationals of the State" and they should be ensured "suitable means for the preservation of their racial peculiarities, their traditions and their national characteristics" (ruling quoted in Tabory, 1980: 172).

In principle then, there has been legal recognition that negative and positive rights should play complementary roles with respect to language guarantees. In practice, however, there has been significant resistance to the legal recognition of positive measures for the promotion and protection of 'minorities', particularly in international law. As Tabory notes, "political obstacles pose the main barrier to the promulgation of minority rights beyond the legal guarantee of non-discrimination" (Tabory, 1980: 222).

The second rights distinction used to circumscribe the meaning of language rights opposes civil and political rights on the one hand, and economic, social and cultural rights on the other. Braën describes the first category as "rights and freedoms such as freedom of conscience and religion, freedom of belief, of thought, opinion or expression" (Braën, 1987: 16). As for the second, they are described by Bossuyt as the

rights to social security, to housing, and to social assistance (social rights); the right to work and to good work conditions (economic rights); and the right to education, to participate in cultural life, to intellectual property, and to the freedom of scientific research and creative activity (cultural rights) (Bossuyt, 1975). According to Bossuyt and Dinstein, language rights are considered to fall into the category of social and cultural rights, particularly with respect to the right to education (social) and the right to participate in culture (cultural) (Dinstein, 1979; Bossuyt, 1975).

Bossuyt also suggests that the differentiation of these two categories of rights -- civil and political on the one hand, and economic, social and cultural, on the other -- has implications for legal intervention and interpretation. As summarised in Table 2-1 below, the negative/positive rights distinction and the civil-political/social-economic-cultural rights distinction are inter-related. In theory, he argues that social, economic and cultural rights tend to have a positive dimension; that is, they require state intervention, commitment and financial contribution. Inversely, civil and political rights tend to have a negative dimension; that is, they require little or no state intervention, commitment and financial contribution.

	CIVIL AND POLITICAL RIGHTS	SOCIAL, ECONOMIC AND CULTURAL RIGHTS
i. FINANCIAL CONTRIBUTIONS	Do not require additional financial investment from the state that is not already present in existing judicial apparatus.	Necessitate financial investment from the state which is distinct from existing judicial apparatus.
ii. NEGATIVE & POSITIVE INTERVENTION	The state intervenes only when these rights have been violated; that is, it has a negative obligation.	Require state intervention for their promotion; without positive intervention these rights can not be safeguarded.
iii. VARIABLE INVARIABLE CONTENT	& These rights vary little from one state to another, their content is invariable.	The fact that these rights require a financial commitment from the State will influence the extent and manner in which individual states will legislate in these areas. In this sense, their content may be variable.
iv. ABSOLUTE & RELATIVE CHARACTER	Civil rights (more so than political rights) have an absolute character. In legal terms, they are said to 'flow from the individual'.	Have a relative character. They do not 'flow from the individual', but rather must be accorded to him/her.

(Summarised from Bossuyt, 1975: 790-1)

Once again, however, there is a distance between the principles set out in the Table and their implementation in practice. This distance is demonstrated in the *Belgian Linguistics Case* (1968), commented on by Bossuyt (1975). In this case, the European Court ruled on the financial responsibility of the state with respect to private, linguistically organised, schools. The Court retained a negative (non-discriminatory) interpretation: "nul ne peut se voir refuser le droit à l'instruction" (cited in Bossuyt, 1975). Bossuyt explains this ruling by arguing that the right to education was interpreted as a 'droit socio-économique 'civilisé'; that is, a right belonging to the category of economic, social and cultural rights, but having a civil element (Bossuyt, 1975: 811). He adds further, however, that such an interpretation reflects political considerations: "[...] comme l'élaboration finale d'une Convention ne dépend pas de théoriciens du droit, mais de diplomates et d'hommes politiques, l'inclusion de l'un ou l'autre droit [civil or

socio-economic] dans ces Conventions ne dépend pas de considérations théoriques, mais de préoccupations politiques” (Bossuyt, 1975: 810). This statement demonstrates once again the variability of the juridical categories which define language rights as juridical objects. In the statement, variability is attributed to 'political preoccupations'. There is also an assumption that the juridical sphere and the political sphere can be separated. From the point of view of the “theoretical considerations of jurists”, Bossuyt implies that the language right can be unambiguously classified on the basis of the distinction between positive versus negative rights on the one hand, and civil and political versus social, economic and cultural rights on the other. The influence of the political sphere is thus perceived as an interference which alters the juridical meaning of the language right, rather than the foundation of the right itself.

The third distinction used to circumscribe the meaning of language rights opposes individual and collective rights. As Braën writes, “the legislative recognition of language guarantees may take different forms. Such guarantees may be individual, when language rights are vested in individuals. They can also be collective when language rights are granted to a community, as such” (Braën, 1987: 23). While the Peace and Minority Treaties of 1919-1920 granted guarantees to collectivities rather than to individuals, subsequent international instruments have made a marked shift towards individual guarantees rather than collective ones (Tabory, 1980).

Capotorti examined the question of individual and collective rights in the debates over the adoption of Article 27 of the *International Covenant on Civil and Political Rights* (Capotorti, 1991). The original formulation of Article 27 of the CP Covenant included a collective dimension: “Ethnic, religious and linguistic minorities shall not be denied the right to enjoy their own culture, to profess and practise their own religion, or to use their own language” (Capotorti, 1991: 35-36). As Capotorti argues, however, the formulation was criticised in the debates, because it attributed rights to the 'minority' as a collectivity rather than to individuals. It was recommended that the phrase be changed to “*persons belonging to minorities*” and that the clause “in community with the other

members of their group” be added. In the new formulation, adopted in the final text of Article 27, the individual dimension was retained: while the right was granted to the individual, it could only be claimed as a member of a collectivity. Capotorti suggests that the reason for this change was because the 'minority' does not constitute a legal personality, while the individual does. Braën suggests another interpretation which places emphasis on the power dimension of the individual/collective distinction with respect to language guarantees:

In principle, the State prefers to grant language guarantees to individuals rather than to a community. The recognition of collective rights is relatively rare because it entails the recognition of the minority language. *Such recognition, however, forces an admission on the part of the State of its internal divisions [...]* The collective dimension of language rights certainly creates serious problems for the political authorities, to the extent that they must conciliate the rights of the minority with those claimed by the majority. The minority may insist on respect for what it considers vested rights in the area of language [...] The majority [...] may fear that recognition of minority language rights may operate to the disadvantage of its own rights (Braën, 1987: 23-4; my emphasis).

As was the case with the juridical definition of the minority examined earlier, the three rights distinctions examined in this section also tend to limit the signification of the language right to its legal formulation. Whether defined as positive versus negative rights, civil and political versus economic, social and cultural rights, individual versus collective rights, these distinctions always come up against 'political barriers'. The significance of these barriers leads us to nuance the assumption behind Bossuyt's statement cited above that the political interferes in the juridical, as if the two were distinct realities. Chevrette, commenting on the juridical status of language rights in Quebec, makes this point:

La principale difficulté de cette étude tient probablement au fait qu'elle porte sur des thèmes qui, bien qu'appartenant tous au

vocabulaire juridique, n'en sont pas moins extrêmement vagues et d'un *contenu légal assez mouvant* [...]. On pourrait même dire que leur utilisation à ce sujet fait partie de l'actuel vocabulaire politique courant davantage que du vocabulaire juridique (Chevrette, 1972: 404; my emphasis).

There is an important reference in this statement to the inter-relatedness of the juridical and the political. While not denying the validity of the first as a form of knowledge, it is especially the interface between the two which can contribute to a reflection on language rights as sites of struggle. Chevrette's allusion to the changing character of legal norms ("contenu légal mouvant") provides a potential avenue for such a reflection. This avenue would mean exploring the sources of variability underlying the legal norm; that is, the constitutive dimensions of the so-called "political obstacles". It would also mean situating the language right as object outside the parameters of legal guarantees. Formulated as questions, these themes for further reflection could be stated in the following way: What is the meaning which should be attributed to 'right' outside of a strictly legal framework? What is the relationship between right, law and power? To some extent, the first question has been addressed in sociolinguistic literature.

II. Language Rights as Objects in Sociolinguistic Literature.

A. *Planned Languages and Language Rights.*

Sociolinguistics, a sub-branch of linguistics, examines the relationship between language and society.³ In this literature, language rights are considered to be a form of language planning. The term 'language planning' was introduced into the literature by Einar Haugen in 1959. According to Cooper, other terms, such as 'language engineering', 'glottopolitics', 'language development' and 'language regulation' have also been used to designate planned interventions with respect to language (Cooper, 1989).

The right to language, from this point of view, takes on a broader meaning than in the juridical literature examined above. Cobarrubias, for instance, provides a typology of language rights which includes not only guarantees which are codified in law, but also non-codified measures prohibiting language use (Cobarrubias, 1983). According to this typology, a language right may refer to:

1. A single official language, such as French in France or English in the United Kingdom.
2. A joint official language, such as English and French in Cameroon, Filipino, English and Spanish in the Philippines.
3. A regional official language (i.e. of a constituent state or region), such as Marathi in India.
4. A promoted language, lacking official status in a country or in one of its regions but promoted by public authorities, such as West African Pidgin English in Cameroon.
5. A tolerated language, which is neither explicitly promoted nor restricted by public policies, such as immigrant languages in the United Kingdom.

³ With few exceptions, the social aspect of language has been largely ignored in the history of linguistics as a discipline. As Calvet notes, "il existe en effet au sein de la linguistique une tendance à considérer que seul le 'noyau dur', descriptif et formaliste, relève de la science, les autres approches (psycholinguistiques, sociolinguistiques, etc.) étant rejetées vers la périphérie, vers ce que certains linguistes allemands ont baptisé non sans humour la 'linguistique molle' ou la linguistique des 'traits d'union' [...]" (Calvet, 1987: 149). Yet it would seem obvious that the hyphenated relationship between language and social context in the term 'socio'-linguistics' is an important one for understanding language rights as sites of struggle.

6. A proscribed language, whose use is explicitly prohibited, such as the banning of Norman-French patois during the German occupation of the Channel Islands during World War II. (Cobarrubias, 1983: 44-45).

Daoust and Maurais also provide a typology of language planning which enables a broader classification of language rights. Planned languages, they suggest, may correspond to constitutional or legislative guarantees, official policies, statements of principal, governmental or administrative directives. They may also correspond to policies of non-intervention; that is, where language use is promoted or constrained by practices in place, but there is no conscious act of planning (Daoust and Maurais, 1987). Similarly, Leclerc distinguishes language planning policies designed to protect and promote languages from non-interventionist policies and explicit policies aimed at assimilating populations (Leclerc, 1986). The three typologies are compared in Table 2-2.

Cobarrubias (1983)	Daoust and Maurais (1987)	Leclerc (1986)
1. Single official language	Constitutional guarantees	Promotion
2. Joint official language	Legislative guarantees	
3. Regional official language		
4. Promoted Language	Official policies, statements of principle, administrative directives	Assimilation
5. Tolerated Language	Non-intervention	Non-intervention
6. Proscribed Language	-----	Assimilation

The language rights types 1-3 in Cobarrubias correspond broadly to the constitutional and legislative guarantees referred to in Daoust and Maurais. Similarly, the rights in type 4 correspond to official policies, statements of principal or administrative

directives in the second typology. From Leclerc's point of view, types 1-4 may be oriented either towards promotion or assimilation. As for type 5 rights, they correspond to policies of non-intervention in both Daoust and Maurais and in Leclerc. The final type 6 – explicitly prohibited languages – is less easily classified according to the second typology, but corresponds to an assimilationist strategy in Leclerc.

By situating language rights at different levels of intervention, both official and non-official, the meaning attributed to them is not limited to the content of legal codes, but also extends to other forms of social practices in which language use is either promoted or prohibited. Such a conception provides a greater flexibility for understanding the distance that may exist between law and practice; for instance, the acknowledgement of minority language rights *in principal* and the resistance to their implementation *in fact*, as demonstrated in the history of language legislation in the previous chapter. The power relations which underlie this distance, however, remain unexplored and, in this way, the sociolinguistic literature goes no further than did the juridical literature in examining the potential relationship between right, law and power.

B. *Language Planning and Status.*

As would be expected, the language planning literature also places greater emphasis on the 'language dimension' of language rights than was the case of the juridical literature. It provides a wealth of descriptive material, for instance, on different situations in which language has been the object of struggle.⁴ The theoretical possibilities

⁴ This material is contained in numerous specialised journals, such as *Langue et société*, *Language Problems and Language Planning*, *Language Policy and Political Development*, *International Journal of the Sociology of Language* and in newsletters such as the *New Language Planning Newsletter*. Collections of texts and monographs have also provided descriptive profiles of multiple or singular situations of language planning: for instance, *Progress in Language Planning* (Cobarrubias and Fishman, eds, 1983), *Politique et aménagement linguistiques* (Maurais, ed., 1987), *Langue et société* (Leclerc, 1986), *Language Planning and Social Change* (Cooper, 1989), *Double Talk: Bilingualism and the Politics of Ethnicity in Catalonia* (Woolard, 1989), *Language*

of this literature for conceptualising the relationship between language and struggle, however, are more limited. As Daoust and Maurais suggest, most of the work on language planning tends to be pragmatically oriented, its objective being to examine changes in the 'function' of language. They write,

[...] on constate que la plupart des objectifs énumérés sont définis par rapport à des fonctions linguistiques ou à des domaines d'utilisation, ou encore par rapport aux divers types d'interventions qui permettent d'apporter des changements au niveau des diverses composantes proprement linguistiques. En fait, il s'agit davantage d'objectifs envisagés par rapport aux changements linguistiques souhaités que par rapport au contexte social qui détermine l'utilisation et le choix de langues faisant l'objet des politiques linguistiques (Daoust and Maurais, 1987: 25-26).

This pragmatic orientation is also present in Cooper's analysis of the language planning definitions of selected sociolinguists. These definitions, which he refers to as a baker's dozen, are listed below in Table 2-3. A quick review of the list reveals that language planning is about language cultivation, language change, language behaviour, language problems, language resources, language regulation, communication problems, changing behaviour with respect to language structure and language codes. Despite the fact that sociolinguistics purports to examine the relationship between language and *society*, this latter dimension remains relatively unexplored in these definitions. Thus, rather than expanding on the dimension of struggle which underlies language planning strategies, explanation is reduced to a typology of the ways in which language itself is modified or promoted.

Table 2-3. LANGUAGE PLANNING DEFINITIONS : A BAKER'S DOZEN

1. "As I define it, the term LP includes the normative work of language academies and committees, all forms of what is commonly known as language cultivation [...] and all proposals for language reform or standardization" (Haugen, 1969: 701)
2. "[Language planning] occurs when one tries to apply the amalgamated knowledge of language to change the language behavior of a group of people" (Thorburn, 1971: 254).
3. "Language planning is *deliberate* language change; that is, changes in the systems of language code or speaking or both that are planned by organizations that are established for such purposes or given a mandate to fulfill such purposes. As such, language planning is focused on problem-solving and is characterized by the formulation and evaluation of alternatives for solving language problems to find the best (or optimal, most efficient) decision" (Rubin and Jemudd, 1971b: xvi).
4. "We do not define planning as an idealistic and exclusively linguistic activity but as a political and administrative activity for solving language problems in society" (Jemudd and Das Gupta, 1971: 211).
5. "The term language planning is most appropriately used in my view to refer to coordinated measures taken to select, codify and, in some cases, to elaborate orthographic, grammatical, lexical, or semantic features of a language and to disseminate the corpus agreed upon" (Gorman, 1973: 73).
6. "Language planning refers to a set of deliberate activities systematically designed to organize and develop the language resources of the community in an ordered schedule of time" (Das Gupta, 1973: 157).
7. "The term *language planning* refers to the organized pursuit of solutions to language problems, typically at the national level" (Fishman, 1974b: 79).
8. "Language planning is the methodical activity of regulating and improving existing languages or creating new common regional, national or international languages" (Tauli, 1974: 56).
9. "The [language planning] terms reviewed refer to an activity which *attempts* to solve a language problem, usually on a national scale, and which focuses on either language form or language use or both" (Karam, 1974: 105).
10. "[Language planning may be defined as] a government authorised, long term sustained and conscious effort to alter a language itself or to solve a language's function in a society for the purpose of solving communication problems" (Weinstein, 1980: 55).
11. "Language planning refers to systematic, theory-based, rational, and organized societal attention to language problems" (Neustupniy, 1983: 2)
12. "Language policy-making involves decisions concerning the teaching and use of language, and their careful formulation by those empowered to do so, for the guidance of others" (Prator cited by Markee, 1986: 8).
13. "Language planning refers to deliberate efforts to influence the behavior of others with respect to the acquisition, structure, or functional allocation of their language codes" (Cooper, 1989 : 45).

(Definitions cited in Cooper, 1989 : 39-45).

Even Leclerc, who acknowledges a power dimension behind assimilationist language policies, defines language planning in a manner which masks its social significance. He writes,

Le planification ou l'aménagement linguistique consiste en un effort délibéré de modifier l'évolution naturelle d'une langue ou l'interaction normale entre des langues. Lorsqu'on fait de la planification linguistique, on s'organise donc *pour changer l'évolution des langues en agissant sur les phénomènes de puissance et d'attraction des langues les unes par rapport aux autres* (Leclerc, 1986: 207; my emphasis).

In both Leclerc's definition, and those listed by Cooper, language planning is 'explained' as the product of competition and interaction between *languages*. The meaning of struggle, from this point of view, is reduced to interaction between languages rather than between communities. The same assumption is carried through in two of the principal concepts used in this literature to describe the 'content' of language planning: corpus and status.

The distinction between corpus and status planning was originally proposed by Kloss to distinguish approaches to language planning based on modifications to the language system itself (corpus planning) from approaches based on modifications to the 'status' of language in various domains (status planning) (Kloss, 1969).⁵ Whereas the first refers to measures designed to change orthographic, morphological, phonological or stylistic features of language, the second type of planning intervenes in the allocation of language use in specific spheres of activity, such as the workplace, education, administration, media, legislation. The activities of the *Académie française*, for instance, were oriented towards modifications to the 'corpus' of the French language (cf. Leclerc, 1986; Cooper, 1989). Similarly, the particularities of American English, in which we read 'color' instead of 'colour', 'organize' instead of 'organise', 'center' instead of 'centre', are examples of planned orthographic changes initiated largely through the efforts of Noah Webster in the late-

⁵ Cooper (1989) adds 'acquisition planning' to the corpus-status distinction; that is, cases where language planning is directed towards increasing the number of language users.

eighteenth century (cf. Weinstein, 1992). Policies in the Maghreb aimed at encouraging the use of Arab in administrative and educational domains (cf. Grandguillaume, 1990), and the recognition of the eighteen scheduled languages in the Indian Constitution as the languages-of-use in regional administrative domains are examples of 'status' planning (cf. Mahapatra, 1990; Khubchandani, 1997).

In the actual implementation of language planning policies, 'corpus' and 'status' strategies are often combined. In the conceptual literature on planning, however, there is a tendency to place more emphasis on corpus than on status. Daoust and Maurais write,

[...] on constate que la plupart des objectifs énumérés sont définis par rapport à des fonctions linguistiques [...] En fait, il s'agit davantage d'objectifs envisagés par rapport aux changements linguistiques souhaités que par rapport au contexte social qui détermine l'utilisation et le choix de langues faisant l'objet des politiques linguistiques (Daoust and Maurais, 1989 : 25-26).

This tendency reveals an assumption in the literature that corpus planning can be separated from status planning. As Williams argues, language is divorced from its social context, as if "status derives from the language itself rather than those who use that language" (Williams, 1992 : 124). Cobarrubias argues further that planned changes in 'corpus' are necessarily interventions with respect to 'status' and that neither one nor the other is ideologically neutral. Instead, the planning of 'status' and 'corpus' are necessarily linked to political objectives (Cobarrubias, 1983). Thus, the efforts of the *Académie française* to standardise French were not limited to corpus changes, but also reflected "an effort to establish 'le monde', the narrow aristocratic society which had crystallized in Paris" (Cooper, 1989: 8). Similarly, Noah Webster's efforts to create a distinct American language reflected the political aspiration of independence from Great Britain: "Let us then seize the present moment and establish a national language, as well as a national government [...] as an independent people, our reputation abroad demands that, in all things, we should be

federal; be national; for if we do not respect ourselves, we may be assured that other nations will not respect us" (Webster, quoted in Weinstein, 1982: 95).

The idea of 'status' provides a potentially interesting avenue for exploration, enabling an understanding of language rights as a form of language planning produced in the struggle for 'status'. However, the failure of this literature to take into account the political implications of 'status', defining it solely by reference to language traits, constitutes a serious limitation for such an enterprise. This limitation suggests a theme for further exploration: What is the relationship between language and the struggle for status?

C. *Language Contact: Status and Prestige.*

The relationship between language and the 'status' of communities is also addressed in another body of sociolinguistic literature on language contact. Other terms have also been used to designate this literature, such as 'linguistic conflict' (Laitin, 1987), the 'war of languages' (Calvet, 1987) or the '*choc des langues*' (Bouthillier and Meynaud, 1971). For purposes of simplification, I will use the term 'language contact' here, derived from Weinreich's early work on the subject (Weinreich, 1953), as a generic term to encompass the different designations.

Generally speaking, this literature refers to the study of how language use is modified in situations of contact between communities within a given society or in the context of individual use (Appel and Muysken, 1989; Lehisté, 1988). Calvet describes the relationship between language planning and language contact as the passage from situations of *in vivo* language use to *in vitro* language planning: "car si les peuples et leurs langues sont impliqués depuis toujours dans de vastes conflits, l'homme tente aujourd'hui d'intervenir en ce domaine de façon directe, 'en laboratoire'" (Calvet, 1987: 11). The distinction between *in vivo* language use and *in vitro* language planning once again broadens the perspective for understanding

language rights not only as a form of planning, but also as a form of conflict more generally in which language is the principal site of tension. The theme of 'status', introduced above, is implicit in several of the principal concepts used in this literature, such as diglossia, domain and community.

The concept of diglossia is generally associated with C.A. Ferguson whose article entitled "Diglossia" appeared in 1959, although Ferguson himself attributes the term to French linguistics. The language phenomenon that diglossia was originally meant to describe was the differential use of two varieties of the same language in different circumstances. As Fishman suggests, the meaning generally attributed to diglossia today is broader in scope, extending to situations of contact involving two or more languages whether related or not⁶ (e.g. official French versus Fongbé in Bénin; or official English, Hindi and the eighteen scheduled languages in India) (Fishman, 1980). Diglossia tends to be structured around a series of binary oppositions in which language varieties are categorised as 'high varieties' (H) or 'low varieties' (L). These oppositions are summarised in Table 2-4.

⁶ Other terms such as 'triglossia' and 'pluriglossia' are also used in the literature for situations in which more than two languages are spoken.

DESCRIPTORS	CHARACTERISTICS OF 'H' AND 'L'
Prestige	Speakers regard H as superior to L.
Function	H is appropriate in some situations and L in others, with little overlap.
Standardisation	H has established norms for pronunciation, grammar, vocabulary, L has little standardisation.
Acquisition	H is generally acquired through formal education; L is learned in the home as a mother tongue.
Grammar	The grammatical structure of H is generally more complex than that of L.

(Summarised from Ferguson, 1972: 237-242)

Throughout, there is an assumed superiority of 'H' over 'L'. The perception of languages as being 'superior' or 'inferior' does correspond to a certain empirical reality. In the late-eighteenth century, for instance, a Hungarian noble commented on the 'inferiority' of his own mother tongue by comparison with the foreign languages which had become the languages of court (particularly French and Latin): "les nobles se précipitent sur les langues étrangères, le hongrois leur est ennuyeux; même s'ils le savent encore, ils rougissent de s'en servir" (cited in Brunot, 1967, VIII(1): 19). Khubchandani also provides an example from nineteenth-century India in which English was promoted as the 'superior' language of the colony. The following passage is taken from the British educational policy of 1835, known as Macaulay's Minute: "We have to educate a people who cannot at present be educated by means of their mother-tongue[...]. The claims of our own language it is hardly necessary to recapitulate. [...]. What the Greek and Latin were to the contemporaries of More and Ascham, our tongue is to the people of India" (Cited in Khubchandani, 1977: 47-48). Similarly, Pierre Jakez Hélias, commenting on his Breton youth in *Le Cheval d'Orgueil*, describes the way in which perceived status differences between French and Breton languages were internalised by Breton speakers: "Le breton est

leur bien personnel, un pauvre bien comme leur *penn-ti*, leur vache, leur cochon, leurs deux champs et leur bout de prairie. Nous, leurs enfants, nous devons franchir la barrière du français pour accéder à d'autres richesses, c'est tout. C'est le français qui donne les honneurs" (Hélias, 1975: 246).

The fact that such perceptions exist in discourse – i.e., that languages are perceived as prestigious/non-prestigious, superior/inferior, modern/backward – provides evidence of 'status' differences constructed around language. Rather than attempting to understand why such discourses exist, however, the literature on language contact merely reproduces them. This is demonstrated in a recent debate published in the *Journal of Pragmatics* over the differentiation of varieties of English. Singh, in his contribution to this debate, argues that these varieties are divided into two groups which oppose 'Old/Native/Inner Circle' Englishes (American, Australian, British, etc.) with 'New/Non-native/Outer Circle' Englishes (Indian, Singapore, Nigerian, etc.). According to Singh, the enterprise of dichotomisation in sociolinguistic literature constructs the so-called 'non-native' varieties as "poor relations", assuming their lexical, syntactic, morphological or phonological inferiority to the so-called 'native' varieties (Singh et al., 1995). Similarly, Williams comments on the weakness of diglossia as a concept, arguing that the difference between H and L tends to be "translated into superiority by reference to grammatical rather than political features [...]" (Williams, 1992 : 96). Thus, 'status' differences are explained in terms of characteristics which are naturalised as being inherent features of language systems : colonial English in India, for instance, was considered (by the British) to be *naturally* superior to Indian languages. An implicit modernisation thesis, he argues, underlies the H and L distinction and carries with it the assumption that one language, H, should replace all others because it is the only language capable of expressing complex and modern ideas (Williams, 1992).

Dasgupta further suggests that there is a confusion in the sociolinguistic literature between H and L as linguistic codes and H and L as discourses : "H and L are not statuses, uniquely assignable to this or that code [...] but roles relative to a particular interdiscursive pairing" (Dasgupta, 1993 : 97). Thus, it is not only languages which are constructed as being

superior/inferior, but also communities. Through a process of interdiscursive pairing, a hierarchy is established between We and Other. Baron provides some examples in his examination of language debates in the United States. In the 1750s, William Smith (Provost of Philadelphia College) reportedly held the belief that the "ignorance of English was prima facie evidence of low intelligence" and called for measures to assimilate Pennsylvania's "uncultivated Race of Germans" (cited in Baron, 1990: 67). A century later, opponents of New Mexican statehood invoked similar arguments of the "alleged low level of intelligence of the territory's Hispanics" as a reason for refusing statehood (Baron, 1990: 67). The status differences between communities, implied in these examples, cannot be explained by reference to the grammaticality of languages labelled H and L. Generally speaking, the potential power relations which underlie this distinction tend to be absent from this literature. There are nonetheless some notable exceptions in the literature. Kathryn Woolard's work on diglossia in Catalonia, for instance, examines the prestige of Castilian as a product of social, economic and legal power, rather than as an inherent feature of language (Woolard, 1989). This relationship between power, language and prestige provides a direction for further investigation.

The theme of 'status' is also present in the sociolinguistic concept of domain. Whereas diglossia is used to refer to situations of language use involving two or more languages, domain refers to the functional distribution of language use in "the social organisation of society" (Appel and Muysken, 1989: 23). Fishman defines domains "in terms of institutional contexts and their congruent behavioral co-occurrences. They attempt to summate the major clusters of interaction that occur in clusters of multilingual settings involving clusters of interlocutors" (Fishman, 1972: 441). Domain then, is a concept which describes distributions of language use according to spheres, or clusters, of activity. Generally speaking, domains of language use tend to be categorised into formal/official and informal/non-official spheres of activity.

As was the case with the concept of diglossia, there is a corresponding empirical reality which underlies this categorisation. Dorian, for instance, describes the distribution of

English-Gaelic language use in Scotland. While English was imposed as the language-of-use in official domains, the language-of-use in non-official domains remained Gaelic (Dorian, 1981):

English had no place at all in the home or in religion, and Gaelic no place at all in the sphere of national secular institutions. In other cases, the compartmentalization was partial. For the men, the work sphere was wholly Gaelic during the white-fishing seasons at home, and largely but not wholly during the herring-fishing season (there was contact with wider markets and with middlemen...). For the women, the work was always tripartite linguistically: that part of the work which was performed among other local fisherfolk [...] called for Gaelic only; that part which required individual movement away from the local fishing community (selling the fish) called for English only, or predominantly; that part which required individual movement away from the local fishing community ('going to the herring' as gutters and packers) called for both Gaelic and English (Dorian, 1981: 75).

Williams describes the distribution of Norman French- and English- language use following the Norman Conquest. Whereas French became the language-of-use in most formal domains, such as government, judicial affairs and education for the majority population, English remained the language-of-use in the home and local affairs (Williams, 1975). Similarly, as Leclerc and Grandguillaume illustrate, French was the language of formal domains in most parts of colonial Africa, despite the fact that few Africans could speak it. Mother tongues were reserved for informal domains (Leclerc, 1986; Grandguillaume, 1990). Thus, the so-called 'prestige' languages tend to be associated with formal domains, and the so-called 'non-prestige' languages with informal domains. Not only is the Other's language designated as inferior, but its use is relegated to domains of activity which lie on the margins of official decision-making processes. These distributions are further indicators of 'status' differences between communities. Rather than attempting to understand why language distributions in certain domains exist, or are claimed, however, the concept of domain merely describes them. Furthermore, this description is considered to constitute an

explanation in itself. As Williams suggests, "the ensuing struggle between language groups tends to be reduced to a situation where formal institutions tend to make individuals increasingly monolingual [...]. The agency here involves formal institutions as a neutral, abstract entity [...]" (Williams, 1992: 103).

Yet the concept of domain is potentially interesting for theorising language rights as sites of struggle. As suggested in the previous chapter, language guarantees tend to be granted on the basis of language use in specified sectors of activity. On the one hand, their designation as formal/informal or official/unofficial, is potentially indicative of power differentials between communities which would be worthwhile examining further. On the other hand, it could be suggested that these sectors of activity are in some way related to the protection of interests of 'minority' and 'majority' communities. The mere enumeration of domains, however, is not sufficient for exploring these possibilities. Instead, it would be necessary to examine the way in which the domains of language use contained in language legislation are linked to struggles for status.

The concepts of diglossia and domain are meant to tell us something about the relationship between language and social context. The social dimension, however, tends to be present only as an implicit. Prestige, superiority and modernity are considered to be attributes of languages. Similarly, formal and informal domains are explained in terms of distributions of language use. There is thus a tendency to reduce the complexity of social relations to language. This reductionism is implied in the term 'language contact' itself which is used to designate this body of literature. Consider the following passage from Appel and Muysken : "Imagine the history of (hu)mankind not as a history of peoples or nations, but of the languages they speak. A history of 5000 languages, thrown on this planet, constantly interacting" (Appel and Muysken, 1989: 1). How though can a history of humankind not be a history of people ? Agency is missing from this conception: languages are used by human actors and these actors are in interaction. It is not languages that come into contact, but the communities which speak them.

In the juridical literature examined above, community is expressed as 'minority' and 'majority'. In the sociolinguistic literature, it is designated primarily as the 'language community' which, in turn, is sometimes further qualified as being 'national', 'majority' or 'minority'. A series of dichotomies is thus set up which bring together the indicators of 'status' differences and the concept of community: majority language communities tend to speak prestige languages and control formal domains of activity; inversely, minority language communities tend to speak non-prestige languages and exercise authority in informal domains of activity.

Generally speaking, however, the conceptualisation of the 'language community' does not enable a theoretical understanding of these status differences. Fishman described the language community as a "neutral term" because, "unlike other societal designations, it does not imply any particular size or any particular basis of communality. A speech community is one, all of whose members share at least a single speech variety and the norms for its appropriate use" (Fishman, 1972b : 22). Labov also emphasised shared norms as the basis of his conception of the language community, but specified that these norms are both linguistic and social (Labov, 1972a). Gumperz proposed that language is a marker of membership in the community: "[the language community is] any human aggregate characterized by regular and frequent interaction by means of a shared body of verbal signs and set off from similar aggregates by significant differences in language usage" (Gumperz, 1968: 219). Three types of criteria are proposed in these definitions: shared language norms, shared social norms, variability in size and in the number of languages spoken by members, and language as a marker of difference between communities. Hudson, although commenting specifically on Labov, suggests that the advantage of such conceptions of the language community is that they are not only based on technically observable language traits that only the "linguist and outsider could know about", but instead also emphasise shared norms which bring individuals to feel a sense of community (Hudson, 1980: 27).

Conceptualising the language community in terms of shared norms and a sense of belongingness could be potentially useful for understanding the role played by language in

the construction of communities. As discussed previously, this aspect is missing from the juridical concept of minority. However, just as the minority tended to be defined by traits in the juridical literature examined, so the sociolinguistic concept of language community tends to be conceived in fixed terms as a static entity identifiable by traits and norms. As Singh suggests, however, the language community is not an undifferentiated whole. Beyond mere differences of language, a critical perspective on language must ask what unites members of a language community and what divides them (Singh, 1996). Singh's statement leads the way to a more dynamic conception of the language community, characterised by fluid boundaries, and in which there may not always be consensus as to the role played by language.

Another limitation of the sociolinguistic definitions of 'language community' above is that they tend to emphasise only the construction of in-group relations. Even Gumperz' conception of language as a marker of difference appears to be defined internally in terms of in-group solidarity. And yet, as the history of language rights has demonstrated, language rights reveal tensions *between* communities. It is this second dimension then, of the language community as a construction of Otherness, that is missing from the sociolinguistic argument. The theorisation of the relationship between communities represents a promising avenue for further investigation which could shed light on the signification of situations of 'language contact' not as contact between languages, but between communities. From this perspective, the qualifiers prestige, superior, inferior, modern, backwards, formal, informal, nation, minority and majority become more than mere descriptors of language differences between communities, but markers of power differentials in the relations between communities structured around language.

The sociolinguistic literature examined provides both strong and weak points for understanding the relationship between community, language and rights. In describing language rights as one form of language politics amongst others, this literature provides a broader framework for investigation than does the juridical literature. At the same time, however, the discipline is characterised by a lack of theoretical depth. Commenting on the descriptive orientation of sociolinguistics, Singh and Lele write: "Guided by a very deeply-

rooted empiricist bias, they assume that the descriptive categories they employ are non-derived primitives and that the facts of the matter ascertained by using these primitives call for no further comment or explanation" (Singh and Lele, 1995 : 61). A critical study of language, as Singh has noted elsewhere, "must begin where the facts of the matter end" (Singh, 1996 : 2). Other authors have also emphasised that description is only an initial stage in the investigative process and it should not be mistaken for explanation (Romaine, 1984 ; Dittmar, 1996). A second stage would necessitate a critical evaluation and theorisation of language rights as social phenomena. As McAll (1992) argues, a more sociological approach must go beyond language to the social relations which underlie it :

La voie de la sociologie du langage, contrairement à celle de la sociolinguistique, est marquée par la priorité accordée à la compréhension des rapports sociaux qui sont 'à l'oeuvre' dans le langage. Ceci donne lieu à un renversement de perspective. Il ne s'agit plus d'explorer des mécanismes langagiers comme tels, mais davantage d'élucider la manière dont les comportements langagiers peuvent nous aider à mieux comprendre les rapports sociaux d'inclusion et d'exclusion, rapports qui se construisent, entre autres choses, *par* le langage (McAll, 1992: 118).

III. Discussion.

What is the potential of the juridical and sociolinguistic literature for contributing to a reflection on language rights as sites of struggle? This potential, as suggested earlier, can be assessed in terms of the way in which these disciplines address the three themes set out in the conclusion to the previous chapter; that is, the meaning attributed to the concepts of 'minority' and 'majority'; the content of language rights and their relationship to other political agendas; and the relationship between language rights claims and the role played by language in the construction and differentiation of communities.

From a juridical point of view, the 'minority' tends to be defined in isolation as a community identified by a certain number of quantifiable traits (language, 'ethnicity', numerical size, geographical situation). Only Capotorti's reference to 'non-dominant status' hints at the possibility of a power relationship between 'minority' and 'majority', although he does not elaborate on the meaning of this relationship (Capotorti, 1991). From a sociolinguistic point of view, the concept of 'language community' replaces those of 'minority' and 'majority'. Once again, however, it tends to be defined in terms of fixed traits and norms which cannot take into account the power relations which construct boundaries between 'language communities'. It is this aspect which will need to be developed in the theoretical arguments of the following chapters. In emphasising the heterogeneity of the 'language community', Singh (1996) also adds another potential avenue for exploration which would mean not only exploring the construction of boundaries *between* communities identified as 'minorities' and 'majorities', but also *within* them.

The second theme, relating to the content of language rights, is present in both the juridical and the sociolinguistic literature examined. Circumscribed by a series of technical distinctions (negative versus positive rights; economic, social and economic versus civil and political rights; individual versus collective rights), the juridical conception of the language right tends to be locked into a closed system of meaning in which 'political obstacles' are conceived as an interference, rather than the basis of the language right. While not denying the pertinence of these categorisations for the juridical sciences, this closure provides too narrow a focus for the present argument. In commenting on the variability of legal norms, Chevrette nonetheless suggests a potential theme for the development of a more sociological perspective which would mean examining the sources of variability which underlie the legal norm, rather than studying the norm itself (Chevrette, 1972). This would imply situating the language right outside of the parameters of a strictly legal framework. In presenting language rights as one form of 'language struggle' amongst others, the sociolinguistic literature does this to

some extent. At the same time, however, its orientation towards describing 'language problems' rather than examining the social dimension of situations in which language is an object of tension remains an obstacle to understanding the meaning of struggle. Missing is an exploration of the relationship between right, law and power, and the way in which language rights are linked to the interests and projects of 'minority' and 'majority' communities.

The relationship between language rights claims and the role played by language in the construction and differentiation of communities, is addressed only in the sociolinguistic literature. One of the most important themes which emerges from this body of work is that of 'status'. On the one hand, it is suggested that language planning promotes the 'status' of communities. On the other, languages and domains of language use are described in terms of 'status' (high/low, prestigious/non-prestigious, superior/inferior, modern, backward). In the first case, the meaning of 'status' tends to be taken for granted; in the second, it is considered to be an attribute of the languages or domains themselves, rather than a potential indicator of power differentials between communities. As was the case above, it is especially this power dimension which needs further elaboration. This would mean examining the meaning of 'status' in relation to language rights claims, and exploring the relationship between language and power which underlies the construction of languages and domains as being 'superior' or 'inferior'. Despite the weakness of its theorisation in sociolinguistics, the concept of domain, which describes the spheres of activity in which language use is promoted and protected in language legislation, could also be of potential interest for identifying the 'spaces' in which struggles for status between language communities are played out.

This discussion of the contributions and limitations of juridical and sociolinguistic literature for conceptualising language rights makes it possible to define more closely the specificity of a sociological reflection on the object. In the juridical literature, the meaning of language rights is defined within the confines of law-as-system; in the sociolinguistic literature, within the confines of language-as-system. In both cases, there is a tendency to limit the meaning of

language rights to explanations in which social actors and social relations are evacuated. This limitation opens up a space for a sociological argument. More specifically still, it is the power dimension of relations between social actors which would enable a more sociological understanding of language rights. This dimension is brought out in the theoretical arguments of Section II. Chapter 3, on the relationship between community, law and rights, further examines the 'sociological content' of rights claims to language and the concepts of 'minority' and 'majority'. Chapter 4, on the relationship between language, power and community, explores the language dimension of these claims: the meaning of 'language' in relation to 'minority' and 'majority' and the role of language in the construction and differentiation of communities. Chapter 5 brings these observations together and proposes a theoretical model for understanding language rights as sites of struggle which is applied to the case-study of Quebec in the final section of the thesis.

SECTION TWO :

**SOCIOLOGICAL CONTRIBUTIONS TO UNDERSTANDING
LANGUAGE RIGHTS**

Chapter 3.

Rights, Power and Community:

a Law-in-Action Approach to Language Rights.¹

La langue est le droit le plus essentiellement propre du peuple, la manifestation la plus nette de son caractère, le lien le plus fort de sa culture commune. Aussi, l'État n'a-t-il pas le droit d'arracher à un peuple son idiôme, ni d'en interdire les progrès et la littérature. Il doit au contraire l'encourager avec bienveillance en tant que les intérêts généraux de la civilisation le permettent (Bluntschli, quoted in DuParc, 1922: 35).

This statement, pronounced in the period surrounding the adoption of the Austrian constitution in 1867, illustrates well the way in which a rights discourse has been grafted onto a discourse of language and community. As suggested in the previous chapter, the meaning of the language right necessarily extends beyond the strictly technical definitions provided from a juridical point of view, described by Freund as "celui du silence du droit, puisque tout y est résolu et que toutes les tensions sont niées" (Freund, 1971: 21). It is necessary instead to place these 'negated tensions' at the centre of investigation. Two avenues of reflection for expanding on the 'rights' dimension of language rights were suggested in the previous discussion: the relationship between status, language and right, and the meaning attributed to minority and majority as communities structured around status differences. These two themes set the parameters for the discussion below.

What constitutes a sociological approach to understanding law and rights? This question has been addressed to some extent in the field of the sociology of law. As Carbonnier argues, there is not one, but many sociologies of law (Carbonnier, 1978). There is, nonetheless, a common denominator to this work which can be described as

¹ In French in source text.

an attempt to break away from the dogmatism of legal positivism. Whereas a juridical perspective analyses juridical phenomena from within the system of law, the second analyses it from without (Carbonnier, 1978).

Weber also makes this distinction. The jurist, he argues, takes the empirical validity of legal propositions for granted and “tries to determine its logically correct meaning in such a way that all of them can be combined in a system which is logically coherent” (Weber, 1978 : 312). As for the sociologist, s/he is not so much interested in the set of logically ordered norms, but in the “complex of actual determinants of human conduct” behind these norms (Weber, 1978 : 312). Weber’s approach to law is described by Rocher as ‘law-in-action’ ; that is, an approach which places emphasis not on legal norms, but on social action and social actors behind the norms (Rocher, 1988). In the literature on language rights examined previously, the actors – the ‘minority’, ‘majority’ -- played silent roles only. Broadly speaking, the following discussion is situated in this perspective of law-in-action, the objective being to bring the actors back into focus in the conceptualisation of the relationship between right and language.

I. Law, Rights and Status.

A. Language Rights between Right and Law.

In the sociolinguistic literature, the typologies of Cobarrubias (1983), Daoust and Maurais (1987) and Leclerc (1986) described different types of language rights ranging from rights guaranteed in official documents (laws or other policies), to rights based on the toleration of existing language practices, to the prohibition of such practices. These typologies situate the ‘right’ to language outside of a strictly legal framework, implying a distinction between ‘right’ and ‘law’. What meaning should be given to this distinction?

The relationship between 'right' and 'law' is an important object of philosophical debate². While it is not my intention to enter into this debate, Villey provides a reading of this distinction which is useful for operational purposes. Law, he suggests, refers to the body of rules and normative texts which make up a legal order. Rights, however, have a broader meaning. They are advantages attributed to individuals; they are also ideals, "modèles de la réalisation de la liberté [...] et de l'égalité" (Villey, 1990 : 12).³ For operational purposes, Villey's distinction between law as rules and norms, and rights as advantages and ideals, will be maintained in the following discussion. Non-right will refer to situations characterised by the denial of advantage.

Commenting on the relationship between right and law, Villey argues further that rights are declared in law: "ils [human rights] se présentent comme inférés d'une idée de 'l'homme', les lois ne font que les 'déclarer'" (Villey, 1990 : 25). This statement suggests that there is a positive relationship between right and law; that is, that rights are necessarily confirmed in law. It could be argued, however, that there is not always perfect congruence between right and law. Minority language rights, for instance, are specifically denied in Turkey's Constitution and law on publications (cf. Billig, 1995; Leclerc and Maurais, 1994). In this case, right is denied in a legal document. Freund introduces a distinction which clarifies this situation to some extent. Law, he suggests, has two functions, one conservative and the other reform-oriented. As a conservative force, law is an instrument which maintains and reinforces the status quo; as a reforming force, it is a potential mechanism of change, an instrument of struggle (Freund, 1971). In the first case, advantage may be legitimised in law as the right of the few to maintain a monopoly of control over certain resources. The right of the few, in this case, can be understood inversely as the non-right of those who are outside of the

² See, for instance, the collection of texts on ethics and basic rights edited by Lafrance (1989).

³ As Villey (1989) comments, this distinction is more easily made in the English language than in the French language. In French, the term *droit* can correspond to either the English *right* or *law*. Consequently, the phrase "les droits fondamentaux sont le fondement même du droit" in French has a certain tautology to it. In English, the same phrase, "rights are the foundation of law" brings us closer to the meaning looked for here.

select circle. Applied to the Turkish laws, advantage is restrained to the dominant community and denied to 'minorities'. In the case of the reform function of law, advantage may be inscribed in law as the right of the many ; that is, motivated by the ideal of extending the control of resources to categories of individuals previously excluded from control. In both cases, Freund argues that law must be understood as mediation, as the product of a dialectical relation between law and politics (Freund, 1971). These themes are also addressed in literature on citizenship and status, which is of particular interest for understanding language rights as a specific form of right.

B. *The Citizen and the Stranger : a Dialogue Around Rights.*

i. Language Rights as Citizenship Rights.

Drawing on a Weberian argument, Dahrendorf proposes that citizenship is an idea based on the rights and advantages of certain categories of individuals (Dahrendorf, 1974). It is, on a global scale, a *Rechtsgemeinschaft*, or community of law⁴, in which members are granted rights of participation in the community. In Weberian sociology, these rights are accorded on the basis of *status* in the community whereby membership is determined by "birth, political, ethnic, or religious denomination, mode of life or occupation" (Weber, 1978 : 695-6).⁵ Weber considered status law to be the predominant form of law prior to capitalism, its *raison d'être* being the maintenance of hierarchy and hereditary privilege. With the rise of capitalism, Weber argued that the focus of law shifted from status to contract ; that is, to law based on

⁴ The concept of *Rechtsgemeinschaft* will be addressed more specifically in the second part of the chapter.

⁵ The status group in Weber refers to a "plurality of persons who, within a larger group, successfully claim a) special social esteem and b) status monopolies" (Weber, 1978 : 306). Class, in Weber, was not opposed to status, but complementary to it : "status *may* rest on a class position [...] However, it is not solely determined by it" (Weber, 1978 : 306).

market transactions. Status law did not cease to exist as a form of law, but its importance was superseded by contract.⁶

Contemporary authors have proposed that the structural transformation from laissez-faire capitalism to the welfare state has created a new shift back to status; that is, where rights are increasingly claimed on the basis of ascriptive criteria (Dahrendorf, 1974 ; Rehbinder, 1971 ; Turner, 1986 ; 1988 ; Leca, 1991). The new status citizenship, however, is no longer based on hereditary privilege, but rather on rights claims to social mobility (Rehbinder, 1971 ; Turner, 1988). Commenting on 'ethnic' minorities and claims to status rights, for instance, Turner writes that,

[...] disadvantaged ethnic minorities do not simply or necessarily acquiesce in their subordinate position but clearly organize themselves to promote and improve their position in society. That is, minority groups appeal to citizenship rights in order to draw attention to their disadvantage on the basis of their ascriptive ethnic status (Turner, 1988 59).

As ideals, claims for status rights are thus about struggle (cf. Giddens, 1982). They are about the extension of advantage and changes in the power relations in place ; they are, to borrow Freund's distinction above, reform-oriented (Freund, 1971). The status basis of the new citizenship is also described as being multidimensional: rights claims are demanded on the basis of any number of ascriptive criteria, such as gender, ethnicity, sexual orientation, physical handicap. As Leca writes, contemporary society has witnessed "l'éclatement de la citoyenneté en une série de groupes d'appartenances plus immédiats [...]" (Leca, 1991 : 328).

Borrowing from Iris Marion Young, Kymlicka refers to status rights as forms of "differentiated citizenship"; that is, as claims to the distinctiveness of certain groups within an overall framework of common citizenship. He also identifies three

⁶ The distinction between 'status' and 'contract' was first proposed by Sir Henry Sumner Maine. (1861). *Ancient Law : Its Connection with the Early History of Society and its Relation to Modern Ideas*.

interrelated types of “differentiated citizenship”: rights to political autonomy, ‘polyethnic’ rights, and rights of special representation (Kymlicka, 1996). The first refers to the right of a group to self-government, the second to the legal recognition of ‘ethnic’ and religious groups and measures for promoting difference (bilingual education, ethnic studies programs), and the third to measures intended to redress the under-representation of these groups in spheres of political activity. This latter form of right could also be applied to the under-representation of groups in other sectors of activity, such as the workplace, although Kymlicka does not specifically make this point.

Although language rights *per se* are not specifically addressed in the studies examined above, they can also be understood as status rights. As with other forms of status rights, language rights are attributed to groups identified by ascriptive traits, language in this case. They can also be situated in Kymlicka's typology of the rights of ‘differentiated citizenship’. As rights associated with the so-called ‘national’ minorities, they are often tied in with claims to political autonomy (type 1). At the same time, they are also rights based on claims to cultural difference (type 2) and on claims for combating under-representation in certain sectors of activity (type 3). Most importantly, as Fenet suggests in his examination of the rights claims of ‘national minorities’, these rights are about social mobility of communities within the nation-state. They are thus claims defined in terms of struggle against domination :

The [minority] demand is a moment of truth to the extent that it emanates from the group itself and denounces the reality of the group's domination [...] By making the demand, the group is rejecting the definitions and limits that enclose it in its dominated situation. It is at last speaking out. It used not to have the right to, or, if it did, it could only do so in the manner authorized by the majority. By its autonomous demand, the minority reveals its existence and its potential power (Fenet, 1990 : 31).

At the same time, the mere fact that these groups demand recognition in law is indicative of existing inequalities. Status rights are thus claims against the denial of

status or advantages. Commenting on human rights more generally, Elbaz and Murbach suggest that if there were concordance between the ideal and the practice of these rights, then their protection in law would be superfluous (Elbaz and Murbach, 1991). Argemi also makes a similar point with respect to language rights:

Aujourd'hui, il est vrai, tout le monde peut invoquer des principes universellement reconnus – du moins en théorie – concernant les droits de n'importe quelle personne à utiliser sa propre langue. Pourtant, si nous devons insister encore sur la nécessité de respecter les droits linguistiques c'est parce que nous sommes confrontés à des situations où ces droits sont plus ou moins bafoués (Argemi, 1992: 479).

Thus, claims to the 'right' to language reflect the fact that the community is the victim, in some way or another, of a situation of non-right. This juxtaposition of right and non-right is itself indicative of a fundamental paradox of citizenship which reveals at once processes of inclusion and exclusion.

ii. Citizenship as a Discourse of Inclusion and Exclusion.

Who is, and is not, a citizen – or the 'haves' and 'have nots' in terms of access to the rights of citizenship – has become a question of significant social science interest in recent years (cf. Colas, Ereni, Zylberberg, 1991; Gagnon, McAndrew, Pagé, 1996). These processes of inclusion and exclusion can be traced in the history of the idea of citizenship. Kaplan (1991) and Miller (1987) describe this history in three stages: during the classical period of the Greek and Roman Empires, the Middle Ages and the period of the American and French Revolutions.

In the Greek and Roman city-states, the citizen was *He* who had the right to participate in the affairs of the city. The use of the word *He* here is intentional, since

women were not citizens by right⁷, nor were slaves, nor foreigners nor aliens (Kaplan, 1991 ; Miller, 1987). Writing on language in the Roman Empire, Leclerc suggests that the knowledge of Latin was necessary for enjoying the rights of citizenship: “[...] les personnes qui aspiraient à la citoyenneté romaine de plein droit devaient adopter les habitudes, le genre de vie, la religion et la langue de Rome. C’étaient là les conditions pour bénéficier de tous les avantages de la citoyenneté romaine, indispensable à qui voulait gravir les échelons de la hiérarchie sociale” (Leclerc, 1986: 389). By extension, the non-citizen, the excluded, the stranger was also s/he who did not speak the language of the rulers. As suggested previously, this stranger was the Barbarian; that is, s/he who spoke in another tongue (cf. Eco, 1995; Calvet, 1987).

In the Middle Ages, citizenship referred to the right of those who were members of free-towns or cities (Kaplan, 1991), but the walls of the city (McAll, 1995) constituted at once physical and sociological barriers to full participation. Wirth’s account of *The Ghetto* illustrates well the plight of the Jew in the medieval city (Wirth, 1956). Forced to live on the peripheries of the city walls, the Jewish community is described as a community without right. Similarly, Kafka’s *The Castle*, a novel which situates us paradoxically in the medieval city and the modern state at the same time, has been analysed by Arendt as a commentary on the limits of citizenship. K, the protagonist of the novel, is a stranger to the walled city (Arendt, 1978). He lives in the village at the base of the castle and each day attempts to gain access to the castle. His attempts, however, are futile and he dies, frustrated and exhausted, never having acquired the right to accede beyond the walls. K, like the barbarian, was the non-citizen, the stranger, the excluded.

The discourse on the citizen was renewed during the French and American Revolutions under the banner of freedom and equality for all (Kaplan, 1991; Miller, 1987). The French Revolution marked the struggle of the people against the aristocracy and aristocratic privilege. According to Kaplan, men and women were no

⁷ Participation in the city-state was considered an affair of politics. Women were not considered capable of understanding political issues.

longer to be designated by 'Monsieur' or 'Madame', but by 'Citizen' (Kaplan, 1991). Language too played a role in this re-definition of the citizen. The French language was promoted as the citizen's language: "la langue française est devenue l'idiome de la liberté; elle doit être cultivée avec soin par tous les hommes libres. Les Grecs appeloient barbares les peuples qui ne parloient pas leur langue on donnera un jour ce nom au français qui ne parlera pas bien la sienne" (Domergue cited in Brunot, 1967, IX[9]: 196). These 'français' who couldn't speak the citizen's language were the Basque, Breton, Catalan, Corse, Flemish and Occitan communities. As Balibar and Laporte suggest, these 'patois' speakers constituted a threat to the bourgeois revolutionary programme. Consequently, the language of 'liberty' was imposed on them by means of repressive measures which forcibly sought their assimilation (Balibar and Laporte, 1974). These measures demonstrated the limits of the new revolutionary ideal of citizenship. As E. Weber writes, there "can be no clearer expression of imperialistic sentiment: a white man's [...] Francophony whose first conquests were to be right at home" (Weber, 1976: 73).

A similar relationship between language and citizenship also formed part of the American revolutionary discourse. No longer 'subjects' of Great Britain, Americans had been written into the U.S. Constitution as 'citizens' (Kaplan, 1991). As Weinstein suggests, the creation of an American English distinct from British English was justified by a discourse of equality. Simplified grammar and orthography brought written English closer to spoken English, thus allowing greater accessibility to language and literacy; this was the linguistic pendant to the theme of 'Equality for All' (Weinstein, 1982: 91). At the same time, however, Baron demonstrates the hidden agenda behind the discourse on citizenship, namely the assimilation of America's minority language communities (Baron, 1990). This intention is implied in the following passage from the early nineteenth century:

We recommend to all German and other emigrants [...] instead of wishing to cherish and keep up their peculiarities of language and manners, to get over and forget them as soon as possible; remembering, that from the days of the tower of Babel to the present, confusion of tongues has ever been one of the most active causes of intellectual and political

misunderstanding and confusion (Edward Everett, 1820; cited in Baron, 1990: 77).

In these examples, minority language communities lived on the margins of citizenship.

As suggested in the previous section, the twentieth century has been marked by a renewed discourse on citizenship. This citizenship is characterised by the proliferation of claims to right by groups identified by ascriptive criteria. Despite the acknowledgement, in principle, that sectoral groups can claim rights based on their specificity (language, ethnicity, gender, class, physical handicap), several authors have argued that there is a reluctance by states to recognise the plural character of contemporary societies (Leca, 1991a, 1991b; Arendt, 1968; Watney, 1990; Hall and Held, 1990). This was already demonstrated in relation to the limited guarantees granted to minorities in international and state law. Turner also suggests that there is a tendency by states to restrict status claims of minorities to a 'cultural' dimension; that is, to placate group demands with token measures for 'cultural' preservation (folkloric programmes), rather than measures which foster social mobility (Turner, 1988).

The idea of citizenship is thus characterised by a dual logic: on the one hand, it invites groups to claim rights on the basis of difference (status rights), on the other hand, it restrains these rights. This second logic, according to several authors, draws its legitimacy from the assumed principle of the homogeneity of the nation in which differences are negated (Leca, 1991a, 1991b; Arendt, 1968; Watney, 1990; Hall and Held, 1990). Arendt expresses this idea:

The reason why highly developed political communities, such as the ancient city-states or modern nation-states so often insist on ethnic homogeneity is that they hope to eliminate as far as possible those natural and always present differences and differentiations which by themselves arouse dumb hatred, mistrust, and discrimination because they indicate all too clearly those spheres where men cannot act and change at will, i.e., the limitations of the human artifice. (Arendt, 1968 : 181).

Some authors, such as Dahrendorf, caution against the dangers of the fragmentation of citizenship into multiple spheres of belongingness : “there are limits beyond which sectoral citizenship must not be allowed to go so we avoid an ungovernable fragmentation [*sic*] [...]. There is, in other words, a suicidal strain in the Citizen, a death drive which is very evident today” (Dahrendorf, 1974 : 698-699). Other authors, such as Kymlicka, argue inversely that the recognition of the specificity of sectoral groups, such as 'national minorities', represents a new form of inclusion by redressing a situation of exclusion and inequality. He writes,

De manière générale, il me semble que la revendication des droits de représentation et les droits polyethniques constituent une demande *d'inclusion*. Les groupes qui se sentent exclus souhaitent être inclus dans l'ensemble de la société; la reconnaissance de leur 'différence' et les accommodements sont destinés à le faciliter [...]. Malgré tout, la motivation fondamentale sous-jacente aux droits de représentation s'avère être l'intégration et non la séparation (Kymlicka, 1996: 44).

Watney also comments on the exclusionary dimension of citizenship, suggesting that institutionalised political systems tend to “deny rights to those whom they perceive as their adversaries, or whom they have been unable to recognize as *having* rights in the first place. Thus the fields of race relations, trade unionism and sexual politics, have been especially contested areas [...]” (Watney, 1990 : 160). Similarly, Hall and Held (1990) suggest that instead of talking about citizenship, we should talk about the *politics of citizenship* and the way in which certain groups are excluded from the rights of citizenship. The French term 'citoyenneté' can be contrasted with the term 'mitoyenneté', meaning a partition wall which separates properties: whereas in theory the rights of citizenship unite, in practice they also divide. The 'politics of language rights', alluded to in the previous chapters, also reveal this tension between claims to status and denial of status; between right and non-right. Calvet offers an example of non-right from the Dominican Republic in which language was used to distinguish immigrant Haitian workers from Dominican

workers. According to one version of the story, the police asked the workers to pronounce Dictator Trujillo's name. For the Spanish-speaking Dominican workers, this was not a problem. The French and Creole speaking Haitian workers, who had difficulty pronouncing the 'j', were thrown out of the country. In a more extreme version of the story, the workers were asked to pronounce the word 'perro' (dog). The Haitian workers who, mispronounced the word as 'pego' instead, were executed (Contenté, 1978; cited in Calvet, 1987: 41).

The intention of this very rapid account of the stages of citizenship was to illustrate that, throughout its history, the idea of citizenship has signified both processes of inclusion and exclusion, of rights of participation and non-rights of participation. On the one hand, citizenship invites political participation. It is in this invitation that claims to status rights have become conceivable. On the other hand, the reform-orientation of status movements is often short-circuited by the conservative function of law which reinforces the status quo and the advantages of those in power.

iii. The Paradox of Citizenship.

The basic paradox of the citizen can be summed up in a semantically ambiguous phrase as 'equality for all, but not equally for everyone'. There is thus a tension in the idea of citizenship and claims to status rights. This tension can be further explored in a series of rights principles which structure the discourses on citizenship: formal equality versus substantive equality, liberalism versus social democracy, the individual versus the collectivity.

Opposed in the debates over status rights are two types of equality: formal equality and substantive equality. Formal equality means that individuals have equal access to the means of personal achievement and satisfaction (Turner, 1986). It is the principle, for instance, that members of minority and majority communities are equally

free to choose the employment that they wish. In practice, this type of equality is itself fundamentally unequal. Marshall demonstrated this inequality in the domain of education. Formal equality in the domain of education may eliminate some forms of inequality since education is theoretically open to all, rather than only to those with hereditary or aristocratic privilege. At the same time, however, education operates as an instrument of social stratification. Financial means, family support (and so on) are significant constraints on the right of everyone to an equal education, especially higher education. Furthermore, inequality in the educational domain has a cumulative effect on other spheres of activity, such as access to the job market (Marshall, 1965). Formal equality *in theory* thus may breed inequality *in fact*: the mechanisms which allow for formal equality serve to reinforce existing inequalities. To borrow an analogy cited by de Witte, the only merit of formal equality is that it equally prohibits both the rich and the poor to sleep under bridges (de Witte, 1992). Marshall himself believed that some inequality could be tolerated insofar as there are overall gains in society as a whole. Marshall has been criticised on this point, however, for having presented the rights of citizenship as part of an evolutionary schema in which inequality becomes part of the natural order of things (cf. Giddens, 1982).

Substantive equality is more radical, calling for the redistribution of wealth and resources irrespective of individual achievement. It is thus the recognition that not all individuals and collectivities start out equally (Turner, 1986). Status rights which, in principle, are inspired by this logic, are associated with interventionist measures to combat inequalities. They represent the acknowledgement that some people do live under bridges and that substantive measures are needed to turn bridges into housing and garbage bins into food banks. It is also this logic which, in principle, underlies the right to language; that is, language rights as a means of redressing inequalities faced by the 'minority language community'. Formal and substantive equality can be paralleled with the distinction made in Chapter 2 between negative and positive rights. Negative rights are defined by policies of non-intervention: these are the non-discriminatory clauses in international and state law (no one shall be discriminated against on the

basis of gender, sexual orientation, ethnicity, racial characteristics, language and so on). Intervention occurs only when these rights have been broken. Inversely, positive rights are policies of intervention ; these are clauses which guarantee the active promotion of certain categories of persons, such as language minorities. Intervention, in this case, is related to the active pursuit of equality rather than its abstract acknowledgement. As demonstrated earlier, there has been substantial resistance in both international and domestic law with respect to the granting of positive rights. As de Witte argues, the restraint of language rights is often justified by discourses on formal equality. He argues further that these discourses tend to mask assimilationist practices and policies. He writes:

L'égalité est souvent superficiellement présentée comme un principe justifiant l'assimilation des minorités linguistiques à la norme linguistique majoritaire. C'est là méconnaître que l'égalité peut demander aussi bien une assimilation qu'une différenciation et qu'en matière linguistique, c'est bien cette dernière fonction qui est essentielle (de Witte, 1992 : 56).

Thus, discourses of formal equality tend to reinforce the advantages of the dominant community by limiting minority recognition to abstract principles rather than encouraging concrete measures of promotion.

The resistance towards more substantive forms of equality with respect to language rights also reveals two contrasting logics of democracy : liberal on the one hand, and social-democratic on the other. As Rocher suggests, liberalism places emphasis on the liberty of the individual and laissez-faire policies (Rocher, 1991). It is the idea "of free and equal citizens who are to act and be treated independently of the collective labels that may [be] attach[ed] to them" (Riha, 1996 : 2). The liberal discourse on the rights of citizenship has been described by Schnapper as an 'empty space' (*lieu vide*), "un lieu abstrait de pouvoir qui ne se confond avec aucune personne concrète, un lieu de pure représentation" (Schnapper, 1994 : 95). It is an exclusionary discourse which, in the name of some abstract notion of equality, reproduces further inequalities.

Inversely, social-democracy promotes the active pursuit of equality, that is, substantive equality (Rocher, 1991). It is this logic which underlies the ideal type of language rights and other status rights. In its pure form, it is a discourse structured around the community and the extension of rights beyond the 'empty spaces' of formal rights. This pure form, however, has tended to be adulterated by the pervasiveness of the liberal doctrine in contemporary society. As Pietrantonio suggests, despite the fact that the rights of the welfare state lean towards a more social-democratic doctrine, they are nonetheless still firmly anchored in their historical attachment to liberalism (Pietrantonio, 1996). Turner makes a similar observation:

While governments in liberal democracies officially claim to promote social rights, it is clearly the case that these societies are massively unequal [...] While governments may seek to promote equality of opportunity [formal equality], they do not within a liberal political framework generally seek to guarantee equality of outcome [substantive equality]. There is therefore a contradiction or tension between the ideology of equality and the experience of inequality (Turner, 1988 : 43).

This same tension is manifest in the distinction between individual and collective rights. This distinction has already been examined from a juridical point of view⁸: an individual right is considered to be a right granted to the individual as a member of a collectivity; inversely, a collective right is a right granted to the community as a whole (Braën, 1987). In both international and domestic law, individual rights have tended to predominate over collective rights in the domain of language. As Rocher suggests, this predominance also reflects the fact that law in contemporary western societies is very strongly tainted by liberalism (Rocher, 1991). Historically, he argues, liberalism has played an important role in extending rights beyond aristocratic or hereditary privilege. In this sense, liberalism has represented a great step forward for society. At the same time, however, it tends to negate the

⁸ See Chapter 2.

collective basis of rights (Rocher, 1991). McDonald describes three forms of negation which emerge in debates on minority rights: collective rights are ignored completely, they are regarded as cultural *curiosities* or marginalia, or they are identified as dangerous *illusions*. "The net result", he writes, "is to treat collective rights as an esoteric concern affecting only a few fringe groups; indeed one can easily be left with the impression that collective rights are marginal rights for marginal peoples" (McDonald, 1989 : 231). McAll argues further that the negation of the collective basis of rights merely masks the fact that inequalities are also constructed by collectivities :

Si nous faisons une sorte de rétro-projection à partir de la constitution juridique, nous pouvons arriver à la conclusion que les inégalités sont construites plutôt collectivement qu'individuellement. Les chartes des droits canadienne et québécoise, par exemple, font valoir que toute discrimination fondée sur le sexe ou sur l'appartenance ethnique ou 'raciale' est interdite, ce qui équivaut à la reconnaissance de l'existence de pratiques discriminatoires fondées sur ces appartenances catégorielles, sinon on n'aurait pas pris la peine de les interdire (McAll, 1995 : 82).

Walzer also examines the relationship between rights and the collectivity. He suggests that rights are constructed around the idea of 'social goods' (Walzer, 1983; 1994).⁹ Within any given society, there are a plurality of communities whose existence is structured around the idea of shared social goods, thus forming what Walzer refers to as 'multiple spheres of justice'. Rights claims are based on the conception that communities have of the 'social good'. Rather than conceiving of rights claims as inherently good or bad, Walzer introduces the relativist argument that all claims are valid within the boundaries of the particular 'sphere of justice' :

[Groups] marked off by their principles and possessions compete with one another, struggling for supremacy. One group wins, and then a different one, or coalitions are worked out, and supremacy is uneasily shared. There is no final victory, nor should there be. But that is not to say that the

⁹ These include value-based goods such as honour, knowledge and rewards, and material-based goods such as food, shelter, medical care and commodities (Walzer, 1983 : 3).

claims of the different groups are necessarily wrong, or that the principles they invoke are of no value as distributive criteria ; the principles are often exactly right within the limits of a particular sphere (Walzer, 1983 : 12).

Walzer's argument has also been applied to the distinction between individual and collective rights (McDonald, 1989 ; Réaume, 1989 ; Elbaz and Murbach, 1991). According to Elbaz and Murbach, this distinction is a fiction, since all rights are based on some form of collective belonging. What is important, they argue, is not some arbitrary distinction between the individual and the collectivity, but rather the character of the 'social good' as the basis of rights claims. The social good, according to McDonald (1989), is constructed around a *nomos*¹⁰, or narrative, which is the expression of a group's particular historical trajectory. Thus, the individual is always situated within a 'sphere of justice' (Walzer, 1983) defined by a shared *nomos*, or conception of the right as social good. From this point of view, even juridical claims to individual rights must be interpreted according to the narrative around which the collectivity is structured. What, for instance, is the 'social good' promoted or protected by the claim to individual rights ?

Applied to language rights, there has been a tendency in both international and domestic law to individualise these rights. From a sociological point of view, however, the logic behind the individual right is itself a construction of the collectivity, or *nomos*, to borrow McDonald's term. In this sociological sense, the individual right to language is a fiction (cf. Elbaz and Murbach, 1991) and the objective of analysis would be to identify the collective reasoning which underlies claims to individual language rights.

¹⁰ This argument is attributed to Robert Cover who defines *nomos* in the following way : "We inhabit a *nomos* – a normative universe. We constantly create and maintain a world of right and wrong, of lawful and unlawful, of valid and void [...] No set of legal institutions or prescriptions exists apart from the narratives that locate it and give it meaning. For every constitution there is an epic, for each decalogue a scripture. Once understood in the context of the narratives that give it meaning, law becomes not merely a system of rules to be observed, but a world in which we live" (Cover, cited in McDonald, 1989 : 236).

C. *Discussion: Language Rights as Status Rights.*

Beyond the technical distinctions introduced in juridical literature, it is possible to consider language rights as a form of status rights. These are rights granted to communities identified by ascriptive criteria, language in this case. The foundations of rights claims, however, are not embedded in these criteria in a positivist sense; that is, their meaning is not intrinsically linked to the language traits themselves. Instead, status rights are rights to the social mobility of these communities. Following Kymlicka, these rights may be expressed in terms of the claim to political autonomy, acknowledgement of cultural difference and measures to redress inequalities in specified spheres of activity (Kymlicka, 1996).

This conception of status rights is an ideal; it represents, to borrow Villey's terms, a model for the realisation of equality (Villey, 1990). This ideal, however, may be constrained in different ways. It may be limited in law, through incomplete legal guarantees, the explicit denial of rights in legal documents, or incongruencies in the interpretation and application of law. It may also be limited in practices which impede a community's right to social mobility, with language as its justification. Language rights are thus constructed in the tension between the extension of advantage and the restraint of advantage. This tension, as suggested in the last section, finds its expression in conflicting discourses on the rights principles underlying claims to status. These discourses can be set up as ideal types:

Substantive Equality	Formal Equality
Social Democracy (interventionism)	Liberalism (laissez-faire)
Collectivity	Individual

The rights principles listed in the left-hand column tend to be more reform-oriented, corresponding to movements for the extension of rights and advantages based on the real or perceived exclusion of certain groups within certain sectors of social life. Inversely, those in the right-hand column tend to be more conservative, corresponding generally to the adoption of abstract principles on equality, rather than substantive measures for combating inequalities. These rights principles, however, do not exist in a vacuum. They do not constitute absolute truths, but are themselves social constructions which reveal real interests. As proposed in the introduction to the chapter, the interest of a sociological approach to law lies especially in the social action which underlies these discourses. Interests are attached to actors. It is time to bring back the actor and to situate these tensions in the construction of communities around right.

II. Bringing Back the Actor: Community, Right and Law.

In the juridical literature examined previously, these actors were identified as the 'minority' and 'majority'. Their conceptualisation, however, tended to be restrictive. Identified by observable traits and characteristics, they were presented as static entities. Furthermore, there was a tendency to present 'minority' and 'majority' in isolation, rather than in relation, as if their boundaries were hermetically sealed. The objective of this section is to look more closely at the construction of communities around rights and law, taking the minority/majority distinction as the focus of reflection. Sociological literature on legal pluralism provides some possibilities for this purpose in its conceptualisation of communities as legal orders and in its examination of the power relations which structure interaction between orders. The potential of this conceptualisation is examined here, followed by a discussion on the sociological meaning of 'minority' and its implications for an understanding of language rights as sites of struggle.

A. *Pluralism and Juridical Spaces: Minority and Majority as Communities of Law.*

Generally speaking, theories of legal pluralism situate the signification of juridical activity in the dynamic interaction of groups in society. As Belley writes,

S'appuyant sur l'observation de la pluralité des groupes sociaux qui s'immiscent entre l'individu et l'État, les pluralistes réclament la reconnaissance de la fonction indispensable des groupes et défendent la légitimité de leur participation effective à la souveraineté politique dans les limites de leurs activités respectives (Belley, 1977).

The principal argument behind legal pluralism is that within any given society, at any given time, there are a plurality of *juridical spaces* (Carbonnier, 1978). These *spaces*, which may be overlapping, are occupied by collectivities, each with their own juridical,

economic, political and social agendas. The concepts of 'legal order' or 'jural order' are central to this argument. As Rocher suggests, a sociology of law must at the same time be a sociology of legal orders. To what extent is it possible to conceive of language minorities and majorities as constituting 'legal' or 'jural' orders occupying distinct juridical spaces? What is the potential of this argument for understanding the status differentiation of minority and majority?

i. From 'Ethnic' Community as Legal Order to 'Minority' and 'Majority' as Legal Orders.

Rocher describes legal orders as units of social action ('nation', organisations, groups) characterised by 1) rules and norms which are binding for its members ; 2) agents or apparatus' recognised within the collectivity as being responsible for elaborating, modifying, interpreting or applying rules and norms ; 3) the acceptance of the authority or legitimacy of these agents and apparatus' within the collectivity ; 4) the possibility that different agents may be involved in juridical activity in different ways ; 5) a certain stability over time (Rocher, 1988).

From this point of view, Rocher suggests that the 'ethnic'¹¹ community could constitute a distinct legal order. He cites the Jewish community, with its system of rabbinical courts, as an example. As legal orders, 'ethnic' communities must meet certain basic organisational criteria:

[...] ses règles et normes et certains membres de la communauté sont reconnus plus ou moins explicitement comme interprètes de ces règles et comme médiateurs, négociateurs ou juges pour régler les conflits, les disputes, les mésententes. Il existe ainsi un ordre juridique interne à ces communautés, qui ne vaut que pour leurs membres et que pour régler les interactions qu'ils ont entre eux (Rocher, 1988 111).

¹¹ The signification of the term 'ethnic' will be addressed more specifically in Chapter IV on the language-nation relationship.

Rocher's argument is complemented by Breton's (1964 ; 1974 ; 1983) work on the 'institutional completeness' of 'ethnic' communities in which he explores the "organisational capacity [of ethnic groups] for concerted action" (Breton, 1974 : 3). For Breton, this organisational capacity involves networks of communication, authority structures, means of social control, autonomy of the community *vis-à-vis* external control of other communities, consensus within the community, and institutional organisation (e.g. religious, cultural, political associations controlled by the community). It is this capacity for organisation which determines the extent to which communities will intervene in 'social bargaining processes' (such as language rights debates) and the degree of threat or power which they exercise in their relations with other communities. While Breton does not use the concept of legal order *per se*, the criteria of institutional completeness corresponds broadly to Rocher's defining criteria for the legal order.

Already, this conception of minority and majority takes us beyond a strictly juridical definition. More than just descriptive categories, minority and majority are conceived as communities comprised of actors, networks of exchange and a minimal degree of organisational structure. At the same time, however, there are some limitations to these arguments for an understanding of the relationship between community and right. First, both conceptions emphasise the internal construction of communities, which doesn't allow for an understanding of the relationship between minority and majority. Second, these conceptions are very much based on the capacity of communities for formulating and implementing rules and norms. Recalling the distinction between law and rights presented earlier, this can account for the law-dimension (e.g. formulating language rules and norms), but not necessarily for the rights-dimension (e.g. conflicting ideals of right which underlie these rules and norms).

ii. Law and rights as a 'clash and balance' of actors: Georges Gurvitch.

Georges Gurvitch presents a dynamic perspective for understanding juridical activity. For Gurvitch, an approach to legal pluralism has to take account "[...] of the living law, of the spontaneous law in action, of the flexible and dynamic law [...]" (Gurvitch, 1973 : 7). The potential for creating law, or 'jural fertility' in Gurvitch's terms, exists in all forms of social relations ranging from unorganised interaction between individuals ('forms of sociality'), to groups and organisations¹², to global social units such as states ('all-inclusive societies'). The 'fertility', or eclecticism, of Gurvitch's approach has been greatly criticised because almost anything becomes law (Timasheff, 1957 ; McDonald, 1979). This critique, I believe, is a valid one. In the discussion above on the individual and collective basis of law, for instance, it was argued that all law necessarily has a collective basis.¹³ From this point of view, the suggestion that law can exist in basic forms of social relations between individuals is untenable. To be fair, Gurvitch did suggest that the most stable forms of law existed only at the level of groups and all-inclusive societies. It is at this level that his argument is retained here. These groups and all-inclusive societies are 'jural orders' in Gurvitch's terms.

According to Gurvitch, all law is a synthesis and within any jural order there is always a 'clash and balance' of actors and interests which underlies juridical activity:

[The kinds of law] clash and balance with varying degrees of intensity and actuality inside every framework of law corresponding to each group, to each real collective unit [....] It is this microcosm which forbids hasty generalizations and oversimplifications about the jural character of various groupings (e.g. State, trade unions, churches, etc) and about the regularities which guide the transformations of systems of

¹² For instance, families, municipalities, states, regions, public services, sects, religious orders, trade-unions and employer's organizations, chambers of commerce, professions, political parties, learned societies, clubs and sports teams, and so on (Gurvitch, 1973 : 183).

¹³ See section on the rights discourses of citizenship (Section I.B.iii).

law corresponding to the types of inclusive societies.
(Gurvitch, 1973 : 181).

This passage reveals a relativist argument which permits an understanding of the jural order at different levels of abstraction. At the level of all-inclusive societies (e.g. the state), this 'clash and balance', may exist in the form of organised factions or groups of the population which contest the legitimacy of the dominant system of law. From this point of view, the 'minority' could be understood as a jural order subordinated in its relation to the state, or majority order, and thus as an actor contributing to the 'clash and balance', or variability, of positive law. At yet another level of abstraction, the minority itself can be considered as a jural order comprised of sub-groups which provide a 'clash and balance' of interests. Independent of the level of abstraction, the jural order is a concept which reveals the dynamism of juridical activity.

Gurvitch also provides another relevant argument for understanding the minority and majority as jural orders in his distinction between social law¹⁴ and intergroupal law¹⁵. Social law is a product of the 'We' relation. It is law based on integration, participation, and confidence (Gurvitch, 1944 : 83-4). He writes, "Social law' is a law of objective integration in the 'We', in the immanent whole. It permits the subjects to whom it is addressed, to participate directly in the whole which in turn effectively participates in jural relations. That is why social law is based on confidence [...]" (Gurvitch, 1973 : 167). Intergroupal law is the antithesis of social law. Whereas social law is founded on integration, intergroupal law is founded on separation, conflict and mistrust (Gurvitch, 1973 : 167). It is generated in the relations between collectivities and often manifests itself as the 'law of the strongest'. This second type

¹⁴ Gurvitch's notion of social law should not be confused with the categories of social, economic and cultural rights examined in Chapter 2. Instead, Gurvitch intended his conception of social law to be a pluralist alternative to conceptions of social policy as being the monopoly of state legislation : "Le terme de Droit Social est très souvent pris dans le sens d'un droit lié à la 'politique sociale de l'État' [...] Cette conception est erronée parce qu'elle ne tient pas compte du phénomène primordial du *pluralisme juridique* dans la vie réelle du droit [...] Les groupes et leurs ensembles n'attendent pas l'intervention de l'État pour participer, en tant que foyers autonomes de réglementation juridique, à la trame complexe de la vie du droit." (Gurvitch, 1944: 80).

¹⁵ Gurvitch also comments on individual law (based on the forms of sociality). For the present purposes, I will focus only on group law.

of law remains noticeably undeveloped in Gurvitch's work, which is instead oriented towards law as being primarily consensual and harmonious. This weakness is commented on by Belley :

Gurvitch aurait en conséquence accru la pertinence de sa problématique s'il avait envisagé plus systématiquement le champ des rapports interindividuels ou intergroupaux [...] Cette démarche lui aurait sans doute suggéré la mise en corrélation du droit avec les rapports sociaux de division, d'antagonisme, de domination, qu'il dissimule trop facilement derrière l'influence pacificatrice des rapports collectifs de collaboration (Belley, 1977 : 78).

Belley's observation, I believe, is an important one. As demonstrated in the previous chapters, the theme of struggle is central to understanding language rights. The consensual dimension of law alone, emphasised by Gurvitch, cannot account for this aspect of struggle. Considered together, the dyad of social and intergroupal law could nonetheless prove interesting for conceptualising the minority as a being situated between two logics : constructed internally around the law of the 'We' (the minority as jural order) and subordinated to an external logic, the law of the 'Other' (the majority as jural order).

iii. Arnaud and the 'Juridical Reason'.

Arnaud provides yet another dimension for exploring the minority and majority as occupying distinct juridical spaces (Arnaud, 1981). For Arnaud, juridical activity cannot be defined in terms of the internal organisation of a community around norms and rules. Instead, he argues that the legal order must be conceived as the product of what Arnaud calls a 'juridical reason', or logic, which is external to this activity :

[...] il ne s'agit pas de chercher à savoir ce qu'est la connaissance juridique, ni si cette dernière est apte à dicter un ordre objectif. Ce serait là poser un faux problème puisque le

droit n'est que le reflet, et que le juridique n'est composé que de phénomènes. On ne se place pas non plus strictement dans la perspective de la rationalité interne du système. C'est plutôt autour du thème de la rationalité externe des systèmes que l'on dissertera [...] (Arnaud, 1981 : 27)

Thus, juridical activity is understandable only in the context of the embeddedness of the legal order in the 'social world'. Law is a tool forged for a given purpose and a given group, at a given point in time and in a given context (Arnaud, 1981 : 19-20). 'Juridical reason' then, is time, place and power specific. It is a way of seeing: "la raison juridique est d'abord expression d'un référentiel. En cela, elle est option pour une vision du monde ; elle est prise de parti philosophique ; elle est adoption d'une ligne politique" (Arnaud, 1981 : 27).

According to Arnaud, this reason is articulated at two levels : the level of juridical 'conceptions' (*les conçus juridiques*) and the level of juridical 'experiences' (*les vécus juridiques*). 'Juridical conceptions', for instance, could refer to the way in which members of a community 'think' rights, and 'juridical experience' to the way in which actors 'live' or apply these rights in their day to day routine. The ways of 'thinking' or 'living' rights in one order do not necessarily coincide with those of other legal orders. Theoretically speaking then, there could be as many ways of 'thinking' and 'living' rights as there are legal orders. Applied to minority and majority communities, the idea of 'juridical reason' is an interesting one. In this way, minority and majority can be operationalised as communities structured around differentiated ways of 'thinking' and 'living' rights.

Furthermore, legal orders are conceived by Arnaud as being in interaction, or more precisely, in confrontation. Confrontation is presented by Arnaud as a relative argument structured around the dyad of deviance-conformity: deviant behaviour towards one legal order has its corollary in conformity to another order. An employee walkout might be considered illegal (thus deviant), for instance, from the point of view of positive law and yet be in perfect conformity with the 'juridical reason' of unions.

The confrontation of legal orders is also at the origin of what Arnaud refers to as the 'plasticity' of positive law. Positive law, he argues, gives the illusion of a triple appearance of fixity, stability and universality (Arnaud, 1981 : 30). It is this illusion which is reproduced in dogmatic theories of law. In reality, positive law is dynamic. It is constantly contested and modified in the interaction of legal orders ; that is, in the different ways of 'thinking' and 'living' rights. This dynamism can be compared with Gurvitch's argument on the 'clash and balance', which underlies juridical activity. In some respects, this argument is an interesting one. Applied to the present object, it would enable to see the legislated language right as being unstable. The source of this instability could be analysed in terms of competing ways of 'thinking' and 'practising' rights. At the same time, however, there is a tendency in the argument to reduce the confrontation between legal orders to these competing conceptions, rather than to explore the foundations of the confrontation itself. While the power dimension of this confrontation is implied, it is not drawn out.

Arnaud's argument nonetheless has significant interest on a methodological level by proposing that juridical activity can be examined 'in action' ; that is, in the positioning and interaction of actors (Arnaud, 1981 : 32). Here, the confrontation of legal orders is analytically accessible through an examination of the juridical conceptions and practices of actors belonging to different legal orders. According to Arnaud, these actors need not be legal authorities or specialists (i.e. not legislators, judges, lawyers, or other agents whose tasks are juridically defined), but rather social actors in general as members of organised collectivities (Arnaud, 1981 : 371-374). Juridical activity is operationalised as discursive activity : "[...] une approche du concept de raison juridique passe nécessairement par une étude des systèmes juridiques considérés comme discours. Il faudra établir pour cela que les systèmes juridiques ont tous une manifestation discursive" (Arnaud, 1981 : 389). Applied to majority and minority communities, it would be feasible within Arnaud's framework to look at legislated language rights as contested pieces of social legislation, and to conceive of the fluctuating boundaries between the 'minority' and 'majority' as the manifestation of conflicting legal orders, and conceptions of rights and practices.

The arguments of both Gurvitch and Arnaud have some relevance for understanding the majority and minority as occupying distinct juridical spaces. The interest of Gurvitch's work lies especially in the relativity of his argument which enables an understanding of minority communities at different levels of abstraction -- as a contestatory actor at the global level of the state, as comprised of heterogeneous actors at a more local level -- in which there may be consensus on some levels and discordance on other levels. The dynamism of his argument also enables an understanding of the language right as a negotiated product of the 'clash and balance' between the two communities. As for Arnaud's work, it is of particular interest on an analytical level, enabling an understanding of minority and majority as being structured around different ways of 'thinking' and 'practising' rights.

There are, however, two principal limitations of these arguments for the present purposes. The first is that both focus on the strictly juridical dimension of legal orders. The criticism is not so much that their work has focused on this juridical dimension, but rather that on a theoretical level the arguments do not allow for the articulation between this juridical phenomena and other social phenomena. From this point of view, for instance, the 'language minority' would be defined only in relation to its capacity for claiming rights and producing norms regulating language-use. The importance of language for the community cannot be integrated into this conception of the legal order, which is defined strictly by its juridical dimension.

The second limitation refers to the failure to expand on the power relations which separate minority and majority. This is particularly evident in Gurvitch who focuses especially on the consensual aspect of law in the community. While his concept of intergroupal law implies the existence of a conflictual relationship between communities defined as jural orders, he does not expand on this argument. The criticism can also be applied to Arnaud. Although he describes the relationship between legal orders as being one of confrontation, this dimension tends to be

reduced to the possibility of describing competing conceptions of rights, rather than understanding the basis of the confrontation between actors.

Yet, as Rocher proposes, juridical activity cannot be divorced from power: “[...] l'idée du pouvoir fait partie de la représentation mythique du droit. Pour que le droit soit efficace, il faut qu'il soit reconnu comme pouvoir” (Rocher, 1986: 43). These two limitations – the failure to elaborate on the social dimension in the construction of the minority, and on the power relations between minority and majority – are explored in the work of Weber, Jaccoud and Fenet.

iv. Weber and the *Rechtsgemeinschaft*.

For Weber, the legal order is a *Rechtsgemeinschaft*, or community of right and law. According to a strict reading of Weber's sociology of law¹⁶, the defining criteria of the community of law are the orientation of action towards norms and a specialised staff for their enforcement: “an order will be called [...] *law* if it is externally guaranteed by the probability that physical or psychological coercion will be applied by a *staff* of people in order to bring about compliance or avenge violation” (Weber, 1978 : 34). Some authors have criticised this conception for reproducing the normative basis of positive law (cf. Belley, 1977, Milovanovic, 1983, 1988; Gurvitch, 1973).¹⁷ Gurvitch even went so far as to accuse Weber of “impoverish[ing] social reality to the point of annihilating it [...] with] his overweening confidence in rigid systems of meanings worked out by dogmatic-normative disciplines” (Gurvitch, 1973 : 31). These readings, I believe, are too restrictive. In his discussion of status law, as

¹⁶ Weber's sociology of law is contained in Chapter VIII of *Economy and Society*, in a chapter entitled “Law and Economy”.

¹⁷ Weber considered law under capitalism to be the monopoly of the state (Weber, 1978 : 314) . Consequently, much of the text of the sociology of law is devoted to his preoccupation with processes of rationalisation in *state-law*, rather than with the phenomenon of legal pluralism. It is clear, however, that his argument is open to the idea of pluralism : “[...] we categorically deny that 'law' exists only where legal coercion is guaranteed by political authority [...] A 'legal order' shall rather be said to exist wherever coercive means of a physical or psychological kind, are available ; i.e., [...] wherever we find a consociation specifically dedicated to the purpose of 'legal coercion'” (Weber, 1978 : 317). See Trubek for a detailed discussion of the rationalisation of law under capitalism in Weber's work (Trubek, 1972).

discussed earlier, the *Rechtsgemeinschaft* was conceived not only as a community constructed around rules and norms, but also as a community constructed around rights and advantages. Dahrendorf also supports such an interpretation (Dahrendorf, 1974). Also, the themes of law and right are not limited to Weber's specific writings on the sociology of law, but rather are recurrent throughout Weber's work (Milovanovic, 1988). This is particularly true in his chapters on the exposition of general sociological concepts and on domination and legitimation. A reading of Weber's sociology of law in combination with his more general sociology allows an even broader understanding of the *Rechtsgemeinschaft*.

For Weber, communities are constructed in two types of relations, which are at the core of his general sociology: communal and associative relations. The first refer to social relations based on a sentiment of belongingness or solidarity and the second, to social relations based on rational interests or objectives (Weber, 1978: 40-43). The 'ethnic' community in Weber is also a product of communal and associative relations and, as such, can serve as the basis for the construction of a community of law. Weber himself makes this point: "[...] every consensual group or rational association [...] that therefore might properly be named 'law community' (*Rechtsgemeinschaft*) was either constituted in its membership by such objective characteristics as birth, political, *ethnic* or religious domination, mode of life or occupation[...]" (Weber, 1978: 695; my emphasis). By extension, the concept of *Rechtsgemeinschaft* could also be applied to minority and majority communities.

Community, in Weber, is also structured around open and closed relations. The first is a relation in which the collectivity is open to the participation of outside actors. It is a relation of inclusion. Inversely, a closed relation is one in which the collectivity discourages or prohibits the participation of outside actors in the interest of monopolising resources. It is, in this sense, a relation of exclusion (Weber, 1978: 43-46). From this point of view, the *Rechtsgemeinschaft* can be conceived as constituting a juridical space in which the community exercises control over a given territory and its resources through the attribution of rights and advantages to its members and the

denial of rights to those who are outside of its boundaries. Thus, the community of law is both inclusive and exclusive ; it is a space in which the boundary between the We and the Other is constructed. Thus, from a Weberian point of view, rights in general, or language rights more specifically, must be understood as being negotiated in these processes of inclusion and exclusion.

At the same time, the community of law in Weber is never *only* a community of law. The legitimacy of a community, or belief in the legitimate order (Weber, 1978 : 31), may be partly constructed around law, but it may also be legitimised by tradition (the way things have always been), affectual sentiments (emotional attachment), values (the order as the expression of certain values), or by the charisma of an individual leader (Weber, 1978 : 31-34, 215-241). These forms of legitimation are not mutually exclusive, but rather are interrelated and overlapping. Thus, the legitimacy of an order may be constructed around a combination of any (or all) of the motivations listed above. The interest of such an argument is in broadening the scope for conceptualising the 'minority' and 'majority' as communities constructed around a multiplicity of dimensions, of which juridical activity is but one. In this way, the idea of social action surrounding legal norms is expanded to include not only strictly juridical activity, but also a whole range of other activities which feed into it. It is also in these multiple dimensions that the importance of language for the community can be drawn out.¹⁸ Weber's conception of the relationship between community, law and right expands on those of Gurvitch and Arnaud in at least two ways: by moving away from a strictly juridical argument and by allowing for an understanding of the interface between rights and language in the construction of majority and minority communities.

¹⁸ This theme will be addressed more specifically in the next chapter.

Weber also develops further on the character of the relation between minority and majority as *Rechtsgemeinschaft*. The legal order is, for Weber, a legitimating mechanism for domination; that is, the “probability that a command with a given specific content will be obeyed by a given group of persons” (Weber, 1978 : 53).¹⁹ Domination thus implies power holders on the one hand (those who command) and the subjects of power on the other (those who obey commands), thus producing an asymmetrical relation between actors (Rocher, 1986). According to Weber, the legitimacy of domination is rarely complete. Instead, legitimacy may be contested by members of the order. In this sense, Weber proposes that the distance between the validity and non-validity of an order is one of degree only (Weber, 1978: 32). Weber specifically comments on the role of minorities in contesting the legitimacy of the dominant order:

[...] the distinction between an order derived from voluntary agreement and one which has been imposed is only relative. For so far as the agreement underlying the order is not unanimous, as in the past has often been held necessary for complete legitimacy, the order is actually imposed upon the minority; in this frequent case, the order in a given group depends upon the acquiescence of those who hold different opinions. On the other hand, it is very common for minorities, by force or by the use of more ruthless and far-sighted methods, to impose an order which in the course of time comes to be regarded as legitimate by those who originally resisted it (Weber, 1978 : 37).

In the above passage, the minority is subordinated within the dominant legal order. At the same time, according to Weber's thesis of legal pluralism, it is also able to contest the dominant order by virtue of its appropriation of a juridical space even within this relation of subordination. This contestation, as Weber implies in the

¹⁹ Weber distinguished power (*Macht*) from domination (*Herrschaft*). Power is the “probability that one actor in a social relationship will be in a position to carry out his [her] will despite resistance regardless of the basis on which this probability rests” (Weber, 1978 : 53). As a concept, however, Weber considered power to be too vague to be of analytical use, even describing it as ‘sociologically amorphous’ (Weber, 1978 : 53). He considered the concept of domination to be more precise (cf. Rocher, 1986 for discussion on *Macht* and *Herrschaft* in Weber).

passage, may lead to the eventual rejection of the dominant order altogether. Thus, according to Weber, both minority and majority can be conceived as occupying distinct juridical spaces, but the minority remains nonetheless attached to the majority in a relation of domination. The theme of domination and legal orders is explored further in the work of Jaccoud (1992, 1996) and Fenet (1990).

v. Minority, law and domination: Jaccoud and Fenet.

The relationship of legal order, law and domination is an important theme in Jaccoud's research on the co-existence of Euro-Canadian and Inuit legal orders in Northern Quebec (Jaccoud, 1992, 1996). Jaccoud's work draws on a conflict perspective and on theories of internal colonialism in explaining the relationship between the two legal orders as one of domination: "le droit, véhiculé dans les pratiques des intervenants du processus pénal, peut se confondre avec l'acte de domination" (Jaccoud, 1992 : 32). Domination by the state (Canadian and Quebec) is perceived as fundamentally *illegitimate* by the Inuit community. This *illegitimacy*, however, is not a contestation of juridical activity alone (penal sanctions, for instance), but rather of the role that the juridical apparatus plays in processes of political and cultural subordination. Thus, domination is not only legal, but also (and even especially) territorial, political and cultural. This suggestion recalls Weber's argument that juridical activity cannot be understood in isolation, but instead must be situated in a complex interweaving of other types of social activity. Jaccoud also comments on the theme of the autonomy (or lack thereof) of legal orders which are subordinated within a more 'global' legal order. Citing Griffiths (1986), she argues that these orders may be perceived as a threat to the sovereignty of the dominant state order, in which case the state may take action to minimise 'extra-state' juridical activity. This can be done in two ways : the eradication of the order in question or the marginalisation of its activities. It is especially the latter form of subordination which can be applied to the Inuit case. Legal pluralism, in the context of a relation of domination between the two legal orders, is reduced to a 'façade' :

En ce qui concerne les Inuit, la jurisprudence a reçu certains principes de droit coutumier (en matière d'adoption et de mariage, par exemple), et les intervenants (policiers et juges) peuvent tenir compte des différences culturelles dans leur pratique en déjudiciarisant ou en atténuant la rigueur des sentences (les différences culturelles sont alors réduites à des circonstances atténuantes). Mais cette reconnaissance représente un pluralisme de façade, dans la mesure où l'État reste le seul à déterminer les règles de partage des compétences et les règles de pratiques du droit (Jaccoud, 1992 : 39).

Fenet applies the concept of jural order to 'ethnic, linguistic and national' minorities, as defined in international and state law. As a jural order, he proposes that the minority has a form of jural existence and jural production of its own, possesses law and can demand rights (Fenet, 1990: 12). Like Weber, however, he insists that the jural order is never only a juridical phenomena. Thus, he proposes that the minority in law must necessarily be defined by other dimensions which enter into its construction, such as nation, state, homeland, nationality, people, ethnic community, race (Fenet, 1990: 13). He also rejects definitions of the minority based on traits, arguing that these communities are 'minorities' only because of their position of subordination within a larger whole. Outside of the relation of subordination, he argues that the designation 'minority' makes little sense :

There is no more a minority in itself in socio-political reality than there is in civil or parliamentary law. There is only a minority because there is a majority, in a relationship which can vary. This relationship, so structuring in a given social reality, is part of a larger organization from which it cannot be separated. The minorities traditionally considered, ethnic, religious and linguistic, are groups placed in a minority situation by the relationship of force that underlies the global society. It is this relationship that defines them as a minority. (Fenet, 1990 : 18)

Thus, the minority is designated as such in processes of exclusion. Fenet identifies two facets of this exclusion. The first facet of exclusion is related to the

“national idea, in which language often occupies a privileged position” (Fenet, 1990: 21). From this point of view, the minority is excluded because it doesn't correspond to the prevailing 'idea' of what constitutes the 'nation'.²⁰ The second facet is based specifically on the minority's construction as a jural order. Exclusion in this sense is related to the constraints placed on the juridical activity of the community (e.g. restraint of right) because of its subordination within the more global state order. In other words, its potential for claiming and constructing rights is dependent on state recognition of minority status. Thus, he writes “[...] as a social entity within an overarching whole, a minority is a jural order specifically dominated by the order of the state as a result of the non-inclusion of the group's values in the idea of legitimacy” (Fenet, 1990 : 28).

Even within this relation of subordination, however, Fenet argues that it would be misleading to suggest that minorities are powerless. While the minority community is subjected to power, as an actor it also holds power. Even if this power is defined negatively, as a power of resistance, it is still power in the sense that it is an instrument of negotiation. As Fenet writes, “the reality of domination to which they are subjected does not make them into the last refuges of the Good and Just. Like any instituted social group, a minority is a political space in which a power is exercised, extremely variable in nature and character, but sometimes unjust and even cruel” (Fenet, 1990 : 26). Power, from Fenet's point of view, is both constraining and enabling. His argument recalls what Giddens has referred to as the *dialectic of control* in which “[...] all forms of dependence offer some resources whereby those who are subordinate can influence the activities of their superiors” (Giddens, 1984: 16).

²⁰ Fenet draws on Benedict Anderson's *Imagined Community* for this argument (Anderson, 1991). Anderson's work will be examined in more detail in the next chapter.

The arguments proposed by Weber, Jaccoud and Fenet provide a broader framework for understanding minority and majority as communities structured around law and rights. From these points of view, the minority community does not exist as some form of autonomous, identifiable entity. It cannot be defined by shared traits or numbers. The meaning of Capotorti's criteria of the 'non-dominant' status of minorities takes on a larger meaning here. On a juridical dimension, the minority community is subordinated within the system of law of the majority community. At the same time, as Fenet notes, the minority is not completely powerless within this relation. Also, and importantly, the processes of inclusion and exclusion, at the core of an understanding of the relations between minority and majority communities, are not only structured around law. Juridical activity cannot be divorced from other forms of activity, but rather is itself embedded in other social processes. The specific role of language in these processes is yet to be examined.

vi. The Minority, Majority and *Minorisation*.

The themes of inclusion and exclusion for understanding the minority as community lead us beyond a juridical space into sociological space. Fouques DuParc, commenting on the emergence of minorities in law, proposed that the question of minorities had little signification for pre-Reformation Europe: "l'Europe occidentale connut, au moyen âge, l'unité de la foi. Il n'existait alors qu'une minorité religieuse: les Juifs. Mais, ceux-ci formaient...une population à part; et l'on peut dire que la question des minorités ne se posa pas" (Fouques DuParc, 1922: 73). He suggests that it was only during the Reformation, when this so-called unity of faith was broken, that the minority question could be said to have emerged. From a sociological point of view, it is difficult to agree with Fouque DuParc's interpretation that the term minority could not be applied to the persecuted Jewish community in the Middle Ages (cf. Arendt, 1978 ; Wirth, 1956). As Arendt has noted, ethnic and national minorities have always existed, but it is only in recent history that they have become a 'permanent institution'; that is, juridical categories under law (Arendt, 1968). The minorities in

Arendt's meaning are sociological ones; that is, minorities in the sense of groups subordinated to other groups. Fouque Duparc's meaning is a juridical one.

It is precisely the asymmetrical relations between communities, examined above in terms of law and rights, which is at the heart of a sociological conception of the 'minority'. To paraphrase Guillaumin, it is in the source of power that we have to understand the meaning of oppression (Guillaumin, 1972). The minority is not a minority in and by itself, but is constructed as such in a process of *minorisation*. Elbaz and Murbach propose the following definition of *minorisation* :

Disons que la minorité est un ensemble catégoriel dont les membres ont des attributs communs, réels ou putatifs, qui sont à la base de leur connaissance et de leur reconnaissance. Avançons aussi que la minorisation est un rapport social, une situation d'injustice vécue subjectivement et mesurable objectivement dans les discours et les pratiques discriminatoires. Rapport de force et de sens, la minorisation est toujours symptôme d'un moindre pouvoir, d'une asymétrie [...] (Elbaz and Murbach, 1991 : 192).

The power relation between minority and majority is often masked in debates which tend to focus on minority 'problems' as if they were a characteristic of the minority alone. Thus, the majority tends to be the silent partner, the unnamed, the unmarked (Juteau, 1983 ; McAll, 1995). These dual processes of *minorisation* and *silencing* can be understood in terms of exclusion, as discussed earlier in relation to Weber's general sociology. The concept of *minorisation* thus situates the construction of the minority in the context of multiple forms of exclusion. From this point of view, the meaning of the term minority is not limited to the 'ethnic, linguistic and national' minorities, but rather is extended to all forms of communities which are constructed in processes of *minorisation*, whether on the basis of gender, sexual orientation, disability, socio-economic status, and so on.

B. *Discussion: Minority and Majority as Communities Structured Around Status Differences.*

Thus, the status differences which distinguished minority from majority in the juridical and sociolinguistic literature examined earlier, must be understood in terms of an asymmetrical relation between a dominant community and a community subordinated to it. The minority exists in a relation to the majority; it is a minority through processes of *minorisation* and exclusion. Even within these processes, however, the minority also holds power ; that is, it is also constructed around the monopoly of community resources or a project for attaining such a monopoly.

Fenet also proposes the hypothesis that majority and minority communities may not constitute homogeneous groupings. Instead, individuals may also belong to innumerable other sectoral groups in society (as 'citizens', as consumers, as producers, as women or men, as mothers and fathers and so on). From this point of view, the minority is one locus of identification amongst others:

This relationship, always involving constraint between two jural orders, does not necessarily contain only constraint [...]. As a group, the minority is only one locus of identification among others in the overall society. Society is the scene of interactions that are the more numerous and complex the more the group has a reduced sectional function [.....] The member of a minority is in the state order and benefits from it in his status as citizen, producer, consumer, etc. But the group may also eventually benefit from it. It may indeed find in public services and the territorial administration of the state the means to organize and create instruments of development (Fenet, 1990 : 30).

Thus, borrowing Gurvitch's expression, it would be reasonable to expect a 'clash and balance' of actors and interests *within* the minority and majority communities.

Minority and majority were examined here especially in terms of their construction around rights and law; that is, as *Rechtsgemeinschaften*, or communities of law, characterised by a certain degree of organisation (rules and norms, agents associated with juridical activity, legitimating mechanisms, stability) and structured around different ways of 'thinking' rights. This conception introduces a territorial theme to the understanding of minority-majority relations, in the sense that they are conceived as occupying distinct juridical spaces. At the same time, however, it was argued that community is never just a community-in-law, but rather is multidimensional. Thus, this juridical space is necessarily part of a larger social space occupied by the community. The thesis of multiple identities, constructed around law and other forms of belongingness, is an important one for exploring the interface between rights and other forms of identity, especially as related to language. It is this theme which will be explored in the following chapter.

Chapter 4.

Nation, Language and Power.

- Germany, late 1770s *"And you German, returning from abroad/Wouldst greet your mother in French?/Oh, spew it out before your door/Spew out the ugly slime of the Seine/Speak German, Oh you German!"* (Herder, cited in Fishman, 1973 : 53).
- United States, late 1770s *"Let us then seize the present moment and establish a national language, as well as a national government [...] as an independent people, our reputation abroad demands that, in all things, we should be federal ; be national ; for if we do not respect ourselves, we may be assured that other nations will not respect us."* (Webster, quoted in Weinstein, 1982 : 95).
- Ireland, mid-1880s *"A people without a language of its own is only half a nation. A nation should guard its language more than its territories – 'tis a surer barrier, a more important frontier than fortress or river"* (Davies, 1845 ; quoted in Fishman, 1973 : 49).
- India, mid-1920s *"Ultimately when our hearts have become one and we all are proud of India as our country, rather than our provinces, and shall know and practice different religions as derived from one common source, as we know and relish different fruits of the same tree, we shall reach a common language with a common script [...]"* (Gandhi, cited in Ahmad, 1941 : 40).

As suggested in the previous chapter, the 'language' or 'national' minority joins the ranks of other sociological minorities (based on gender, sexual orientation, phenotypical traits, physical disabilities) constructed as such through processes of exclusion, or *minorisation*, in their relation with a majority community. The language right, as a claim for status and the social mobility of the minority community, is itself a claim against exclusion. Exclusion was also examined in the previous chapter as the restraint of right in practices or in law, and as the subordination of the minority community as *Rechtsgemeinschaft* to the laws of the dominant state. This rights dimension, however, provides only a very partial understanding of the language minority, which could be applied equally to any other form of sociological minority claiming rights of participation in society. The specificity of the 'language' or 'national' minority vis-à-vis these other minorities, or the language right vis-à-vis other forms of status right, remains to be developed. The source of this specificity, as will be argued here, lies in an

understanding of the relationship between language and community and, especially, of the role played by language in the construction of status differences between communities.

Linguistic traces of these differences were provided in the sociolinguistic literature examined earlier in which languages were qualified as high and low, prestige and non-prestige, modern and backward, national and non-national. Mother tongues and Other tongues (cf. Dasgupta, 1993) were juxtaposed, with language marking the boundary between the barbarian and the civilised, the immigrant and the national, the colonised and the coloniser. The descriptive potential of this literature, however, is not matched on a theoretical level where the complexity of social relations tends to be reduced to explanations based on language traits. A more critical understanding of the relationship between language and community will be explored in this chapter. What meaning should be attributed to 'national' languages or 'national' language minorities? What role does language play in the construction of community boundaries? What is the relationship between language and power? The first part of the chapter looks especially at the conceptualisation of the nation-language relationship in social science literature and the second, at literature which draws out the power dimension in the construction of communities around language.

I. Conceptualising Nation and Language.¹

My intention in this section is not to suggest that language and nation are linked in any essential way or that all 'nationalist' movements necessarily have a language component. Nonetheless, as the quotations of the previous page suggest, the mere fact that German Herders or American Websters or Indian Gandhis have invoked discourses on language and nation in their political projects is evidence that language is *sometimes* and *somehow* related to the idea of the nation. It is the way in which this *sometimes* and *somehow* relationship between language and nation has been conceptualised in social-science literature on the nation that will be explored below. Generally speaking, three approaches to this relationship can be identified: language as communication, language as culture, and language as a marker of inclusion and exclusion.

A. *Language as Communication: Karl Deutsch, Benedict Anderson, Joshua Fishman.*

i. Karl Deutsch: Nationalism and Social Communication.

Karl Deutsch's theory of nationalism and social communication, written in the 1950s, has become a classic, although somewhat dated, reference for nation theorists (Deutsch, 1966; 1968).² For Deutsch, communication is the basis of community and, in

¹ From the Latin root *natio*, the idea of the nation has found its way into many contemporary languages: *nazione* (Corse), *nasie* (Africans), *nació* (Catalan), *nación* (Spanish), *nazione* (Italian), *nasyon* (Guadeloupe Creole), *nemzet* (Hungarian), *nacija* (Lithuanian), *nazzjion* (Maltese), *natie* (Dutch), *nasjon* (Norwegian), *nacioun* (Provençal), *naziun* (Romanche), *naisiun* (Gaelic), *natsia* (Bulgaria), *narod* (Polish), *natsiya* (Russian), *narod* (Serbo-Croate), *niarod* (Slovak), *nunaa* (Tahitian), *niarod* (Czech), *natsia* (Ukrainian) (Malherbe, 1995). In Medieval Europe, the Latin *natio* designated self-contained groups such as guilds or corporations. It was also widely used as a designation for foreigners (as in 'nations' of foreign merchants) and for students from foreign lands attending medieval universities (Hobsbawm, 1992; Seton-Watson, 1977). According to Williams (1983), the term nation was used in the English language as early as the fourteenth century to designate groups based on common 'racial' origin. It is during the same period too that discourses began to emerge on English "national consciousness and the pride of educated Englishmen in their own language" (Seton-Watson, 1977: 30). In John Trevisa's description of the state of the English language in 1327, language was also identified as the marker of the Welsh and the Scots 'nations' (Trevisa cited in Sisam, 1964: 148).

² Deutsch himself was largely influenced by the work of Otto Bauer, which will be examined in Section C below. Although Bauer's work predated that of Deutsch by close to fifty years, Bauer's thesis

turn, community is the basis of the nation. His definition of the nation reflects this emphasis on communication: "Membership in a people essentially consists in the ability to communicate more effectively, and over a wide range of subjects, with members of one large group than with outsiders" (Deutsch, 1966: 97). Communication is distinguished from culture, the latter being defined as the configuration of values, habits, preferences and institutions. Language, as an instrument of communication, is the means by which culture is stored, recalled, transmitted, combined and applied. Apart from this communicational role, Deutsch otherwise refutes arguments which attach a 'cultural' or 'sentimental' value to language. Citing Switzerland as an example, he suggests that the Swiss act as 'one people' because they have shared habits, preferences, symbols and memories and not because they share a single language.

Deutsch also argues that language, as the communicative basis of the nation, enables a vertical integration of classes:

In the political and social struggles of the modern age, *nationality*, then, means an alignment of large numbers of individuals from the middle and lower classes linked to regional centers and leading social groups by channels of social communication and economic intercourse, both indirectly from link to link and directly with the center (Deutsch, 1966: 101).

As an integrated whole, Deutsch's nation is based on harmonious relations and is conceived as fundamentally inclusive. In its external relations, however, the nation is conceived by Deutsch as being fundamentally exclusive. The nation, he argues, implies a claim to privilege for its members. The channels of communication which are open internally, are closed externally. Thus, the nation is closed to outsiders. What is not clear, however, is who does and does not belong to the 'nation' or the basis of this exclusion.

remains more relevant in light of more recent theories of the nation. Several more contemporary authors have also been influenced by Deutsch's work, such as Joshua Fishman, Anthony Smith and Paul Brass, whose work will also be discussed further on.

A functionalist paradigm is clearly implicit in Deutsch's argument which reproduces the idealism of the organic whole and the integrated system. Conflict within the nation is negated and conflict between nations is reduced to barriers of communication. From this point of view, the language-Other is simply s/he who exists outside of the communications networks. The adherence to a functionalist paradigm is also indicative of the era in which the text was written (the 1950s). To some extent, however, this idealism is also carried over in Anderson's more recent work on the imagined community in which language is also, principally, the *medium* of the nation.

ii. Benedict Anderson: the Imagined Community.

Benedict Anderson's *Imagined Communities* is certainly one of the more popular treatises on the nation written in recent years (Anderson, 1991). It contains a wealth of historical and empirical data, both anecdotal and substantive, on the nation phenomenon. For this purpose, his work is a useful resource for empirically documenting the nation-language relationship. I have drawn from his work, for instance, in describing the history of the legislated language right.³ It is especially the way in which this relationship is theorised that will be examined below.

Anderson's nation is a cultural artefact which has come into historical being (Anderson, 1991 : 4). It is, more precisely, an "imagined political community -- and imagined as both inherently limited and sovereign" (Anderson, 1991: 6).⁴ According to Anderson, other forms of *imagined communities* have existed throughout history. The nation, as a new form of *imagined community*, emerged in a period in which important changes were taking place in the overall political organization of Western societies, notably the decline of the religious and dynastic powers of the Middle Ages. This

³ See Chapter 1.

⁴ It is *imagined*, because, although they may never meet, the members of the nation share a common 'imagining' of their communion; it is *limited*, because its boundaries are relatively finite; it is *sovereign*, because it has replaced the older legitimacies of feudal society; it is *community*, because "regardless of the actual inequality and exploitation that may prevail [...] the nation is always conceived as a deep, horizontal comradeship" (Anderson, 1991: 7).

decline necessitated new forms of imagining and guaranteeing 'communion' for the members of the political community (Anderson, 1991 : 36). As an *imagined community*, Anderson's nation owes much of its explanatory power to consciousness. Individuals *believe* themselves to be part of this community and it is this shared belief which *is* the nation. According to Anderson, print capitalism⁵ played a crucial role in creating the form of 'imagining' characteristic of the nation. The novel and the newspaper provided the technical means for 'communion'. Individuals spread across geographical and professional spaces, who would otherwise have no reason for contact, could now have an idea of their communion. They were partners in the new nation because they could *imagine* this nation. Like Deutsch, Anderson's *imagined community* transcends other forms of social differentiation, such as class. It is, as he suggests, a 'horizontal comradeship' (Anderson, 1991 : 7).

As for language, it plays a clearly a communicative role in the imagined community: it is the means by which solidarities are created and communities imagined. Like Deutsch, Anderson explicitly denies any symbolic function to 'national' languages :

It is always a mistake to treat languages in the way that certain nationalist ideologues treat them -- as *emblems* of nation-ness, like flags, costumes, folk-dances, and the rest. Much the most important thing about language is its capacity for generating imagined communities, building in effect *particular solidarities* (Anderson, 1991: 133-4 ; emphasis in original).

He also explicitly denies that language can serve as an instrument of exclusion in the imagined community:

[...] language is not an instrument of exclusion: in principle, anyone can learn any language. On the contrary, it is fundamentally inclusive, limited only by the fatality of Babel: no one lives long enough to learn *all* languages. Print-language is what invents nationalism, not a particular language *per se*. (Anderson, 1991: 134).

⁵ See Febvre and Martin for a detailed discussion on the development of print capitalism (Febvre and Martin, 1958).

Yet, there is a curious discrepancy between this statement and Anderson's very detailed empirical and historical account of the way in which certain vernaculars have become 'languages-of-power'.⁶ His discussion of 'official nationalisms'⁷ is a case in point. Anderson describes, for instance, the measures of 'russification' implanted during the rule of Alexander III (1881-94) to impose linguistic homogeneity on the German-speaking populations living in the Baltic states. One such measure included the closing down of the University of Dorpat in 1893 because German was used in its lecture-rooms (Anderson, 1991: 87). There would seem to be no doubt that language is here an instrument of exclusion. Similar discrepancies can be found in his discussion of 'creole nationalisms'⁸ in the Americas, particularly in Brazil, the United States and former colonies of Spain. Language, according to Anderson, was not a factor in the formation of these states ("Indeed, it is fair to say that language was never even an issue in these early struggles for national liberation" p. 47), since the elites shared the same language as the metropolises, that is, of Portugal, Spain and Great Britain. In the first two cases, he fails to mention that the languages which attached elites to the metropolises were imported languages; that is, they were the languages of the colonisers and not of the native populations.

Language planning literature provides illustrations of exclusion in the measures designed to impose colonial languages on native populations. Leclerc, for instance, examines assimilationist language policies in Brazil: in 1727, a Portuguese law prohibited the use of tupi-guarani in Brazil, the language of inter-communication between 'Whites' and 'Indians'; in the State of Espírito Santo, there were penalties of prison for those who used a language other than Portuguese; in 1850, the state of Sao Paulo passed a law prohibiting all 'Indian languages' (Leclerc, 1986: 231). Similarly, Cerrón-Palomino looks

⁶ The term languages-of-power is not defined precisely, but it is used to designate what were referred to as 'high' languages in the sociolinguistic literature; that is, the languages of the ruling political communities (Anderson, 1991: 45).

⁷ Official nationalisms, a term introduced by Seton-Watson to describe the measures adopted by Empire states for imposing linguistic homogeneity on their constituent 'national' minorities, was also discussed in Chapter 1.

at the history of language planning policies in Peru, a former Spanish colony. While there seems to have been some tolerance for the use of 'Indian' languages in the early colonial period, measures aimed at the *castilianization* of these populations were set into place towards the mid-seventeenth century. The exclusionary dimension of these measures is clearly expressed by a jurist writing in 1629:

I find no reason why anybody should deny that the Indians have to learn and speak our language; indeed, there is nothing older and more frequent in the world than having the people who conquer or rule new provinces impose their language and customs upon them so as to manifest their domination and superiority and to hold the conquered under better control and in better unity under their government (cited in Cerrón-Palomino, 1989: 21).

Cerrón-Palomino also argues that in the early-nineteenth century the Quechua and Aymara languages were symbolically linked to "creole independence movements [...] as symbols of a liberation which would finally turn out to be spurious" (Cerrón-Palomino, 1989: 22). In the United States too, it would be misleading to suggest that language played no role in liberation from Great Britain, as Anderson does. The quotation from Noah Webster, cited in the introduction to this chapter, provides evidence of the fact that language was somehow tied symbolically to a national project (cf. Weinstein, 1992). Baron also gives several illustrations of the exclusionary role played by language in the marginalisation of immigrant communities from the early part of the nineteenth century, despite the fact that states such as Louisiana, Pennsylvania, New Mexico and California contained important French, German, Spanish, Dutch and Russian speaking populations (Baron, 1990).⁹

Rather than exploring the power dimensions behind the so-called languages-of-power, Anderson suggests in a somewhat blasé fashion that the differentiation of status between 'national' languages and other languages belongs to "largely unselfconscious

⁹ According to Anderson, 'creole' refers to individuals of European descent, but born in the Americas. Creole nationalisms were movements lead by these individuals.

² Some examples were given in Chapter 2.

processes resulting from the explosive interaction between capitalism, technology and human linguistic diversity" (Anderson, 1991: 45). This is an easy way out. Exclusion of communities based on language is here reduced to 'unselfconscious' processes. There is also a curious reductionism in Anderson's argument that print-languages invent nationalism. I would suggest that there is a confusion here of medium and message. In a technological sense, it is perhaps true that the nation as an imagined community could not have existed without print-capitalism. It is less clear, however, how this 'idea' (i.e. the form of imagining that is the nation), and the role played by language in this 'idea', came into being. As MacLaughlin suggests, it would seem as if Anderson has made the 'national idea' a *creation* of print-capitalism (MacLaughlin, 1988); that is, a spontaneous reaction of literate individuals reading novels and newspaper texts written by others within the same time (historical period) and space (territorial unit) coordinates. Print capitalism is the *medium*, but it could not in itself generate the *message*. Anderson embarks late on the nation bandwagon: he is at the stage of its diffusion, but has missed the point of departure.

iii. Language as both Medium and Message: Joshua Fishman.

Joshua Fishman is one of the few sociolinguists to have reflected on the relationship between language and nation (Fishman, 1973). Like Deutsch and Anderson, he proposes that language is the medium of nationalism. From this point of view, he argues that language plays a pragmatic or functional role as the means of transmission of the 'national' discourse. This role, he suggests, was not unique to nationalism. Vernacular languages had also played important communicative roles in the Roman Empire and in the intellectual movements of the Renaissance and Reformation. Commenting on the specificity of language as medium in nationalist movements, he writes: "Therefore, as in many other respects, nationalism's utilization of the vernacular is not so much a clear break or departure relative to earlier periods as much as is the intensity with which it pursued this utilization and, in particular, its rationalization thereof" (Fishman, 1973: 41). Unlike Deutsch and Anderson, however, Fishman argues that language as medium is not enough to explain the nation-

language relationship. Instead, language also became part of the *message* of nationalism; that is, it has become a part of the content of the 'national' discourse. Three types of messages are identified by Fishman:

1. *Language as a symbol of a glorious or heroic past*; for example, "[the vernacular is] the voice of years that are gone; they roll before me with all their deeds" (Macpherson, 1760; cited in Fishman, 1973: 45).
2. *Language as the essence of the nation*, for instance, "Our language, the expression of our people, which can never be given up [...] is the spiritual foundation of our existence" (Catalonian Cultural Committee, 1924; cited in Fishman, 1973: 46).
3. *Language as a marker of difference between communities*. "He who teaches his children to learn the French language, or permits them to learn it, is delirious; he who persists in doing this sins against the Holy Ghost; he who allows his daughter to study French is about as good as he who teaches his daughter the virtues of prostitution" (Jahn, a German nationalist, cited in Fishman, 1973: 53).

Fishman's typology of the 'messages' of nationalism takes us further than the arguments of Deutsch and Anderson by providing descriptive evidence that language is not only a communicative medium, but also *in some way* a symbol of nationness. Like the sociolinguistic literature examined earlier, however, the merit of Fishman's argument on a conceptual level is limited. He does not expand, for instance, on the exclusionary role of language implied in the 'message' discourse on difference, but merely describes it. Also, there are important weaknesses in his explanation of the language-nation relationship. This relationship is described in the following way: "Nationalisms consciously undertake to produce self-consciously modern, authentic and unifying standard languages [...] where previously there existed only regional and social varieties, unconsciously employed and unemotionally abandoned" (Fishman, 1972: 62). The nation-language-planning relationship is thus described as a 'conscious' one, but conscious on behalf of whom? From the passage above, the actor would seem to be 'nationalism'. But what *is* nationalism? Fishman does define the term – it is the "inclusive organization and the elaborated beliefs, values and behaviors which nationalities develop on behalf of their avowed ethnocultural self-interest" (Fishman, 1972: 4). Can beliefs, values and behaviours "consciously produce

standard languages”? There is an interpretative lapse in such a phrase which occults the theoretical signification of the ‘nation’ (and its derivatives, national, nationalism, nationalist).

B. *Language as Culture: Johann Herder, Ernest Gellner, Anthony Smith.*

i. Language as the ‘Essence’ of the Nation: Johann Herder.

The ‘message’ dimension of the nation-language relationship has been expanded on by other authors for whom language plays a ‘cultural’ role. To some extent, these arguments bear traces of the German romantic tradition and a conception of the nation based organically on culture and ethnicity (Schnapper, 1991). The German romantic tradition is represented in the writings of Johann Herder (1744-1803), whose work is worthwhile examining briefly. Herder contested the scientific belief of his day that the origins of language were a divine act of God (Herder, 1977 [1770])¹⁰, proposing instead that language was a human construction. The differentiation of languages was considered by Herder to be the result of the ‘reciprocal hatred’ of peoples : “une haine perpétuée entre les familles est la cause de leurs guerres, de leurs jalouses séparations en peuples : peuples qui souvent sont à peine une grande famille, et selon toute vraisemblance c’est aussi la cause de la ‘complète différence de leurs usages et de leurs langues’” (Herder, 1977 [1770] : 157). In some respects, this part of Herder’s argument foreshadows sociological theories of the relationship between language and power.¹¹ At the same time, however, there is an essentialism implicit in Herder’s argument in which language is considered to be *organically* linked to the idea of the nation. Thus, Herder considered language to be the “emblem of the human race”, the “treasure of human thought” (Herder, 1977 [1770] : 157, 161) and the “soul of the nation” :

Has a nationality anything dearer than the speech of its fathers?
In its speech resides its whole thought domain, its tradition,
history, religion and basis of life, all its heart and soul. To

¹⁰ See also Eco for a detailed discussion of theories on the origin of language (Eco, 1995).

¹¹ See Part II below.

deprive a people of its speech is to deprive it of its one eternal good [...] With language is created the heart of a people (Herder, 1783; cited in Fishman, 1973 : 1).

This essentialist link between language and nation is characteristic of the period in which Herder was writing. To a certain extent, it has also survived in some contemporary theories of the nation, although in a less categorical way than in eighteenth-century romanticism.

ii. Invented Cultures: Ernest Gellner.

This tradition can be traced, for instance, in Ernest Gellner's work on the nation (Gellner, 1983). Gellner describes the process of nationalism in his fictitious account of the Ruritanian nation. The Ruritanians were a peasant population dispersed in land pockets of the Empire of Megalomania. They spoke variant, but otherwise mutually intelligible, dialects from a language group altogether different from the aristocrats of the Megalomanian court. When industrialisation began in Megalomania many Ruritanian peasants moved to the big cities to work or, for the more advantaged, to study. Some assimilated to the dominant language of Megalomania with names adapted to Megalomanian spellings and phonetics. The intellectual elite of the Ruritanians were responsible for initiating the literary and cultural revival of the Ruritanian language "donna[ing] folk costume and trekk[ing] over the hills, composing poems in the forest clearings" (Gellner, 1983: 61). When the international political situation came to favour independence movements, Ruritania eventually gained its independence too.

The meaning of nationalism illustrated in the Ruritanian case is defined by Gellner as "primarily a political principle, which holds that the political and the national unit should be congruent [...] it is a theory of political legitimacy which requires that ethnic boundaries should not cut across political ones" (Gellner, 1983 : 1). Although 'ethnicity' is presented as one of the principle defining criteria in Gellner's opening discussion, it disappears in much of the remaining text and is replaced instead by the

term 'culture'.¹² Two people are of the same nation if 1) they share the same culture and, 2) if there is a conscious recognition of this culture (Gellner, 1983: 7). Ruritanian nationalism, and Gellner's thesis of the nation, is thus all about culture.

Language plays a particularly important role in the cultural dimension of the nation and is used from the outset as a provisional defining criterion for national culture: "allow for a moment a difference of language to entail a difference of culture" (Gellner, 1983: 43-4). This national culture is a homogenising one: "[...] it is the objective need for homogeneity which is reflected in nationalism [...] a modern industrial state can only function with a mobile, literate, *culturally standardised, interchangeable population* [...]" (Gellner, 1983: 46; my emphasis). Gellner acknowledges that culture has always existed and that it is not a creation of the nation-building period. He argues, however, that individuals have not always been conscious of their insertion in cultural systems. With the age of nationalism, Gellner argues that national culture became explicit:

[...] nationalism uses the pre-existing, historically inherited proliferation of cultures or cultural wealth, *though it uses them very selectively*, and it most often transforms them radically. Dead languages can be revived, traditions invented, quite fictitious pristine purities restored [...] *The cultural shreds and patches used by nationalism are often arbitrary historical inventions* (Gellner, 1983: 56; my emphasis).

The national culture is thus an *invented* culture, and language is one of its 'shreds and patches'. It is not language itself that is invented, however, but rather a *consciousness* of language, a sentimentalised attachment to language. The following example, cited in Kedourie, provides a good illustration of this invented *consciousness* of language: "[...] the older peasants called themselves Masurians, their speech Masurian. They lived their own life forming a wholly separate group, and caring nothing for the nation. I myself did not know that I was a Pole till I began to read books and papers, and I fancy that other

¹² 'Culture' is defined as "a system of ideas and signs and associations and ways of behaving and communicating" (Gellner, 1983: 7).

villagers came to be aware of their national attachment in much the same way" (Slomka cited in Kedourie, 1961: 120). The idea of language consciousness as invention is important, because it allows for an understanding of the nation-language relationship as being constructed, rather than intrinsic. In this respect, Gellner's thesis escapes to some extent the Herderian essentialism described above.

There is nonetheless another form of reductionism which underlies his argument. The nation, he argues, "[is] about entry to, participation in, identification with, a literate high culture" (Gellner, 1983: 95). The high culture/low culture distinction was criticised earlier in relation to the sociolinguistic literature. There is nothing intrinsically 'high' or 'low' about culture or languages. The distinction is linked to a modernisation thesis in which subordinated groups are conceived of as 'backward' or 'primitive' by contrast to 'modern' or 'progress-oriented' dominant groups (cf. Williams, 1992, 1996). Missing from Gellner is an exploration of the social processes underlying the construction of literate 'high' cultures which would draw out the exclusionary role of language in the construction of boundaries between communities. He explicitly denies, for instance, any relationship between the promotion of language and claims to social mobility, based on the exclusion of the community in certain spheres of activity: "it would be genuinely wrong to try to reduce these sentiments to calculations of material advantage or of social mobility. The present theory is sometimes travestied as a reduction of national sentiment to calculation of prospects of social promotion. But this is a misrepresentation" (Gellner, 1983: 61). As in the sociolinguistic literature, the power relations between Ruritarians and Megalomanians are reduced to differences of culture and language. According to Gellner, the Ruritarians had suffered considerable disadvantage in the early period of industrialisation because they were *linguistically and culturally different* from the dominant Megalomanian community. Following independence, however, "[...] they soon learned the difference between dealing with a co-national, one understanding and sympathizing with their culture, and someone hostile to it. This very concrete experience taught them to be aware of their culture, and to love it [...]" (Gellner, 1983 61; my emphasis). It is in this reductionism to culture that we find the traces of the eighteenth-century romantic tradition.

iii. The 'Ethnic' and 'Civic' Nation: Anthony Smith.

Anthony Smith criticises the linguistic reductionism in Gellner : "What Gellner appears to be asserting is that if societies are to survive or be renewed under modern conditions, they must be based upon the tie of language, in the broadest sense" (Smith, 1983: 145). Smith argues that an adequate theory of the nation must break away from German romanticism in which language and culture are inflated as defining criteria of nation-ness. "Nationalists", he argues, "have not spilt their blood, or others', they have not expended their energy and lives, to forward the cause of a language, or even a culture" (Smith, 1983 : 150). Despite his rejection of German romanticism, there is nonetheless a culturalist bias implicit in his distinction between two types of nation models: the civic nation model and the ethnic nation model (Smith, 1993).¹³ The civic nation model is predominantly territorial and is characterised by a community of law, a single political will and a civic ideology (legal equality ; common aspirations, sentiments and ideas). As for the ethnic nation model, it is a 'nation of common descent', based on a 'community of birth and native culture'. At any given time there are six main attributes which distinguish the ethnic community from other types of communities : 1) a collective proper name, 2) a myth of common ancestry, 3) shared historical memories, 4) one or more differentiating elements of common culture, 5) an association with a specific 'homeland' and 6) a sense of solidarity for significant sectors of the population (Smith, 1993 : 21).

Language has little place in the civic model and is instead considered only as a characteristic of the ethnic model : what law is to the civic model, languages and customs are to the ethnic model (Smith, 1993 : 12). In relation to the criteria of ethnicity listed above, language is potentially present in categories 1, 3, 4, and 6 ; that is,

¹³ In his early work, these models are identified as 'ethnic' and 'territorial' nationalisms. In the first, the aspirations of the community are oriented towards the promotion and protection of a group's cultural identity. In the second, these aspirations are primarily oriented towards the control of territory (Smith, 1983).

whereby language is sentimentalised as the basis of common ancestry, historical memories, common culture or solidarity. The signification of language in relation to each of these categories bears some similarities with Gellner's idea of invented culture. The principal difference between Gellner's and Smith's arguments is that language is not proposed as the primary defining characteristic of ethnicity (and by extension, of the nation) in Smith, but rather as one type of cultural differentiation amongst others. Smith's ethnic nation, however, is still very much about shared culture.

There is also a certain ethnocentric bias underlying the civic/ethnic dichotomy which colours Smith's thesis. According to Smith, the civic model is associated with western societies and the ethnic model with non-western societies (particularly Eastern Europe and Asia).¹⁴ The Western nation-model (civic) is thus presented as a product of Rationality : a legal order, formal equality, a single political will. As for the non-Western model (ethnic), it is a product of the Irrational : folklore, myth and sentiment. Although Smith does specify that these models are pure types only, there is nonetheless an implied modernisation thesis in the juxtaposition of Western and non-Western societies, law and folklore, political will and sentiment, the romanticised past and the rational present. Implicitly, he thus reproduces the same high/low distinctions present in Gellner's thesis and in the sociolinguistic literature. Despite this limitation to Smith's argument, the two models nonetheless have some interest for understanding language rights as products of two logics: on a rights axis, they belong to the civic model ; on an identity axis (language as part of the nation 'message'), they belong to the ethnic model.

There is a more serious limitation to both Gellner's and Smith's arguments for understanding the role played by language in the construction of community boundaries. In both cases, the examination of the nation-language relationship is restricted to an understanding of internal group boundaries, the 'We' construction. The nation is about common identity and a sense of belongingness (Gellner and Smith) and about shared institutions and rights (Smith). As in the work of Deutsch and Anderson,

¹⁴ The distinction between Western 'civism' and Eastern 'ethicism' was first elaborated in the work of Hans Kohn (1967).

the nation is conceived as a construction which is essentially consensual, non problematical and non-conflictual. As argued in the previous chapters, however, language rights are products of struggle between communities, namely between language minorities and majorities. This aspect of struggle, and the role of language in this struggle, needs to be further developed.

C. *Language, Nation and Struggle: Otto Bauer, Max Weber, Paul Brass, Danielle Juteau.*

i. The Community of Destiny: Otto Bauer.

As a Marxist intellectual who played an active role in the Austro-Hungarian national debates at the turn of the twentieth century, Otto Bauer presents a conception of the nation which is based on struggle. The nation, for Bauer, is a 'community of destiny'; that is, a community structured around a common political project (Juteau-Lee, 1983) and shared common experiences (Thériault, 1994).¹⁵ It is, furthermore, a community structured around communication and networks of exchange: "[car communauté de destin signifie] un échange constant et une interaction continuelle" (Bauer, 1987: 140). It is also these processes of interaction which are at the core of Bauer's conception of the language-nation relationship, since the formation of the nation necessitated the sharing of a common culture across a large geographic expanse. A common language, and the development of the techniques of reproduction and dissemination of information, provided the technical means for bringing populations into contact: "de grandes parties du peuple sont donc arrachées à leur isolement géographique et amenées en relations suivies avec d'autres parties du pays grâce aux livres et aux pamphlets, aux lettres et aux journaux" (Bauer, 1987: 94-95).¹⁶ In this way, language is conceived as the communicative means by which the nation is formed; it is medium.

¹⁵ Bauer does not expand significantly on the idea of the community of destiny. The concept has, however, been interpreted more recently in these two ways.

¹⁶ Bauer attributes this argument to Karl Lamprecht (1856-1915), historian, and author of *Deutsche Geschichte*.

This argument can be recognised in the work of Deutsch and Anderson, who were both familiar with Bauer's work. At the same time, however, Bauer goes further than either of these two authors in at least two ways. First, he considered language to be more than just a means of communication. The national community -- the 'community of destiny' -- was at the same time a 'community of culture' and language was a 'cultural product' within it. Second, and importantly, Bauer draws out the exclusionary role played by language. For Bauer, the nation was a manifestation of class differences, language being one of the instruments used to exclude the working class as members of the nation: "la communauté de culture qui se servait de la langue commune comme de son instrument faisait des classes dominantes et d'elles seules une communauté nationale unitaire [...]" (Bauer, 1987: 581). Excluded because they did not share the language of the ruling elite,¹⁷ the working class was also excluded from bourgeois literary culture since their exploitation in the work sphere meant that they did not have the leisure time to enjoy the fruits of this culture. Löwy, commenting on Bauer, argues also that cultural goods contain 'class content' (Löwy, 1974). According to Löwy then, the exclusion of the working class from national culture is double: first, because they lacked the leisure time necessary to profit from culture, and second, because they did not have access to the class codes which would enable them to decode the 'content' of cultural goods.¹⁸ Thus, the language-Other was the working class, which Bauer described as the 'tenants of the nation' (Bauer, 1987 : 115). Language, however, was considered by Bauer to be only a 'second order' source of exclusion which reinforced other forms, such as the subordination of workers in relations of production : "la communauté de langue [...] n'est pour moi que 'la forme visible' de constellations sociales plus compliquées qui, comme le dirait Marx, 'se situent derrière elle', 'se manifestent' en elle, c'est-à-dire qui seules permettent de la comprendre" (Bauer, 1987: 581).

¹⁷ Bauer's reference here is especially to the use of High German and Latin by the ruling classes, both languages which were not generally understood by the working class populations .

¹⁸ Bourdieu (1982) proposes a similar argument with his concept of linguistic habitus. This concept will be discussed in Part II on language and power.

ii. Nation, language and legitimation: Max Weber.

Weber, writing during the same period as Bauer, also explores the relationship between nation, language and exclusion, although class is just one of its manifestations. The foundations of Weber's conception of community were examined earlier in the discussion of the minority as a community of law¹⁹: communal and associative relations, open and closed relations, domination and legitimation. These relations are also the foundations of the nation as a community. It is in relations of communalisation that actors construct a consciousness of the 'we' of the nation based on a sense of belongingness and solidarity. Language, while not intrinsically related to the idea of the nation, may become a 'culture value' in relations of communalisation: "a 'nation' is not identical with a community speaking the same language [...]. As a rule, however, the pretension to be considered a special 'nation' is associated with a common language as a *culture value* of the masses" (Weber, 1978: 922; my emphasis). As a 'culture value', language may play a symbolic role in the formation of national identity. The three types of nation 'messages' described by Fishman -- language as the symbol of a glorious or heroic past, as the essence of the nation, and as a marker of difference between communities -- can be understood on this level. At the same time, this identity, and the role of language in its formation, is also attached to interests, or associative relations: "Whatever the 'nation' means beyond a mere 'language group' can be found in the specific objective of its social action, and this can only be the autonomous polity" (Weber, 1978: 395). Thus, discourses on the nation-language relationship reveal a dual process of identity formation and the pursuit of rational interests. Together, these two processes construct the 'We' of the nation. Weber specifies, however, that this 'We' construction is necessarily accompanied by a consciousness of difference from other groups. Commenting on language more specifically, he writes,

It is only with the emergence of a consciousness of difference from third persons who speak a different language that the fact that two persons speak the same language [...] can lead them to

¹⁹ See Chapter 3.

a feeling of community and to modes of social organization consciously based on the sharing of the common language (Weber, 1978: 43).

Furthermore, the nation may be constructed around open relations (i.e. participation is not denied to outsiders) or closed relations (i.e. participation is restrained and outsiders are excluded). Thus, language, as a 'culture value' of the nation, may either serve as an instrument of inclusion (open relations) or exclusion (closed relations). The quotation from Gandhi in the introduction to this chapter provides an example of the inclusionary role of language, his project being to unite individuals from different religious backgrounds through a common language: "Ultimately when our hearts have become one and we all are proud of India as our country, rather than our provinces, and shall know and practice different religions as derived from one common source [...] we shall reach a common language with a common script [...]" (Gandhi, cited in Ahmad, 1941 : 40). At the same time, the nation, and the role of language in it, may be constructed around closed relations with the objective of maintaining a monopoly of control over community resources. The following passage provides an example of the way in which control over material resources is invoked as a justification for the exclusion of the 'natives', including the marginalisation of their language:

Had the mineral wealth of the principality been discovered by the natives, and could it have been properly put to use before they were subdued to English rule, they might have preserved their language and been the foremost among British subjects in wealth, manufacture and arts (H.L. Spring, *Lady Cambria*, 1867; cited in Fishman, 1973: 42).

Thus, language may play both an inclusionary and exclusionary role in the construction of the nation. As was the case with the community of law, these processes are linked to power: "Time and again, we find that the concept 'nation' directs us to political power. Hence, the concept seems to refer [...] to a specific kind of pathos which is linked to the idea of a powerful political community of people who share a common language, or religion, or common customs, or political memories; *such a state may already exist or it may be desired*" (Weber, 1978: 398; my emphasis). The highlighted phrase in this passage also

provides the possibility for distinguishing between national majority, which controls the state apparatus, and national minority which is constructed around a project to gain state control. In both cases, power is linked to processes of legitimation. As Weber writes,

In addition to the direct and material imperialist interest [...] there are the indirectly material as well as the ideological interests of strata that are in various ways privileged within a polity, and indeed, privileged by its very existence. They comprise especially all those who think of themselves as being the specific 'partners' of a specific 'culture' diffused among the members of the polity. Under the influence of these circles, the naked prestige of 'power' is unavoidably transformed into other special forms of prestige and especially into the idea of the 'nation' (Weber, 1978: 922).

In the previous chapter, it was argued that the belief in a legal order constituted one form of legitimation of the political community, in combination with other forms such as tradition, affectual sentiments, values and charisma. As a construction based especially on sentiments and values, with language as a 'culture value' for instance, the nation also serves a legitimating function. Unlike Bauer, however, the interests which underlie these processes of legitimation are not strictly analysable in terms of class differences. Instead, Weber provided a broader perspective in suggesting that class was only one manifestation of status: "status may rest on a class position [...] However, it is not solely determined by it" (Weber, 1978: 306).²⁰ Similarly, he rejected the economic determinism of Marxism, advocating instead a multi-causal approach to understanding social phenomena (Weber, 1949).²¹

²⁰ See McAll (1990) and Turner (1988) for a comparison of Weber's concept of status and Marx's concept of class.

²¹ In relation to law more specifically, he wrote: "Law (in the sociological sense) guarantees by no means only economic interests but rather the most diverse interests [...] Above all, it guarantees political, ecclesiastical, familial, and other positions of authority as well as positions of social preëminence of any kind which may indeed be economically conditioned or economically relevant in the most diverse ways, but which are neither economic in themselves nor sought for preponderantly economic ends" (Weber, 1978: 333).

iii. Minority Nationalisms and Language: Paul Brass.

Brass also rejects economic determinism in his theorisation of the nation. While he emphasises an elite role in the formation of nationalist movements, he explicitly rejects the idea that cultural activity can be reduced systematically to economic activity (Brass, 1991: 16). A nation, according to Brass, is a very particular kind of ethnic group, one that is politicised and which has been officially recognised by the dominant state: "a nation, therefore, may be seen as a particular type of ethnic community or, rather, as an ethnic community politicized, with recognized group rights in the political system" (Brass, 1991: 20). The construction of the nation, from this point of view, would seem to apply particularly to minority communities within larger states, although Brass does not explicitly use the term 'minority'. In concordance with the argument of the previous chapter, Brass also suggests that these communities are structured around an unequal distribution of resources, such as the lack of job opportunities. He argues further that the existence of the (minority) nation is dependent on the benevolence of the state. In a sense, this proposition reflects the discussions of the previous chapter on the *minorisation* of communities in law. At the same time, however, there is a certain tautological dilemma in the fact that the (minority) nation does not exist outside of state recognition, yet this recognition itself is based on the acknowledgement that these minority communities are in some way 'national'. There is a confusion here, I believe, between the minority nation as a sociological reality (constructed around exclusionary processes) and the juridical recognition of its existence in law.

Despite this weakness to his argument, Brass nonetheless provides a worthwhile account of the process by which language becomes part of the nation 'message' of these communities. According to Brass, in the process of nation construction *objective* cultural markers, such as language, diet, customs, religion and racial characteristics, are transformed into *subjective* markers of difference. In the transference from objective to subjective status, these characteristics acquire a symbolic function and become the basis of 'ethnic' or 'national' identity: "objective differences between ethnic groups acquire increasingly subjective and symbolic significance, [and] are translated into a

consciousness of and a desire for, group solidarity" (Brass, 1991: 22). This transition is explained as being the result of the manipulation of symbols by community leaders. These leaders, described as economic, political and religious elites, are conceived as being the principal actors responsible for organising mass movements designed to improve the material well-being of the community. According to Brass, these leaders *choose*²² one or several 'objective traits' which differentiate the community from other communities and promote them as symbols in order to mobilise the group on a subjective level.

Language is one amongst the many variant types of 'objective' cultural markers that may serve to differentiate one community from another. Although not a primordial characteristic of identity, it may be constructed as such on a subjective level. In this way, "language becomes not merely a means of communication, but a priceless heritage of group culture" (Brass, 1991: 22). Unlike Anderson (1991) and Deutsch²³ (1966 ; 1968), for whom language has no symbolic relation to the nation, its symbolic status is quite clear for Brass. The transformation to symbolic status, however, is always politically motivated.

Brass draws on the case of Muslims and Hindus in Northern India to illustrate his argument. In the nineteenth century, these communities spoke the same language. It was only later that the language became differentiated by script and some lexical items, with Muslims speaking Urdu and Hindus speaking Hindi. According to Brass, this differentiation was politically motivated. Prior to the nineteenth century, Brass suggests that Urdu did not really have a symbolic value for the Muslim community. When the British colonial administration threatened to replace Urdu with Hindi as the language of

²² Brass uses a very active terminology (choose, manipulate, etc.) when describing the elite role in identity formation. This role appears to be conceived of as a wilfully strategic one.

²³ Brass's earlier work, *Language, Religion and Politics in North India* (1974) was largely influenced by the communications model developed by Deutsch (1966, 1968). In his later work, Brass has taken some distance with this model, suggesting that it is necessary to place more emphasis on the role of political leadership in the process of nation construction.

administration in North India, Muslim elites organised a campaign designed to promote Urdu as a symbol of the community. The campaign, however, principally served other interests. It was not about language, but about the protection of the advantage of the Muslim community in terms of access to government employment (Brass, 1991: 83-86).

A comparison can be drawn between Brass's argument and that of Weber. For both, language plays two roles in the 'national' community. The first is a symbolic role, linked to identity formation. Behind this role, however, lie the interests of the community; in Weberian terms, this is the control over resources. From the point of view of the minority community, examined by Brass, these interests may also be linked to projects to gain control over resources which have traditionally been denied to the community, such as job opportunities. The role of language in the case of the minority community is thus clearly linked to projects of social mobility. There is also a fundamental difference between the two theorists. For Brass, the interest dimension is perceived in very instrumentalist terms as the conscious manipulative strategies of community leaders. Weber is less instrumental in theorising the link between symbol construction ('culture value') and interests (associative relations). For Weber, instrumental action is always accompanied by more subtle processes of legitimation. As a cultivated belief in the legitimacy of the order, the idea of the nation takes on a life of its own and comes to exist for the members of the political community as independent of the direct material interests or instrumental rationality which feed it. Expanding on Weber's argument, the language-We and Other do not merely exist as enemies, they are legitimated as such. There is a constructed belief in the superiority/inferiority of the one or the other.

iv. The Pluralist Nation Model: Danielle Juteau.

Danielle Juteau adds yet another dimension to understanding the nation-language relationship, by examining the place of immigrant populations in the construction of the nation. Drawing in part on Weber's and Bauer's work, Juteau

proposes that the nation is a specific type of 'community of history and culture' (cf. Bauer, 1987) which is constructed in the triadic relations between national consciousness, a historical struggle for existence, and a common political project (Juteau, 1992; 1993). Her theorisation of the nation is dependent on the prior theorisation of ethnicity. Juteau identifies two dimensions in the construction of ethnicity, one internal and the other external (Juteau-Lee, 1979; 1983; Juteau, 1996). Internally, the community is constructed 1) in relations of communalisation in which various characteristics (phenotypical traits, language, common descent) become signifiers of ethnic 'honor', solidarity or social affinity and 2) in associative relations based on rational interests and projects. The nation is a 'big ethnic group', its particularity being that its members either control the state-apparatus or have a defined political project for state-control²⁴ (Juteau-Lee, 1983). The role of language in the internal construction of the ethnic group/nation is expressed in Weberian terms. First, relations of communalisation may be structured around language as a signifier of ethnic identity. Second, the promotion of language is also attached to the interests of the community. Commenting on the Quebec case, for instance, she writes: "concurrently, the classes controlling the state apparatus, i.e., the bureaucracy and the *intelligentsia*, redirected the course of the national liberation struggle by placing questions of language and national education at the top of the public agenda" (Juteau, 1993: 93). The relationship between language and identity is thus preceded by an instrumental function in which Juteau sees language as "a tool of economic, political and cultural power" (Juteau-Lee, 1979: 13).

Internal boundary construction, however, is necessarily accompanied by external boundary construction; the nation is at once a construction of the 'We' and of the relation of 'We' to 'Other'. Despite the apparent stability of ethnic/national boundaries, Juteau proposes that they are in fact constantly negotiated and renegotiated. This stable appearance of instability is evidence of relations between political communities. And it is

²⁴ A third type of group is also identified -- the nationality group (*groupe nationalitaire*) which occupies a position mid-way between the ethnic group and the Nation in that it is critical of the existing institutional framework, but does not transform this criticism into a political project of independence or sovereignty.

here, in the context of these relations, that the nation takes on its significance. The nation is, as Juteau writes, a contested site ; its boundaries are in constant flux. The idea of the nation as a contested site is an interesting one, because it moves away from a static perspective and instead captures the dynamic character of the nation as a construction of actors and interests.

The relationship of nation 'We' to 'Other', according to Juteau, is particularly evident in situations of colonisation or immigration in which ethnicity is often assumed to be the humanity of the Other, in the sense that the dominant group rarely perceives itself as being 'ethnic'. Thus immigrants are 'ethnic' and colonials are 'ethnic', but the national (ruling) communities do not always define themselves as 'ethnic'. Furthermore, phenotypical traits, language, or other characteristics of the ethnic Other (immigrant or colonial) may be constructed by the dominant group as signifiers of inferiority or marginality (Juteau, 1996). Examples of discourses of inferiorisation were given in earlier chapters. Thus, the construction of the nation as 'Our' nation is potentially exclusionary to those who do not fit into its defining discourse.

Juteau describes two nation models which have predominated in the European context – the *Kulturnation* and the *Staatnation* – and their implications with respect to the immigrant populations (Juteau, 1993, 1996; Juteau and McAndrew, 1992). In the *Kulturnation*, modeled on the German context, the nation idea is structured around a discourse of ancestral and blood lineage. In the *Staatnation*, modeled on the French context, the nation idea is structured around a discourse of a social contract and the political will of citizens (cf. Schnapper, 1991 ; cf. Brubaker, 1990). In both cases, the immigrant exists at the margins of the nation discourse. Migrant workers in Germany, for instance, do not conform to the dominant discourse of 'what it is to be German' (i.e. in terms of a conception of ethnicity defined by common ancestry and, as suggested in the German romantic tradition, by language). Their exclusion as members of the *imagined community*, is paralleled by their marginalisation or exclusion in other spheres of social life, such as the labour market. Despite its orientation towards rights rather than ancestry, the *Staatnation* is also structured around an implicit discourse of "the

citizenship rights of people to become culturally similar" (Juteau, 1993: 100). This process of similitude is largely uni-directional. For immigrants in France, for instance, it means leaving their own practices and beliefs of 'ethnicity' (those that they acquired through socialisation) in their countries of origin and becoming 'French'.

Juteau proposes that there is also a third nation-model emerging in countries founded on immigration, such as Australia, the United States and Canada : the *pluralist* model. Whereas both the *Kulturnation* and the *Staatnation* are based on homogenising discourses, the distinguishing feature of the *pluralist* model is that it promotes the expression of multiple identities : "l'identité nationale peut se conjuguer à de multiples identités culturelles et le développement d'une conscience nationale n'entraîne point en principe l'annihilation culturelle" (Juteau and McAndrew, 1992: 165). Language plays a particular role in the pluralist model, as an instrument in the integration of differences through language. Thus, a common language reflects "la nécessité de l'échange intercommunautaire" ; it is the common thread which brings together these multiple identities (Juteau and McAndrew, 1992: 167). The role of language in the *pluralist* model is thus a communicative one. However, language as a means of communication is not only medium here. In this case, there is a breakdown of the medium/message distinction since the promotion of a common language also becomes part of the nation message.

D. *Language and Nation: Discussion.*

Three ways of conceptualising the language-nation relationship were presented in the preceding pages: language as communication, as culture and as struggle. In the first, language is the communicative basis of the nation construction ; it is the technical means for bringing peoples together. Language as medium, however, does not take us far in understanding the existence in discourse of a sentimentalised attachment to language. In Deutsch's and Anderson's arguments, there is a rejection of the symbolic role of language. However, the mere fact of the existence of language rights and the

heated political debates surrounding them, and of discourses explicitly linking language and nation would seem to indicate that language is more than just a technical medium of communication. To paraphrase Juteau, ignoring the facts will not make them go away (Juteau, 1996). A symbolic role of language is acknowledged in the second type of literature in which language is associated with 'culture', a thesis inspired in part by the romanticist theories of the eighteenth century. This thesis is particularly evident in Gellner's work. Although he does argue that this culture is invented, rather than an intrinsic feature of the nation construction, he nonetheless reduces the significance of struggles over language to differences of 'culture'. Furthermore, in characterising cultures as 'high' and 'low', Gellner refuses to acknowledge that there are power differentials behind these distinctions. Instead, he merely reproduces theories of modernisation in which some cultures are assumed to be 'naturally' superior to others. While Smith criticises the linguistic and cultural reductionism in Gellner's argument, a modernisation thesis is nonetheless present in his distinction between 'civic' (Western, modern, rational) and 'ethnic' nations (non-western, backward, non-rational). By extension, the role of language in the construction of the nation, present only in the second model, is somehow relegated to a status of 'primitivism'; that is, as the way in which backward societies define their nationalism. There is a further limitation to the literature on language as communication and that on language as culture. Both examine the internal boundaries of the nation construction; that is, the 'We' dimension. While this dimension should not be ignored, it cannot account for language rights as objects of *struggle* between communities.

For Bauer, Brass, Weber and Juteau, this construction is not only about consciousness or national 'sentiment' but also about the interests of the political community. It is also from this point of view that it is possible to understand the nation-language relationship as a relation of We and Other (class, minority and majority, immigrant and majority), rather than as a product of in-group relations only. Thus, the place of language in the nation message, independent of its discursive content, must also be read as a product of interests. Brass defines the relationship of language to interests instrumentally as a means to an end. As suggested above, however, Weber's argument

on legitimation processes is perhaps more appropriate to understanding this relationship. It is in this process of legitimation – that is, the cultivated belief in the nation – that the illusion of the stability of language as part of the message of the nation construction is created. Juteau's argument that the boundaries of the nation are fluctuating ones, negotiated in the interplay of identity and interests, adds a further dynamic dimension to understanding these processes of legitimation.

Analytically, the challenge would be to capture this dynamism by identifying the discursive references to language as part of the message of the nation and the multiple ways in which the We and Other are constructed in this discourse: Who is and is not part of the nation project? In what way is language used to construct community (internal boundaries) and distinguish communities (external boundaries)? Is language inclusively defined or exclusively defined? Before turning to the methodological implications of these questions, I would like to further explore the theme of language and power in literature which takes language as its primary object of reflection.

II. Language, Power and the Construction of Community Boundaries.

To impose another language on [...] a people is to send their history adrift [...] to tear their identity from all places [...] To lose your native tongue, and learn that of an alien, is the worst badge of conquest -- it is the chain on the soul. To have lost entirely the national language is death; the fetter has worn through [...] Nothing can make us believe that it is natural [...] for the Irish to speak the speech of the alien, the invader, the Sasanoch tyrant, and to abandon the language of our kings and Heroes [...] No! oh, no! the 'brighter day shall surely come' and the green flag shall wave on our towers and the sweet old language be heard once more in college, mart and senate (Davies, 1845; quoted in Fishman, 1973: 48).

The theme of language, power and community is present in some of the theoretical work on the nation examined in the previous section, especially that of Bauer, Weber, Brass and Juteau. Language, however, plays a secondary role in this literature, the conceptualisation of the nation being its primary focus of investigation. Generally speaking, language as a specific object of study has received little attention outside of the domain of linguistics, and its sub-discipline, sociolinguistics.²⁵ This fact is largely attributable to the historical influence of structural linguistics in the social sciences (Bourdieu, 1982; McAll, 1992; Singh, 1996; Williams, 1996). As Bourdieu suggests, within this tradition language is divorced from the social conditions of its production, its study characterised by the "mise entre parenthèses du social" (Bourdieu, 1982: 9). Singh refers to this 'bracketing of the social' as a process of 'disguised culturalization' in which the political and economic dimensions of contact between language communities are explained as differences of 'culture' (Singh, 1996: 2). The passage cited above, which opposes the Irish and the "alien, the invader, the Sasanoch tyrant", makes a mockery of explanations based on 'cultural differences'. The themes of

²⁵ Joshua Fishman, in his foreword to Glyn Williams book *Sociolinguistics: a Sociological Critique*, writes, "It seems totally unsurprising to me that whereas almost all linguistic departments include courses in sociolinguistics today [...], almost no sociology departments do so. Indeed, the two fields are as remote from each other now as they were in the early 1960s. After three decades, sociolinguistics has remained just as it was: a province of linguistics and anthropology, and a rather provincial province at that" (Fishman, foreword to Williams, 1992: viii).

power and language, implicit in the above passage and explored to some extent already in the literature on the nation, is the principle object of reflection in this section.

A. *From 'linguistic communism' to 'linguistic markets': the Social Construction of 'Prestige' and 'Non-Prestige' Languages.*

i. Language as the Communal Good: Auguste Comte.

In a text entitled "Le langage, problème de sociologie" (1820s), Auguste Comte, considered by some to be the founder of sociology as an autonomous discipline, argued that language is the most social of human institutions (Comte, 1969 : 35).²⁶ A true general theory of language, he argued, is essentially a sociological one. For Comte, language was an 'artificial' sign system, a human construction, derived from two other, more primitive, sign systems -- sight and hearing²⁷ -- which are shared by all orders of animals. He compared and contrasted language with private property. Both, he argued, were constructions of human artifice ; that is, social institutions. However, whereas private property was concentrated in the hands of the few, language belonged to the 'human public' :

Pour des productions destinées à satisfaire des besoins personnels, qui les détruisent nécessairement, la propriété doit instituer des conservateurs individuels, dont l'efficacité sociale est même augmentée par une sage concentration. Au contraire, envers des richesses qui comportent une possession simultanée sans subir aucune altération, le langage institue naturellement une pleine communauté, où tous, en puisant librement au trésor universel, concourent spontanément à sa conservation (Comte, 1969 :45).

²⁶ It is to Comte that we owe the term 'sociology', although Aron argues that other thinkers, such as Montesquieu, Saint-Simon and de Toqueville, were more important in influencing the emergence of a sociological 'way of thinking' (Aron, 1967).

²⁷ Smell also constituted a sign system for Comte. As the least developed of the three sign systems, however, he considered that its influence on language was minimal.

Private property thus represented an unequal distribution of resources, although Comte thought this distribution to be the most 'socially efficient'. Inversely, he considered language to be fundamentally egalitarian: it was the universal treasure and the communal good. This belief reflects to some extent the romanticist theories which emerged in the eighteenth century, and which have their contemporary manifestations in work such as Gellner's (Gellner, 1983). Today, we can read Comte's argument with a certain intellectual curiosity and interest in the history of the social sciences. For a critical approach to language, however, this 'essence' of language as the communal good has its limitations in the observations made throughout the earlier chapters on language as a marker not only of inclusionary, but also of exclusionary, processes.

ii. Linguistic Markets and the Production of Legitimate Languages: Pierre Bourdieu.

Like Comte, Bourdieu also draws on the analogy between language and the market in his conception of the social constitution of language (Bourdieu, 1982). Bourdieu, however, takes this analogy in a radically different direction. He referred to Comte's conception of the 'universal treasure' as an 'illusion of linguistic communism' in which language becomes a romanticised fact or myth. Bourdieu's thesis looks more particularly at the rationality which underlies the myth. His argument is situated in a critique of structural linguistics which, he suggests, reduces social action to the act of communication itself. He does not deny the importance of linguistics as a discipline, acknowledging, for instance, that language is a formal mechanism whose generative capacities are limitless. On another level, however, language is also social. His objective then, is to carve out that part of language which belongs to the sociological realm of study; that is, language as a social object.

Bourdieu develops his thesis around two interrelated arguments. The first is language as *habitus*; that is, the socially acquired capacity to use language appropriately in different circumstances. It is language as the embedded knowledge of how to act and

speak in given situations, with given constraints, and a given understanding of the socially determined rules of interaction. While there may be individual differences in ways of speaking, language *habitus* is constructed collectively. Ways of speaking may be differentiated, for instance, by gender or 'ethnicity' or class.²³ Language *habitus* is integrated in what Bourdieu refers to as a linguistic market. In this argument, language becomes a market commodity, produced and exchanged according to a system of market rules and sanctions : " [the market refers to] la mise en relation que les locuteurs opèrent, consciemment ou inconsciemment, entre le produit linguistique offert par un locuteur socialement caractérisé et les produits simultanément proposés dans un espace social déterminé" (Bourdieu, 1982 : 15). The objective of sociology, according to Bourdieu, is to examine the social conditions involved in the production of the language commodity.

Bourdieu's argument is particularly interesting in relation to the production of what he refers to as 'legitimate languages'. In sociolinguistic terms, these are the languages of 'prestige' and 'modernisation'; in Anderson's terms, these were the 'languages-of-power' (Anderson, 1991). According to Bourdieu, powerful communities create the illusion of a unified linguistic market in which the 'prestige' language is naturalised as the only true and legitimate language-of-use. Class, regional and 'ethnic' dialects or languages are measured against the legitimate language: "toutes les pratiques linguistiques se trouvent mesurées aux pratiques légitimes, celles des dominants, et c'est à l'intérieur du système de variantes [...] que se définit la valeur probable qui est objectivement promise aux productions linguistiques des différents locuteurs [...]" (Bourdieu, 1982 :40). It is in this process that non-legitimated languages become labelled as inferior, non-prestigious, backward, non-national and so on. Ideologised as sub-products, seconds, or cast-offs of the unified linguistic market, these languages are constructed as 'illegitimate'. Regional languages in France, for instance, were defined in opposition to French as the 'legitimate' language. Designated by the term 'patois', these

²³ See, for instance, Bernstein (1975), Milroy (1987) and Labov (1972a, 1972b) on class differences in language-use ; see Zimmermann and West (1996) for gender differences in language.

languages were defined as “incompréhensible[s]” and “corrompu[s] et grossier[s], tel que celui du menu peuple” (Dictionnaire de Furetière, 1690; cited in Bourdieu, 1982: 30).

The linguistic market, according to Bourdieu, is not constructed in isolation, but rather is linked to other forms of markets (educational, political and economic). In his discussion of France, for instance, he illustrates the interplay between various markets in the production of the legitimate language:

[...] c'est sans doute la relation dialectique entre l'École et le marché du travail ou, plus précisément, entre l'unification du marché scolaire (et linguistique), liée à l'institution de titres scolaires dotés d'une valeur nationale [...] et l'unification du marché du travail (avec, entre autre choses, le développement de l'administration et du corps des fonctionnaires) qui joue le rôle le plus déterminant dans la dévaluation des dialectes et l'instauration de la nouvelle hiérarchie des usages linguistiques (Bourdieu, 1982: 34).

The monopoly of the linguistic market, however, is not fixed. New linguistic markets can be constructed, such as movements for the political recognition of minority language communities in France. Once again, however, Bourdieu emphasises that the construction of new linguistic markets is always related to the struggle for the control of other markets: “on ne peut sauver la *valeur* de la compétence qu'à condition de sauver le marché, c'est-à-dire l'ensemble des conditions politiques et sociales de production des producteurs-consommateurs” (Bourdieu, 1982: 45). Thus, the construction of new linguistic markets is necessarily linked to struggles for the appropriation of other resources.

iii. Linguistic Colonialism: Louis-Jean Calvet.

Calvet examines the construction of legitimate languages in the context of relations between colonial metropolises and colonised states (Calvet, 1974). In his

introduction to *Linguistique et colonialisme*²⁹, he sets out the basic argument which orients his reflection: "Mon propos est ici de montrer tout d'abord comment l'étude des langues a toujours proposé [...] une certaine vision des communautés linguistiques et de leurs rapports, et comment cette vision a pu être utilisée pour justifier l'entreprise coloniale" (Calvet, 1974: 10). From this point of view, he examines the relationship between science and domination, arguing that the study of language, or its legitimation as an object of science, was intricately linked to colonial projects and policies aimed at the inferiorisation of colonised populations, a process which he refers to as 'linguistic colonialism'. He demonstrates, for instance, the way in which the comparative study of languages and grammars, particularly between the sixteenth and nineteenth centuries, was constructed around a paternalistic euro-centrism in which the languages of civilisation (French, German, Latin) were opposed to the languages of the savages (patois, dialects, indigenous languages in the colonies). To the scientific rationalisation of the superiority of European languages was added the theorisation of European racial superiority in the nineteenth century (Calvet, 1974: 37). The following statement, pronounced by William McGee, the first president of the American Anthropological Association, illustrates this assumed superiority:

Possibly the Anglo-Saxon blood is more potent than that of other races; but it is to be remembered that the Anglo-Saxon language is the simplest, the most perfectly and simply symbolic that the world has ever seen; and that by means of it the Anglo-Saxon saves his vitality for conquest instead of wasting it under the Juggernaut of a cumbrous mechanism for conveyance of thought (cited in Williams, 1992: 30).

This constructed superiority, according to Calvet, was at the heart of the enterprise of linguistic colonialism, which he describes in three stages: implantation, maintenance, and demise. In the first stage, that of the implantation of the colonial

²⁹ *Linguistique et colonialisme* is one of Calvet's early texts (Calvet, 1974). He has since written, or edited, several others dealing with questions of language and language policy (*Les langues véhiculaires*, 1981; *Sociolinguistique du Maghreb*, 1983; *La Guerre des Langues*, 1987; *L'Europe et ses langues*, 1993; *Les politiques linguistiques*, 1996). Despite the great interest and variety of Calvet's illustrations of language issues in all of his work, his 1974 text on linguistics and colonialism remains the only text written from a truly critical

power, he suggests that language was relatively un-ideologised. Military, administrative and commercial infrastructures were set in place and indigenous collaborators were recruited and trained to act as intermediaries between the colonial power and the colonised people. The role played by the colonial language in this stage was essentially pragmatic; it was the communicative medium of those directly involved in infrastructural activity.

As the process of colonial implantation became more advanced, colonisers extended their influence into the cultural sphere, creating a colonial culture meant to fill the perceived 'cultural void' of the colony: "une fois installé, le colonisateur va établir sa culture face au vide culturel qu'il croit (ou plutôt qu'il veut) trouver, c'est-à-dire qu'il va établir *la culture*" (Calvet, 1974: 66). In this second stage, the colonial culture is constructed as the legitimate culture and the colonial language as the legitimate language. This was the stage of the maintenance of the colonial enterprise, in which ideological means were needed to construct a belief in the legitimacy of colonial control. Initially, Calvet argues that these means were manifest in ways of 'naming'; that is, the naming of peoples, languages and geographic places (streets, cities, squares). As Calvet suggests, the replacement of indigenous ways of 'naming' reflected the belief of the colonisers that these countries and peoples did not exist prior to their arrival, or at least, not in any civilised manner: "Ce mépris des appellations autochtones relève d'un mépris plus vaste pour les peuples; les territoires et les habitants n'existaient pas avant l'arrivée du colonisateur (puisqu'ils n'avaient pas de nom, ou du moins puisqu'on se comporte comme s'ils n'avaient pas de nom), et l'on nomme lieux et peuples comme bon nous semble" (Calvet, 1974: 57). Gradually, ways of naming were accompanied by other ideological means, particularly the production of discourses constructed around the supposed 'superiority' of the coloniser and 'inferiority' of the colonised. Thus, the coloniser's language was constructed as the language of civilisation (e.g. "les colonisés ont tout à gagner à apprendre notre langue, qui les introduira à la civilisation, au monde moderne" p. 123). Inversely, those of the colonised were constructed as languages which

perspective. The others tend to reproduce the weaknesses of the sociolinguistic literature in reducing the complexity of social relations to differences of language.

could not express modern concepts and ideas (e.g. “de toutes façons, les langues indigènes seraient incapables de remplir cette fonction, incapables de véhiculer des notions modernes, des concepts scientifiques, incapables d’être des langues d’enseignement, de culture ou de recherche” p. 123). Like Bourdieu, Calvet argues that the designation of languages and peoples as ‘prestigious’ and ‘non-prestigious’, ‘modern’ and ‘backward’, ‘civilised’ and ‘non-civilised’ is not a conclusion in itself, as was the case in the sociolinguistic literature. Instead, the interest of these designations lies in the ideological and material interests which they reveal, in this case, interests involved in the legitimisation of the colonial enterprise.

The colonial enterprise is not irreversible, as the anti-colonial movements of the twentieth century have demonstrated. For Calvet, the contestation of colonial domination marked a third stage in the process of linguistic colonialism, that of the demise of the colonial power. While Calvet emphasises that language did not constitute the only, or even the most important, object of struggle in these movements for liberation, he suggests that it did nonetheless play a role in many cases. This role was both pragmatic and ideological. In the first case, indigenous languages became the medium of the liberation movements, not as symbols, but because they were the only languages understood by the mass populations.³⁰ In the second case, language was ideologised as something which must be valued: “car face au champ d’exclusion linguistique qui accompagne le colonialisme, face à la langue exclusive, la langue dominante, la libération d’une peuple consiste *aussi* à libérer sa parole” (Calvet, 1974: 137; emphasis in original). Thus, in the case of the independence movements, language is an instrument of empowerment; it is a means, amongst others, of claiming control.

Despite the thirty-year period which has passed since the accession to independence of most former colonial states on the African continent, Calvet suggests that the weight of the colonial discourse of linguistic inferiority is still very much

³⁰ This was not the case everywhere. In early twentieth-century India, for instance, the diversity of Indian languages was a challenge to establishing a mass base for activities of the National Congress. As a result, English was used as the *lingua franca* in the annual meetings of the National Congress because it had become a link language of regional elites, independent of their mother tongues (Professor J. Hill. Course Lecture on Indian Nationalism. Concordia University, Department of History, Winter, 1997).

anchored in the collective consciousness of former colonised peoples. In a later work, *La guerre des langues* (1987), Calvet examines the migratory experience of some of these peoples and their installation in the former colonial metropole, France. He cites the case of a young boy, born in France of Moroccan parents. When he asked the boy if he spoke Arab, the boy promptly replied that he did not. Later in the interview, the boy mentioned that his mother rarely left the house and that he did most of the shopping. Calvet, suspicious, asked the following series of questions :

- Calvet* "Pas même pour faire le marché?"
Boy "Non, répondit fièrement Mohamed, c'est moi qui fais le marché"
Calvet "Ta mère te donne la liste de choses à acheter?"
Boy "Non, ma mère ne sait pas écrire. Elle me dit ce qu'il faut acheter, c'est tout"
 (J'eus soudain un doute): "Ta mère parle français?"
Boy "Non, elle comprend rien"
Calvet "Et en quoi parles-tu avec elle?"
Boy "Eh ben, en arabe", me répondit-il sur un air d'évidence.

Calvet suggests that the boy was embarrassed to admit that he spoke Arab. He had internalised the belief that French was a more prestigious language than his own mother tongue (Calvet, 1987 : 104-105). The process of linguistic colonialism is thus illustrated here in another manifestation, in the marginalisation of immigrant populations.

iv. Language, Power and Territories: Christopher McAll.

McAll examines the themes of language, power and exclusion in the relations between immigrant and dominant communities, especially the Mexican community in the United States (McAll, 1991) and immigrant workers in Montreal (McAll, 1992). Mexican immigration to the United States dates from the late-nineteenth century when Mexican labourers began working on the construction of the railway, replacing Chinese workers who had been refused entry under the *Chinese Exclusion Act* of 1882. Throughout the twentieth century, Mexican workers have also been employed in other work sectors, such as agriculture, mining and industrial production. Ghettoised in

secondary sectors of activity, and generally non-unionised, the working conditions of the Mexican community in the United States are often precarious ones.

Welcomed and exploited by employers as a source of cheap labour, these workers are largely excluded from other spheres of social life. Furthermore, this exclusion is reinforced on a language basis in the form of discriminatory discourses and practices which construct immigrant communities, and their languages, as being inferior. Baron provides the example of a railroad president who, in 1904, reportedly told a congressional hearing on the mistreatment of immigrant workers that "these workers don't suffer – they don't even speak English" (cited in Baron, 1990: 1).³¹ These exclusionary discourses and practices emerged in the late-nineteenth century as part of the nativist movement and are still promoted today by such organisations as U.S. English and U.S. First.³² Immigrants, and immigrant languages, are thus constructed in right-wing discourse as potential threats to a homogeneous and linguistically pure America. As McAll argues, the significance of such discourses goes beyond processes of language inferiorisation and is instead related to the monopoly of control exercised by the 'national' community over resources, such as employment :

Promouvoir l'anglais comme langue officielle aux États-Unis pourrait donc vouloir dire renforcer l'anglais comme langue d'exclusion. L'enjeu principal de cette exclusion reste l'accès au marché du travail et surtout au secteur primaire, aux emplois de cols blancs et aux professions, autant de chasses gardées où les frontières d'exclusion linguistiques, ethniques et sexuelles changent de forme avec le temps, mais sans changer de fond (McAll, 1991 : 33).

The themes of immigration, language and exclusion are also present in McAll's examination of the segmentation of the Quebec labour market into sectors predominated by allophone, anglophone and francophone communities (McAll, 1992). Like the Mexican community examined above, certain immigrant communities in

³¹ Other examples were also given in Chapter 2.

Montreal tend to be ghettoised in secondary sectors of activity. These are also sectors in which work tasks tend to require relatively little use of language, whether mother tongue, French or English. Contact between ethnolinguistic communities is minimised, thus reinforcing processes of exclusion and the marginalisation of immigrant populations. As McAll writes, "c'est une situation qui a ses racines tant dans l'utilisation que dans la non-utilisation même du langage dans les milieux de travail – l'abondance du langage et son absence faisant partie de la reconstitution quotidienne des rapports de classes par les acteurs présents sur ces territoires" (McAll, 1992 : 128). This hypothesis was also explored in a study, directed by McAll, of the language use of several categories of clothing industry workers in Montreal. While the study did not focus exclusively on immigrant workers, it nonetheless demonstrated that there are real constraints on language use and other forms of interaction for workers in lower levels of production (cf. Montgomery, 1994). For immigrant workers, these constraints have negative implications for their eventual integration, since exclusion in the workplace reinforces exclusion in other sectors of activity.

Whether the case of Hispanophone workers in the United States, or immigrant workers in Montreal, language potentially plays a role in processes of exclusion. Drawing on a Weberian argument, exclusion is conceptualised by McAll from a territorial perspective in which a collectivity is conceived as exercising control over different territories (1991b ; *et. al.*, 1994). These territories may be defined at different levels: in terms of geography (e.g. state, region, neighbourhood), socio-professional belonging (e.g. management versus workers; doctors versus patients), or clusters of activity (institutions, enterprises). While language may be an object of struggle within these territories, it is never an object in and by itself. Instead, it is an indicator of other forms of political or economic struggle. This territorial approach was also applied to a case-study of engineers, methods agents, foremen and workers employed in the aeronautics sector in Montreal (McAll, *et. al.*, 1997). In this case, the various departments of enterprises were considered as micro-territories of language use. Territories situated at higher levels of the administrative hierarchy (e.g. engineering) were characterised by a

¹² See also Baron (1990) and Marshall (1986).

much greater use of English. Inversely, those situated lower in this hierarchy (e.g. production) tended more to work in French. Between these two poles, the language use of methods agents was largely determined by their function of liaison between the departments of engineering and production – English in their relations with the first, and French in their relations with the second – although the mere presence of an engineer in production could have the effect of imposing English language use on all actors. In this study, language itself is an indicator of other forms of struggle, particularly in relation to the division of labour.

McAll's argument can be compared with that of Bourdieu on 'linguistic markets' as spheres of activity controlled by a community. Both arguments enable a broader understanding of the sociolinguistic concept of 'domain' which was defined earlier as the clusters, or spheres, of activity in which languages are used (cf. Fishman, 1972). The weakness of this concept, from a sociolinguistic point of view, has been discussed.³³ Rather than explaining the distributions of actual language use, or the spheres of activity identified for planning its use, this concept is used merely to describe these distributions. From a 'territorial' or 'market' perspective, these domains become contested sites in the struggle between communities for the control over important resources. These sites have already been identified in relation to the domains protected by language guarantees: schools, media, business, workplace, clubs and associations, public services, courts and official publications (cf. Tabory, 1980). Furthermore, from the point of view of the nation literature examined above, these domains as sites of struggle are tied in with the construction of a national project (Bauer, 1987; Weber, 1978; Brass, 1991, Juteau, 1996). McAll comments more specifically on the implications of a territorial approach to language for understanding language rights not in terms of legislation, but in terms of the power relations between communities:

Que ce soit en Allemagne, au Québec ou aux États-Unis, il ne s'agit pas, dans le fond, de la reconnaissance de droits linguistiques comme tels, mais davantage de rapports de force sur les plans politique et économique entre communautés

³³ See Chapter 2.

linguistiques. Au niveau des intérêts collectifs respectifs il s'agit de luttes sans merci pour le contrôle de différents territoires socio-professionnels. Chacune des communautés hispanophone aux États-Unis et francophone au Québec cherche, à sa manière, à modifier les règles du jeu imposées par la majorité anglophone; et chacune de ces majorités anglophones réagit à sa manière en conséquence, en cherchant surtout à maintenir les pratiques d'exclusion linguistiques (McAll, 1991: 34).

v. Colonialism, Planning and Language: Glyn Williams.

Williams also brings together language and rights dimensions in his work on language planning. Drawing partly on Calvet's thesis of linguistic colonialism, he examines the theme of power and language planning in the context of colonial relations³⁴ between the British state and Wales (Williams, 1986, 1987, 1992, 1996). Discourses of inferiorisation, theorised by both Bourdieu and Calvet, are expressed here in terms of the 'civilising' intent of the British state vis-à-vis its internal minority communities (Welsh, Scottish, Irish), these latter being constructed in discourse as "parochial, retarded, backward, superstitious and barbaric" (Williams, 1996 : 287). The 'civilising' intent of the British state is also described by Williams as being couched in a discourse of citizenship in which the imposition of English on its minority communities has been legitimated as the "state's expression of the will of the citizenry" (Williams, 1996 : 288). The Act which annexed Wales to England (1542) provides a good illustration of this discourse :

[...] there shall hereafter be no difference in laws and language
 [...] what a bond and a knot of friendship the communion of
 one tongue is, and that also by the judgment of all wise men it is
 most convenient and meet that they be under dominion of one
 most gracious Head and King shall also use one language (cited
 in Williams, 1996 : 295).

³⁴ That is, as an example of internal colonialism.

Language is conceived in this passage as being the unproblematic communicative basis of the British state, revealing a discourse of participation which negates tensions and neutralises conflictual relations between minority and majority. These tensions are defined by Williams in a series of dichotomies in which the minority is juxtaposed with the majority by virtue of dialect versus standard language, region versus nation, community versus state, proletariat versus bourgeoisie.

Language planning policies, as Williams suggests, often reproduce these same divisions. Conceived as negotiated products in the relation between majority and minority, language planning initiatives are defined as the "politics of language group relations" (Williams, 1996: 300). On the one hand, these policies enable minority communities to contest the conditions of their subordination: "Seiz[ing] upon the liberal discourse of the pluralist state" (Williams, 1996: 290), minorities are invited to protest against their exclusion. The extent to which such protests are met with concrete results, however, tend to be conditional on the minority's subordinate position within the dominant state. Williams refers to this situation as "the tautology of 'explaining' the concept of minority, within the context of its subordination" (Williams, 1992: 131). As discussed in the previous chapter, some concessions may be made to the minority, as long as they do not weaken state control. In his analysis of the Welsh Language Act (1967), he identifies two ways in which minority claims are constrained by the state language policy. First, state language policies tend to focus on programmes of cultural compensation rather than addressing issues related to inequality. Second, the promotion of minority languages tends to be divorced from domains which are the most important for social reproduction, such as the work sector. In this sense, he writes that "language planning is expropriated away from the community to the state" (Williams, 1992: 133).

Williams' argument is of particular interest on a theoretical level, because it brings together both the language and rights dimensions of 'language rights'. Discourses on 'language inferiority' are markers of the exclusion of the minority community in domains of activity which are key to social reproduction. Furthermore, this exclusion is reinforced in law which, while granting rights on the one hand, constrains these same

rights on the other. His argument is also of interest on an analytical level. He proposes, for instance, that language planning can be examined through discourse analysis in terms of conflicting and competing sets of meaning which reveal multiple forms of subjectivity :

An apt understanding of LP [language planning] is as the politics of language group relations, but if we are to focus upon the power aspects of politics, and there is no other, we must look to the historically and socially specific production of discourse and to the extent to which this involves conflicting and competing sets of meanings. These competing meanings involve alternative forms of subjectivity, and it is as well to recognise that the power of all forms of subjectivity relies on the marginalisation and repression of historically specific alternatives (Williams, 1996 : 301).

Analytically, William's approach to examining language planning as discourse resembles that of Arnaud on the analysis of conflicting juridical reasons. Also, his emphasis on multiple forms of subjectivity recalls Fenet's and Gurvitch's arguments on the potential heterogeneity of minority communities; that is, the possibility of a 'clash and balance' of actors and interests in the construction of language rights.³⁵ Williams also proposes some research questions which could become part of an analysis of language planning as discourse :

- Who has the right to speak about language within a language planning context ?
- Within each discursive formation what kinds of subjects are created, and in relation to what objects ?
- What is the logical procedure whereby these subjects achieve their status as subjects ?
- How are subjects presented as collaborators or as protagonists ?
- What are the crucial concepts which relate to the language planning debate, how are they constructed with reference to achieving their meaning and what alternative meanings are denied or negated ?

³⁵

Discussed in Chapter 3.

All of these questions are structured around multiple forms of subjective identities and their constructed links to language. It is this constructed link, as examined also in the first part of the chapter, that must be accessed through discourse analysis. These methodological questions will be addressed more specifically in the following chapter.

B. Discussion: Language, Power and Community.

It is now possible to comment on the questions which opened this chapter : that is, on the specificity of the national or language minority vis-à-vis other sociological minorities and the role of language in the construction of community boundaries. The nation, as argued in the first half of the chapter, is constructed in part around 'objective' traits which become subjective signifiers of belongingness (within the community) and of difference (in relations between communities). Language is one such 'objective' trait which has become part of the nation *message*. Language-as-signifier may have different discursive contents : that is, it may be revealed in discourse as a symbol of a glorious or heroic past, as intrinsically beautiful (Fishman, 1973), as the indicator of the inferiority of the immigrant or colonial Other (Juteau, 1993, 1996, *et.al.* 1992; Calvet, 1974; Bourdieu, 1982; McAll, 1992), or as the means of communication which brings together multiple identities (Juteau, 1993; 1996). The objective of analysis at this level would be to identify the role played by language as part of the *message* of the community.

Most importantly, however, the nation is a relation to an Other. As argued in the previous chapter, national minority and majority are constructed in an asymmetrical relation of power. Language enters into this relation as an instrument of power : enabling power and constraining power. It is enabling as a facilitating factor of identity construction for the 'We' and as a potential legitimising mechanism for the interests and projects of the We. This is the inclusive role of language and community. It is constraining power as a means of marginalising or excluding the Other (the minority, the immigrant, the colonial). The relationship between language and exclusion was revealed in two principal ways, in terms of discourses of inferiorisation based on language, and in terms of the exclusion

of language minorities in important sectors of activity.

Once again, the theme of territory is an interesting one for understanding these inclusionary and exclusionary processes (cf. Weber, 1978; McAll, 1992; Bourdieu, 1982). Communities are structured around social spaces in which they exercise control over important resources, or aspire to such control. Conceived as being multidimensional, this space was examined from the point of view of rights in the previous chapter. Here, language was examined as another potential value in the construction of this space. However, to borrow Bourdieu's expression, 'linguistic markets' – that is, projects for the construction of legitimate languages -- are always attached to other 'markets', or 'territories' corresponding to the domains in which language guarantees are granted. Unlike the definition of domain in the sociolinguistic literature, however, the significance of domains from a territorial perspective is linked to the role which they play in the social reproduction of communities. From a 'territorial' or 'market' perspective, these domains become contested sites in the struggle between communities for the control over important resources.

The relationship between language minority and majority, and the forms of enabling and constraining power which construct language as a marker of identity, take us into a discursive world in which, as Williams suggests, there are competing meanings and forms of subjectivity (Williams, 1996). This discursive world is necessarily a construction of historically specific contexts and circumstances. In the final section of the thesis, I would like to examine the specificity of the Quebec case and the applicability (and non-applicability) of the arguments proposed in the preceding chapters for understanding the construction of We-Other boundaries around language rights. I will use the next chapter to synthesise these arguments and to propose a means of operationalising them for analytical purposes.

Chapter 5.

Some Observations on Method.

Le physicien qui étudie les mouvements des astres ou des atomes a l'assurance que la matière a un caractère fini: sa nature est donnée et suffisamment constante [...] Cela ne veut pas dire que ces sciences n'aient plus rien à découvrir. Mais on sait que des découvertes à venir sont possibles à cause de notre ignorance présente, bien peu par suite de changements dans la nature de la réalité. Il en va tout autrement en sociologie. La société est une réalité non finie: elle est toujours en réalisation d'elle même, par des voies nouvelles et suivant des processus changeants (Rocher, 1968: 543).

I. **Language Rights as *Sites of Struggle*.**

As Rocher suggests, the task, and challenge, of the sociologist is to understand social phenomena as realities which are in a constant process of change. The construction of a sociological space for understanding language rights must also be able to account for this dynamism. In the history of the legislated right to language, this dynamism was revealed as struggle. In the juridical literature examined, struggle was implied as 'political obstacles' which intervene in the interpretation and application of language guarantees; in the sociolinguistic literature, it was implied in the differentiation of communities by language markers qualified as prestige and non-prestige, modern and backward, national and non-national. In both cases, 'explanatory' power is attributed to descriptive concepts and classifications which reproduce positivist-type models in which the complexity of social relations is reduced to rigid categorisations. The social action which underlies struggle, and the role of actors in this struggle, are absent from these conceptualisations, as if they were taken-for-granted 'facts' requiring no further elaboration. However, to borrow Singh's phrase once again, a critical understanding of language issues "must begin where the facts of the matter end" (Singh, 1996: 2). This

statement also reveals the direction which has oriented the theoretical discussion of the previous chapters. While allusions to struggle may constitute 'facts' from juridical and sociolinguistic points of view, they mark the point of departure for a sociological understanding of language rights: what is the basis of struggle? Its manifestations? The social processes and actors which construct it? Emphasis was placed on drawing out the social action dimension behind language rights, emphasising especially the way in which community boundaries are structured around these rights. A certain number of provisional observations can be drawn from the theoretical discussion with respect to language rights as sites of struggle.

The sociological meaning of the right to language cannot be limited to a taxonomy of non-discriminatory (negative rights) and promotional guarantees (positive rights), or their domains of intervention. Such a taxonomy merely describes the legislative content of language rights; that is, the explicit guarantees included in codified laws or official policy directives and regulations. The meaning attributed to language rights from this point of view remains locked into the closure of a juridical discourse.

The theme of territory provides an interesting axis for further exploration. From a rights point of view, communities were conceived as occupying distinct juridical spaces structured around law and right. The meaning of right can be situated in the context of this space which reveals at once an internal and an external boundary; that is, a consciousness of We and of Other. An initial level of analysis would be to look outside the code of law, to the rights ideals which feed into it. Following the arguments on legal pluralism, especially those of Gurvitch (1963, 1973) and Arnaud (1981), it could be hypothesised that minority and majority language communities would be differentiated by their ways of 'thinking' language rights. From the point of view of language minorities, it was argued that language rights were considered to be a form of status right; that is, a right claimed by communities identified by ascriptive traits, language in this case. It is not these traits, however, which give meaning to the 'right'.

Instead, as Turner (1988) and Kymlicka (1996) have suggested, they are claims against the exclusion of the community in one or many sectors of activity. The meaning of 'right' is thus associated with community claims to social mobility and participation in society. It is a right grounded in collective struggle which reveals a social democratic approach to eliminating inequality, its objective being the promotion of substantive equality rather than formal equality. Movements for the recognition of these rights in law thus call on the reform function of law; that is, law as an instrument of social change.

From the point of view of the majority language community, against which minority claims to language rights are made, it was suggested that the meaning of this right might be more restrictive. As Turner (1988) and Williams (1992, 1996) have suggested, this conception of right tends to place more emphasis on 'cultural' promotion, rather than social mobility. It is a conception grounded in discourses of liberalism and individualism, in which formal, rather than substantive, equality is promoted. The acknowledgement by the majority of minority rights *in law* also tends to be restrictive, characterised by the granting of negative (non-discriminatory) rather than positive rights (the active pursuit of equality), minimal guarantees in key domains of social reproduction, or even the explicit prohibition of minority rights altogether. It is especially the conservative function of law – that is, oriented towards the maintenance of the status quo – which is represented here.

These conflicting conceptions of rights represent ideal types, in a Weberian sense.¹ However, as Weber argued, the ideal type is a theoretical construct, existing only in the abstract, and must not be confused with the concrete reality that it is intended to

¹ The ideal type was defined by Weber in the following way: "An ideal type is formed by the one-sided *accentuation* of one or more points of view and by the synthesis of a great many diffuse, discrete, or more or less present and occasionally absent *concrete individual* phenomena, which are arranged according to those one-sidedly emphasized viewpoints into a unified *analytical* construct (*Gedankenbild*)" (Weber, 1949: 90).

explain (Weber, 1949: 90). Instead, the idealtype is used to confront this reality permitting a comparison of theory and fact in which this latter is "surveyed for the explication of certain of its significant components" (Weber, 1949: 93). Analytically then, it would be possible to examine the conceptions of language rights proposed by majority and minority language communities in Quebec², in order to evaluate the extent to which these idealtypes do, or do not, correspond to the construction of language rights in the specific context of this case. Following Arnaud (1981) and Williams (1996), these conceptions could be operationalised as discursive activity. Fenet (1990), Gurvitch (1963, 1973) and Williams (1996) also provide another potential avenue for exploration, in suggesting that the minority community, and by extension the majority community also, are not necessarily heterogeneous actors. The objective of analysis at this level would be to explore the possibility of interfaces between multiple forms of belongingness and differentiated conceptions of language rights.

While such a typology of language rights conceptions is of potential interest for understanding language rights in a more pluralist perspective, it would constitute only an initial stage of analysis. The meaning of language rights as sites of struggle is not exhausted by such a typology. The meaning of 'right' or 'advantage' needs a signifier. The language right, as a specific type of minority right, takes its meaning from the role of language in relations between communities. Drawing again on the theme of territory, this role could be understood as the construction of 'a linguistic market', to borrow Bourdieu's term; that is, the construction of language as a value for the community. Language as symbol, or 'culture value', was conceived as being part of an invented, or constructed, culture (Gellner, 1983; Weber, 1978; Brass, 1990; Juteau, 1983, 1992, 1994). In Weber and Juteau, this construction operates in part at the level of communal

² The meaning attributed to the terms 'minority' and 'majority' take on another meaning in the context of Quebec. Generally speaking, the Francophone community is referred to as the 'majority', because of its demographic weight in Quebec. It is, in this sense, a numerical majority. According to the meaning given to the term in Chapter 3, the Francophone community also constitutes a sociological

relations; that is, in the formation of a sense of belongingness and solidarity. In Brass, this construction was theorised as the transformation of 'objective' traits, language in this case, into subjective markers of identity. In addition to its role as a marker of belongingness, language is also, potentially, a marker of difference. In this way, it marks both the boundaries of the 'We' and of the relation of 'We' to 'Other'. Analytically, the role of language in this invented culture could be examined from the points of view of both minority and majority communities. Drawing out the theme of the heterogeneity of language communities (Singh, 1996), expressed in terms of 'multiple subjectivities' by Williams (1996), one of the objectives of analysis would also be to examine the possibility of plural discourses on the role of language in the construction of community. This would mean exploring the extent to which language is, or is not, a symbol in the perception that these actors have of community, and the value attributed to it.

At the same time, however, it was argued that the 'linguistic market' is always attached to other forms of markets (education, workplace, economy, institutions). Thus, the significance of language as symbol is linked to the pursuit of rational interests of the community; that is, as a product of associative relations in Weber's terms (Weber, 1978). In the work of Bauer (1987), Weber (1978), Brass (1990) and Juteau (1993, 1994), these interests were linked especially to a society-building project. This is the meaning of the 'community of destiny' in Bauer's and Juteau's work; of elite mobilisation in Brass; and of state-maintenance and state-building projects in Weber. The literature on language and power, especially the work of McAll and Bourdieu (McAll, 1991b, 1992, 1994); Bourdieu, 1982), permits a more precise understanding of these interests from a territorial perspective. From this point of view, global societal projects (the control of a national territory, or market) are linked to more local, or sectoral, interests mediated through other diverse 'markets', such as education, the workplace and administration.

minority in the context of federal Canada-Quebec relations; that is, as a community subordinated to

Williams also adds that these 'markets' are important sites for the social reproduction of the community (Williams, 1996). Generally speaking, they correspond to the sociolinguistic 'domains' of language use and the spheres of activity protected in legislative language guarantees. A territorial perspective expands on the sociolinguistic concept by theorising domains in terms of the community interests which are vested in them, rather than merely describing distributions of language use. From this perspective, the protection of language -- the construction of 'linguistic markets', according to Bourdieu -- cannot be dissociated from other forms of markets. Analytically, these various markets could be identified, both on local (sectoral) and global (societal project) levels, and the relationship between linguistic and other markets explored. Thus, language rights as sites of struggle take their meaning from the competition between communities for the control over these vital 'markets'. Drawing on this model, the following provisional definition of language rights can be proposed: *language rights are negotiated claims between communities occupying distinct social spaces and competing for scarce resources.*

It is in this way then, that language rights can be conceived as *sites of struggle*. Struggle in this sense is attributed to power relations rather than to reified structures such as the language system or juridical codes. The validity or non-validity of these observations, and their clarification, will be expanded on in the final discussion of Chapter 7, after the analysis of the Quebec case study. Based on these observations, however, the general objectives for empirical analysis can be restated in the following way :

another. This distinction will be discussed further on.

- To examine the competing conceptions of language rights ideals which contribute to the 'elasticity' of legislated language rights: What does the 'right' to language mean for each of the actors?
- To examine the role played by language in the construction of community and in the differentiation of communities: What are the values attributed to language-as-symbol? How is the relation between language and power perceived by these actors?
- To identify the various 'markets' which are considered to be key for the actors examined, both in terms of their sectoral interests and their conceptions of a more global societal project. What are these 'markets'? In what way are they linked to the 'linguistic market'? How is 'struggle' perceived by the actors?

The operationalisation of these objectives will be discussed further in section III-D below. The epistemological assumptions of the analytical strategy to be adopted will be examined in the next section.

II. Analytical Approach : Towards a Constructivist Paradigm

A. *Constructivism.*

Researchers have four recurring nightmares about data analysis. In the first nightmare, the data are no good. They have not illuminated what they were supposed to. In the second nightmare, systematic error has occurred (commonly in the form of biased responses) in the most important data. In the third nightmare, conclusions come out of the wringer of successively more sophisticated analyses looking either trivial or trite ('You spent \$75,000 to tell us that?'). And in the last nightmare, the data resist analysis, are opaque, even inscrutable (Huberman and Miles, 1994: 77).

These are, as Huberman and Miles suggest, the researcher's worst fears (although doctoral candidates are at least spared the \$75,000 question!). In part, these nightmares are accentuated by the influence of the positivist tradition which still weighs on the social sciences. Generally speaking, positivism, or the 'received view' in the words of some (Guba and Lincoln, 1994; Gartrell and Gartrell, 1996), assumes that scientific knowledge is 'objective' knowledge which "transcend[s] opinion and personal bias" (Denzin and Lincoln, 1994: 4); it is the principle inherited from Comte that the social sciences should be modelled on the 'natural' sciences.

It is not my intention here to enter into epistemological debates on the status of the social sciences. Nonetheless, the earlier theoretical discussions are grounded in a perspective in which the subject matter of the social sciences is distinguished from that of the 'natural' sciences by the subjective character of social action. As Weber writes, "there is no absolutely 'objective' scientific analysis of culture [...]" (Weber, 1949: 72) and "[...] we cannot learn the *meaning* of the world from the results of its analysis, be it ever so perfect; it must rather be in a position to create this meaning itself" (Weber, 1949: 57). Weber's approach is a

constructivist one in which the social world is conceived of as being constructed in social relations. Weber's constructivism has received much attention, both favourable and unfavourable, in sociological literature. A detailed analysis of this debate would lead us too far afield.³ Nonetheless, it is a constructivist approach, in the broad sense of the term, which provides the thread between the theoretical and methodological dimensions of the present thesis. Schwandt emphasises also that we are all constructivists, both as social scientists and as individuals:

In a fairly unremarkable sense, we are all constructivists if we believe that the mind is active in the construction of knowledge [...] In this sense, constructivism means that human beings do not find or discover knowledge so much as construct or make it. We invent concepts, models, and schemes to make sense of experience and, further, we continually test and modify these constructions in the light of new experience (Schwandt, 1994: 125-126).

The basic premise behind constructivism is *relativism* (Guba and Lincoln, 1994) or, stated in the negative, *anti-essentialism* (Schwandt, 1994); that is, the belief that there is nothing 'essential' or 'absolute' about social categories which we tend to take for granted. The categories 'man', 'woman', 'truth', 'self' (and so on) are products of social action (Schwandt, 1994). Thus, "the social constructionist approach is predicated on the assumption that 'the terms by which the world is understood are social artifacts, products of historically situated interchanges among people'" (Gergen, 1985; cited in Schwandt, 1994: 127).

It is from this perspective that language rights have been theorised in the previous chapters; that is, as historically situated artefacts constructed in social relations. The methodological counterpart to such a theorisation is the deconstruction of these

³ See Hekman for a discussion of positions (Hekman, 1983).

constructions (Feldman, 1995; Guba and Lincoln, 1994). Thus, in terms of analytical approach, the principal objective is to draw out the social relations underlying the community, language and rights relationship. Theory and method here are necessarily interdependent since, as Guba and Lincoln write, "facts are facts only within some theoretical framework" (Guba and Lincoln, 1994: 107).

B. *Contested Sites and the Deconstruction of the 'Other'.*

Two themes, both related, have been identified as being central to the deconstruction of language rights as social artefacts. The first is the theme of language rights as *contested sites* (cf. Juteau, 1994), contested both on the nation-language and the rights-language axes. From this point of view, language rights are hypothesised as artefacts which reveal multiple and conflicting interests. The outward stability of the legislated right is perceived as undermined by the 'clash and balance' (cf. Gurvitch, 1963, 1973) of multiple actors differentiated by their situatedness in social life (i.e. identity and belongingness, rights conceptions, sectoral interests). Such an hypothesis is supported by Guba and Lincoln who propose that knowledge in a constructivist perspective can be multiple: "knowledge consists of those constructions about which there is relative consensus [...] Multiple 'knowledges' can coexist when equally competent [...] interpreters disagree, and/or depending on social, political, cultural, economic, ethnic, and gender factors that differentiate the interpretations" (Guba and Lincoln, 1994: 113). Methodologically, the objective would be to look for the 'multiple knowledges' which inform the 'clash and balance' of actors in the language rights debates.

The interest of constructivist analysis, however, is not in the mere enumeration of different constructed knowledges, but rather in the social relations which produce these knowledges. Language rights as contested sites thus imply that there are power relations

between actors, identified here as language minorities and majorities. The construction of community boundaries then was identified as the second theme central to the deconstruction of language rights. The 'Other' dimension of this relationship has received much attention in sociological literature in the past decade. As mentioned earlier in discussions on the sociology of the nation, ethnicity is generally not conceived as *my* ethnicity, but the ethnicity of the *Other* (Juteau, 1994). According to Fine, the social sciences have also participated in the reproduction of 'Otherness' (Fine, 1994). Studies on 'poverty' and 'colour', for instance, are far more frequent than studies on 'wealth' and 'whiteness'. The objective of a socially conscious social science, according to Fine, is to deconstruct these processes of Othering; a task which she refers to as 'working the hyphens' (Fine, 1994: 72). 'Working the hyphens' means making explicit the relations of power which tend to situate the Other at the margins, while the 'We' tends to remain unmarked, neutral (Seidel, 1984: 5). Thus, researching the minority implies necessarily researching the majority, because the 'Other' does not exist in isolation. Hall also makes this observation:

Another critical thing about identity is that it is partly the relationship between you and the Other. Only when there is an Other can you know who you are. To discover the fact is to discover and unlock the whole enormous history of nationalism and of racism (Hall, 1991: 16).

Methodologically, the negotiated boundaries of language rights must be situated in this duality of majority and minority relations.

C. *Deconstruction as Discourse.*

For analytical purposes, social action and the construction of community boundaries will be operationalised here as discursive activity. This choice is supported by Arnaud's work on juridical activity as discursive activity (Arnaud, 1981), Calvet's

work on the colonial discourse of inferiorisation (Calvet, 1974), and Williams's work on language planning as discourse (Williams, 1992 ; 1996). Achard suggests that there is a tendency to ignore the role of language as discourse in the social sciences (Achard, 1986). Implicitly, there is an assumption that the social world can be studied directly, through observation, questionnaires or objectifying statistics. It is precisely this reductionism to objectified realities which was criticised in relation to the juridical and sociolinguistic literature on language rights. Achard reminds us, however, that all of these techniques mentioned above are themselves mediated through language (Achard, 1986). Similarly, Riha comments that there is no such thing as an extra-discursive reality. "Words", she writes, "are powerful weapons [...] the ontological status and identity of any object depends on the particular discourse in which it is articulated" (Riha, 1996 : 3). According to Achard, discourse analysis may be undertaken from two general perspectives : in terms of the internal linguistic coherence of enunciations (discourse as pragmatics ; cf. Searle and Austin) and in terms of the external social coherence of enunciations ("le faire social du discours", cf. Guillaumin, 1972 ; Boutet, 1985). It is this second perspective which will be adopted here. More specifically, discourse will not be analysed merely as the reflection, or mirror, of social processes, but also as the means by which actors 'act' on social processes. This distinction is described by Boutet in the following terms : "[...] les mots, les discours, ne sont pas seulement là pour transmettre de l'information ou des idées ou des ordres. Ils ne se contentent pas de refléter le social, ils en sont partie prenante et ils agissent sur le social [...]" (Boutet, cited in Achard, 1986 : 9).

Qualitative methodologies are the most appropriate for such an analysis, because they approach data from an interpretive point of view; that is, in interpreting social phenomena in terms of the meanings actors bring to them (Denzin and Lincoln, 1994). I use the term 'methodologies' here in the plural because there is no one type of qualitative method. As Lévi-Strauss has written, the qualitative researcher is a *bricoleur* (Lévi-Strauss, 1966). Consequently, as Denzin and Lincoln suggest, qualitative research is "a bricolage, a

complex, dense, reflexive, collage-like creation that represents the researcher's images, understandings, and interpretations of the world or phenomenon under analysis" (Denzin and Lincoln, 1994: 3). By placing the emphasis on qualitative methods, I am not calling into question the usefulness of quantitative methods. There is an increasing tendency (although not without resistance) to break down the epistemological barriers which structure the qualitative-quantitative dichotomy (cf. Howe, 1988 on compatibility and incompatibility theses)⁴. Nonetheless, there are two principal reasons why quantitative methods would be inappropriate for the type of analysis to be undertaken here. First, quantitative methods are not particularly well adapted for the study of the meanings and motivations that actors attribute to their activities (Guba and Lincoln, 1994). This aspect, of course, constitutes one of the basic premises of the theoretical framework. Second, quantitative methods tend to break discourse down into discrete units, rather than considering information as continuous. Guillaumin (1972) comments on the implications of this second reason for the study of 'Otherness':

Appliquer une analyse de type quantitatif dans ce cas serait utopique et reviendrait à se condamner à négliger ce qui fait de la saisie de l'altérité un caractère *continu* à travers son incarnation dans des spécificités diverses. Un univers fractionné en unités isolées implique un traitement quantitatif, par nombres ou par fréquences. Il n'en est pas de même d'un univers sans solutions de continuité [...] La ténuité des échappées inconscientes n'est pas comptabilisable et n'a aucune signification statistique. La constance des formes qui s'appliquent aux autres est analysable, non à travers la comparaison numérique, mais à travers le sens que nous donnent ces rares échappées de l'inconscient [...] Il s'agit non de comptabiliser ou de classifier ce que l'on connaîtrait avec certitude, mais de reconstituer le puzzle d'un sens (Guillaumin, 1972: 143)

⁴ The qualitative-quantitative dichotomy is a particularly important theme in debates surrounding computer software programs for qualitative analysis (such as NUDIST). See, for instance, the debates on this subject in *Society/Société* (Wall, 1995; Harrison, 1995; Basset, Cox and Rauch, 1995).

Unlike quantitative methods, a more qualitative approach enables the transition between the *expliat* (what is said, quantifiable units of meaning) and the *impliat* (what is left unsaid, non quantifiable) (Guillaumin, 1972, 1984). From an interpretive, or constructivist, point of view, it is this passage between the *impliat* and the *expliat* which reveals the sociological meaning of a phenomenon: "C'est lorsque le sens latent est dévoilé que la signification d'ensemble peut être reconnue et que la signification explicite prend son véritable sens" (Guillaumin, 1972: 148).

III. The Corpus : Data Source and Operationalisation.

A. *Parliamentary Commissions as Data Source.*

The corpus consists of a selection of briefs presented to Parliamentary Commissions⁵ on language legislation in Quebec. Drawing on an analogy proposed by Feldman, PCs can be considered to be *social dramas* in that they bring together different actors who play different roles within a staged setting (Feldman, 1995). Their function⁶ is to provide a forum for debate on proposed legislative bills:

C'est une tribune où les officiels par ballon d'essai peuvent tâter le pouls de la population par l'intermédiaire des différents groupes, qui, à des titres divers prétendent la représenter, à propos d'un problème concret, ou d'un secteur de la vie sociale [...]. Il s'agit d'un lieu public où se joue *la et le* politique au vu et au su de tous (Robin, 1984: 90).

Parliamentary Debates versus Parliamentary Briefs. PCs provide two types of materials for analysing the discourses of actors: written briefs prepared in advance and the verbal debates⁷ in which the briefs are presented orally to PC members. While each have

⁵ The abbreviation 'PC' will be used in the remainder of the chapter for designating 'Parliamentary Commission'.

⁶ PCs are generally the fourth stage in the legislative process. The first stage of this process is the draft preparation of a proposed bill prepared by a Minister or council of executive power. This stage is followed by the 'first reading'; that is, the introduction of the bill to the National Assembly where it is decided whether or not the bill should be debated in subsequent sessions. At the 'second reading', there is generally discussion on the principle of the bill, at which point it is submitted for PC study where it is debated on by interest groups and individuals. Based on the recommendations of the PC, and after further debate, the bill is adopted or rejected. If adopted, it becomes law after royal sanction (Bourgault, 1983).

⁷ The PC debates are not strictly speaking a 'verbal' material. They consist of the transcriptions of debates published in the *Journal of Debates*. One of the drawbacks of this material is that language has been

advantages and disadvantages as analytical materials, the written briefs were considered to be generally more pertinent. Whereas the debates tend to focus on specific points in response to questions of Commission members, the briefs provide richer material for understanding actors' conceptions of language rights in their entirety.

Collective actors versus individual actors. PC briefs may be presented by groups or by individuals. For the present analysis, only the briefs of groups were selected. In part, this is because the same individuals did not present briefs at all of the commissions. Thus, it would have been impossible to evaluate changes in the conceptions of language rights of specific individuals over time. The choice of collective voices also reflects the theoretical literature examined in Chapters 3 and 4, which emphasises the role of collective actors in the construction of rights and the community. The discourses to be examined are thus *collective* ones.

PC materials versus newspaper clippings or interview techniques as data sources. The PC materials present two advantages over newspaper clippings or interview techniques. The first is related to a 'content' dimension ; that is, the depth of information needed for analysing the conceptions of language rights. The second is related to a time dimension ; that is, the possibility of examining changes in these conceptions over time.

An analysis of newspaper coverage would have been possible on a 'time' dimension, but is less appropriate on the 'content' dimension. Brédimas-Assimopoulos and Laférière (1980), for instance, examined 'ethnic' perceptions of Bill 101 using the English press as source data. While this material enabled them to identify the recurrence of certain themes in 'ethnic' discourse, it did not contain enough detail for a more complex analysis of the processes involved in the construction of these perceptions. El Yamani, analysing the

normalised for reasons of uniformity of presentation in the *Journal*

construction of the 'Other' in the 'Parizeau Affair'⁸ also commented on this limitation of newspaper clippings:

La thématique dans les journaux correspond à un ensemble de propositions hiérarchisées selon la formule d'une pyramide. Une information complexe (ici les rapports majoritaires/minoritaires entre les francophones d'ethnicité canadienne-française et les 'autres') est donc souvent réduite à un point principal [...] (El Yamani, 1996: 199).

The PC materials have the advantage here of being the product of a developed reflection on language rights, rather than a listing of highlighted points only. The detail of the arguments is also reflected in the length of the briefs which varies from approximately 2,500 words to 5,000 words, compared to 250 words to 500 words for a newspaper article.

As for interview techniques, they could provide potentially interesting material on the 'content' dimension, but are less appropriate on the 'time' dimension due to the fragility of human memory for recalling past events. There is also a difference between the content of interviews and the content of the PC briefs which is worth mentioning. Interviews are

⁸ The 'Parizeau Affair' refers to the reactions to ex-premier Parizeau's controversial statement in which he attributed the defeat of the 1995 referendum on Quebec separation to "l'argent et le vote ethnique". His statement drew strong criticism from politicians, ethnic associations and the general public, because he accused ethnic communities of being responsible for hampering Quebec independence. A spokesperson for the Canadian Jewish Congress, for instance, accused Parizeau of making ethnic communities the scapegoats of his failed campaign: "Commencer à chercher des boucs émissaires, c'est agaçant. Ça peut susciter la xénophobie" ("Les propos de Jacques Parizeau". *Le Devoir*, November 1, 1995:A4). Similarly, a Cree leader qualified the Premier's declaration as being profoundly deceiving, adding that it incites racism: "M. Parizeau a mis en marche une politique du racisme ; il devrait démissionner" ("Les autochtones ne veulent pas être ignorés encore une fois", *La Presse*, November 1, 1995: B6).

guided by the researcher, that is, according to preconceived categories and ideas held by the interviewer. This is especially true of directive interviews, but researcher bias is also a factor in semi-directive techniques. The 'directivity' of the researcher is not necessarily a negative influence on research since it can serve to test specific hypotheses or questions. At the same time, however, it can also act as a 'blinder' to ways of thinking that lie outside these hypotheses and questions. Here, the PC briefs have an advantage over interview materials since the arguments presented are selected and organised according to the priorities of the actors themselves, rather than according to the guiding questions of the researcher. PCs thus provide a corpus which is not generated by the research process (Mantovani and Raymond, 1987). Given these factors, and the research objectives of the present study, the PC briefs were considered to be the most appropriate material for analysis.

Limitations of PC data. The use of PC briefs as source data is not without its limitations. The first limitation is related to the ostensive democratic function of PCs. The term ostensive is emphasised because the extent to which the legislator actually takes into account the opinions and recommendations of interest groups in the formulation of law is an object of debate (Robin, 1984; Kairys, 1982; Williams, 1992). In examining the procedures leading to the creation of the *Welsh Language Act*, Williams also criticizes the 'democratic function' of PCs, commenting that they "convey an image of democratic representation while, in reality, being inexorably linked to the administration of the status quo" (Williams, 1987: 51). These criticisms are valid ones. Since the objective of the present study is not to judge the influence that groups may, or may not, have in the legislative process, this limitation does not have a direct impact on the present study. The PC is used methodologically as a 'meeting place' of voices, rather than as an event to be studied in itself.

The second potential limitation of this data is related to the ritualistic structure of PCs. To borrow Goffman's terms, PCs can be considered as interaction orders structured around specific rules and rituals of interaction (Goffman, 1959, 1974). Robin, for instance, examines conversational strategies, turn-taking sequences and the hierarchisation of actors in

her analysis of PC debates on the organisation of health and social services (Robin, 1984). From this point of view, the character of the debates is described as being “*éminemment institutionnel, ritualisé, obligatoire*” (Robin, 1984: 72). While I am not interested in the structure of the PCs themselves – i.e. in the rituals involved in their *mise-en-scène* – this ritualistic aspect does have implications for the style of discourse encountered. It is a prepared discourse, a discourse in which language tends to be normalised (Robin, 1984). To a certain extent, PC materials are very ‘politically correct’ (giving another meaning to the abbreviation ‘PC’). This ‘velvet glove’ effect can be observed in the corpus to be analysed here, especially in the introductory passages of the briefs. The opening lines of the briefs almost invariably begin with statements supporting the promotion of a French Quebec. There is, as Robin notes, a certain ‘logic of consensus’ and a superficial reading could lead us to wonder if there is debate at all (Robin, 1984). This logic of consensus, however, is undermined by a reading of the material which goes beyond the explicit to the implicit and which looks for silences and contradictions as indicators of contestation. In this sense, the outward ritualy, or officiality, of PC materials is only a partial limitation for the intended analysis.

B. *Description of Corpus.*

There have been eight proposed Bills on language legislation in Quebec since the 1960s: Bill 85 (1969), Bill 63 (1969), Bill 22 (1974), Bill 101 (1977), Bill 57 (1983), Bill 178 (1988), Bill 86 (1993) and Bill 40 (1996).⁹ An exhaustive review of the briefs presented to these Commissions would have been unmanageable within a qualitative analytical framework. Consequently, a sample of briefs was selected from the overall material available. Two principal criteria were used for this selection: by PC and by actor.

⁹ The history of language legislation in Quebec, and the content of these Bills, is addressed in the next chapter.

Since the research objective was not to describe the specific positions of actors on language legislation, but rather to use the PCs as a means of deconstructing the community-language and rights-language relationships over time, it was not thought necessary to include each of the legislative changes. The selection was thus limited to three legislative moments: Bill 101 (1977), Bill 57 (1983) and Bill 86 (1993). The logic of beginning with Bill 101, rather than with the earlier Bills 63 or 22, is one of coherence. Since the PCs following Bill 101 deal with modifications to this Bill, all the briefs can be situated within a common frame of reference. As for selecting Bills 57 and 86 amongst the four remaining legislative moments, two reasons dictated this choice. The PC for Bill 178 was eliminated from the sample since there was no PC held prior to the adoption of the Bill¹⁰. The PC for Bill 40 was also eliminated because several key actors who had presented briefs in past PCs did not present briefs in this Commission (Congrès national des italo-canadiens, Chambre de commerce, and the Protestant School Board).

As for the choice of briefs, they were selected according to the principal clusters of actors represented in the language rights debates. These actors reflect the voices of union, business, educational, and 'ethnic' (francophone, anglophone, allophone, native rights groups) interests. Where possible, the same actors were retained for the three commissions. Given the twenty year time-frame, however, this was not always possible. Where there were differences between the Commissions, some actors were chosen within the same 'cluster' of interests. In all, 28 briefs were retained for analysis (Table 5-1).

¹⁰ See Chapter 6 for discussion on the 'politics' of Bill 178.

TABLE 5-1. Selection of Actors

Bill 101 1977	Bill 57 1983	Bill 86 1993
<u>Union</u>	<u>Union</u>	<u>Union</u>
1. Confédération des syndicats nationaux (CSN)	1. Confédération des syndicats nationaux (CSN)	1. Confédération des syndicats nationaux (CSN).
2. Fédération des travailleurs et travailleuses du Québec (FTQ)	2. Fédération des travailleurs et travailleuses du Québec (FTQ)	2. Fédération des travailleurs et travailleuses du Québec (FTQ)
<u>Management/Commerce</u>	<u>Management/Commerce</u>	<u>Management/Commerce</u>
3. Conseil du patronat du Québec (CPQ)	3. Conseil du patronat du Québec (CPQ)	3. Conseil du patronat du Québec (CPQ)
4. Chambre de commerce du district de Montréal	4. Chambre de commerce du district de Montréal	4. Chambre de commerce du district de Montréal
<u>Education</u>	<u>Education</u>	<u>Education</u>
5. Protestant School Board of Greater Montreal (PSBGM)	5. Commission des écoles protestantes du Grand Montréal	5. Association des commissions scolaires protestantes du Québec
<u>'Ethnic'</u>	<u>'Ethnic'</u>	<u>'Ethnic'</u> ¹¹
6. Société Saint-Jean Baptiste (SSJB)	6. Société Saint-Jean Baptiste (SSJB)	6. Société Saint-Jean Baptiste
7. Congrès Juif	7. Alliance Québec	7. Alliance Québec
8. Congrès des Italo-Canadiens	8. Congrès Juif	8. Congrès Juif
9. Grand conseil des Cris	9. Congrès national des Italo-Canadiens	9. Congrès national des italo-canadiens
	10. Grand Conseil des Cris	

C. *Analytical Strategy*

As Huberman and Miles suggest, "qualitative research designs are not copyable patterns or panaceas", but rather are "choreographed" according to analytical needs (Huberman and Miles, 1994: 16). Borrowing their metaphor, the analytical strategy adopted here is choreographed around the movement from explicit to implicit levels of signification.

¹¹ The Conseil des Cris did not present a brief in 1993.

This strategy can be summarised in three successive stages leading from data preparation to interpretation:

i. First reading : Familiarisation.

The objective in this stage was to familiarise myself with i) the content of the briefs and ii) the comparability of briefs within a given PC and over time. The interest at this stage was in the *explicit* arguments presented by the actors. Following the ethnographic tradition, I wrote notes in the margins when specific arguments triggered ideas for later interpretation (cf. Huberman and Miles, 1994 on 'marginal notes').

ii. Second Reading : Data Organisation and Coding.

In this stage, the data were organised and coded according to the general position of the actors on the proposed legislative bill, the actor's conceptions of the language-rights relationship and of the language-community relationship. These categories were further broken down into sub-categories of questions which correspond to the research objectives set out in the early part of the chapter. These categories are summarised below.

a. *Ways of Thinking' Language Rights.*

It was hypothesised earlier that communities would be structured around different ways of 'thinking' language rights. It is this theme which underlies the following set of questions.

1. The Designation of the Right to Language.

- 1.1. How does the actor refer to the right to language? (For instance, minority right, majority right, citizenship right, fundamental right, human

right ; or as non-right or absence of right, or as language planning rather than right).

- 1.2. Has the actor's way of designating the right to language changed over time?
2. The defining 'properties', or characteristics, attributed to the right to language.
 - 2.1. What is the explicit 'content' of this right (technical content such as domains of intervention ; philosophical content such as right as advantages)?
 - 2.2. How is the actor's conception of right positioned on the axes of equality/inequality, intervention/non-intervention, universalism/particularism, individual/collectivity?
 - 2.3. Are there explicit references to the correspondence (or non correspondence) between the ideal of the right and the practice of the right ?
 - 2.4. Are the defining 'properties' or characteristics of the right to language stable over time ?
 3. The language right as tension.
 - 3.1. Are there explicit references to the beneficiaries of the right (i.e. who is considered/not considered to be the recipient of the right)?
 - 3.2. What kinds of subjects are created around rights (Williams, 1996) ?
 - 3.3. Are there explicit references to other actors with competing conceptions of rights or practices of rights ? How are subjects presented as collaborators or protagonists (Williams, 1996) ?
 - 3.4. Do the actors themselves identify the terms of their *minorisation* or dominance on a rights axis ? If so, in what way ? If not, can these terms be deduced ?
 - 3.5. What are the interests, or advantages, which underlie these conceptions of right? What are the principal 'markets' defended by the actor?

b. *Ways of 'Thinking' Language, Community and Nation.*

It was hypothesised that the ways of 'thinking' language will vary depending on the multiple forms of subjectivities (cf. Williams, 1996) and competing sets of meanings

which structure sectoral groups within any given societal context. It is the multiple forms of subjectivities structured around language which are sought here. The following questions are suggested by the literature :

1. Designating We and Other around Language.
 - 1.1. What are the discursive labels which are used to designate We and Other in language rights debates? Some possibilities have already been identified in the literature : designations of the community by language traits (e.g. francophone, anglophone, allophone), minority, majority, citizen, nation or national community, immigrant or ethnic group, etc.
 - 1.2. What is the basis of these designations (language, rights, nation-ness, ethnicity, class, etc.)?
 - 1.3. How is language named? (mother-tongue, national language, immigrant language, citizen's language, minority language, majority language, international language, prestige, non-prestige, modern, backward and so on).
 - 1.4. Has the actor's way of naming communities, or the community-language relationship changed over time?

2. The defining 'properties', or characteristics, of language.
 - 2.1. How does the actor conceive of the role of language in the community or nation? (language as communication and medium; language as cultural product, as symbol of heroic past, as intrinsically beautiful, as instrument of national homogeneity or difference, and so on)?
 - 2.2. Who does language belong to? (mother tongue speakers; anyone, independent of whether it is the mother tongue or not).
 - 2.3. Is the role attributed to language in the community stable over time?

3. Language as Tension : We and Other around Language.
 - 3.1. Is there a hierarchy of 'languages' or language communities reproduced in the discourses?
 - 3.2. What kinds of subjects are created around language? How are subjects presented as collaborators or protagonists? (Williams, 1996)?
 - 3.3. Who is excluded from the conception of language? Who is included in this conception?

- 3.4. Do the actors themselves identify a relationship between language and *minorisation* or dominance? If so, in what way? If not, can this relationship be deduced from their arguments?
- 3.5. What are the interests, or advantages, which underlie the conceptions of language, community and nation? In what way is the 'linguistic market' tied into other forms of 'markets' (Bourdieu, 1982; McAll, 1992)?

iii. Third Reading : Interpretation.

In this stage, the analytical fiches were analysed and compared, moving from the *explicit* arguments on naming and thinking rights-language and community-language relationships to an *implicit* reading of the construction of We-Other boundaries around each of these relationships and the interests implicit in these boundaries. Analysis was undertaken along two axes: among actors at a given point in time (i.e. within a PC) and over time (i.e. from 1977 to 1996). Following Guillaumin, the reading strategy adopted in this stage "ne se maintienne pas au sens immédiat, mais qui écoute cette résonance secondaire du texte constituée par le ton, les préoccupations, les silences, les répétitions et les négations" (Guillaumin, 1972: 151). This reading strategy was complemented by six tactics for generating meaning adapted from Huberman and Miles (1994: 246-262): noting patterns and themes, evaluating the plausibility of arguments, clustering (i.e. process of inductively forming categories), making contrasts and comparisons, noting relations between arguments, testing for conceptual/theoretical coherence.

D. *Validity in the Single Case Study.*

Is one case enough to illustrate a theoretical argument? The debates around this question are no stranger to the social sciences, opposing the ethnographic tradition and more statistical traditions (Hamel, *et.al.* 1988). The advantage of the one-case study is the

possibility of exploring a case in greater depth, rather than superficially grazing over several cases. Bourdieu lends his support to the one-case study, citing Galileo for his inspiration: "there was no need for Galileo to constantly repeat the slope experiment to construct the falling body model. A well-constructed single case is no longer singular" (cited in Hamel, *et.al.*, 1988: 35). Similarly, the mathematician Jean Petitot describes the one-case method as an 'experimental prototype' in that it "condenses living matter, nature, and places to an extremely local and reduced scale. This permits an understanding of it and an explanation of its properties which, on such a scale, become evident [...]. Singularity is thus characterised as a concentration of the global in the local" (discussed in Hamel, *et.al.*, 1993: 37). These statements defend the pertinence of the single case study.

A distinction can also be made between the internal and external validity of a case. The first refers to the coherence of the case-study itself: "do the findings of the study make sense?", "does the account 'ring true', make sense, seem convincing or plausible", "are the concepts systematically related"? (Huberman and Miles, 1994: 278). The one-case study is conducive to this type of validity, even more so than the multiple-case study, given the greater depth of analysis permitted. The second type of validity refers to the transferability of the case to other contexts. This type of validity is only partially attained in the one-case study. It is applicable in that all theories are initially grounded in a knowledge of the 'field': previous research, literature reviews, debates. Theories are not built on air; they are constructions on constructions. In this sense, theory is already an accumulation of 'cases' to which the case being studied is compared. At the same time, however, theory is also a task of re-combining knowledge in new and different ways (this is the meaning of C. Wright Mill's 'sociological imagination'). External validity then must also be the validation of this 're-combination' and its transferability to different cases. The external validity of the one-case study is limited in this respect. Nonetheless, the one-case study is not exclusive: it does not preclude further study, but leaves the door open for the possibility of later comparative work. External validity in the present study, then, must be considered in a long-term perspective.

The previous chapters examined the construction of language rights from a general point of view. As mentioned in the introduction, however, each case is a product of a specific history and circumstances. The historical specificity of language rights in Quebec will be examined in the next chapter, followed by the analysis of PC briefs in Chapter 7.

SECTION THREE :

LANGUAGE RIGHTS IN QUEBEC

Chapter 6.

Situating the Quebec Case.

[...] parlant pour nous, et nous limitant à proclamer que les Canadiens français sont une nationalité. Oui, sur cette terre d'Amérique où toutes les races humaines semblent s'être donné rendez-vous, nous occupons une place à part. Nos origines, disons-le avec une légitime fierté, sont d'une illustration sans rivale. Nous avons un passé, nous avons un nom, et tout cela nous constitue une personnalité nationale, qui plus que jamais durant les grands jours que nous venons de vivre, a fixé l'intérêt intense de l'Amérique du Nord. Cette personnalité, Messieurs, quelle en est, avant tout, la marque distinctive? N'est-ce pas la langue? Oui, la langue, la chère et noble langue française est le signe national dont nous sommes marqués (Sir Thomas Chapais, 1912; cited in Bouthiller and Meynaud, 1971: 347).

The earlier chapters provide a general model for understanding the sociological significance of language rights. The purpose of the remainder of the thesis is to translate this model empirically; that is, to bring together theory and fact in the examination of a particular case-study, that of Quebec. The Quebec case has been purposefully evacuated from the preceding chapters in order to avoid constructing a theoretical model tailor-fitted to the Quebec situation, thus facilitating the possibility for later comparative work. At the same time, however, it is clear that language rights are products of specific socio-historical contexts and that their signification is also dependent on this specificity. As Bruno Roy writes in the preface to a collection of texts on the 1837-1838 Rebellions of the Patriots, "seules les leçons de l'histoire nous situent dans l'avenir" (Roy, in preface to Bernard, 1988). In this sense, the debates on language rights in contemporary Quebec are products of struggles which have marked its history. The objective of this chapter is to examine certain aspects of this history in order to provide the elements of context necessary for understanding the specificity of the Quebec case. The chapter is structured around two general themes: evidence of linguistic colonialism (cf. Calvet, 1974) in the history of Quebec and contemporary debates over language legislation.

I. Language and Colonialism Prior to the 1960s.

A. *Linguistic Colonialism: the First Inhabitants.*

Two colonial periods characterise the history of Quebec. The first corresponds to the French Régime (1534 to 1760); the second, to the period following the British Conquest (1760 onwards). It is the first period which marks the introduction of the "French fact in America" and the second period which marks its demise, that is, the subordination of a people: "when the French Canadian says *Je me souviens*", notes Wade, "he not only remembers the days of New France but also the fact that he belongs to a conquered people" (Wade, 1956: 47). The history of linguistic colonialism in Quebec, however, is not limited to the confrontation between French and English speaking populations, but also between these populations and the native nations already inhabiting the territory. According to Dorais, at the time of Jacques Cartier's arrival in the 'New World', in 1534, the three large native nations -- Inuit¹, Iroquois² and Algonquin³ -- represented a population of approximately 20,000 persons (Dorais, 1992).

The scientific rationalisation of European superiority, described by Calvet in relation to the emergence of linguistics as a discipline (Calvet, 1974), can also be found in the relations between these native populations and their colonisers. At the end of the eighteenth century, as Dorais suggests, Jean-Jacques Rousseau's writings on the 'Noble Savage' contributed to the ideological construction of native populations as 'primitives'

¹ 'Inuit' was the term that the members of this nation used to designate themselves, although they were called *ajackjimeva* by their Algonquin neighbours. According to the ethnolinguist José Mailhot, the Algonquin term meant "qui parlent la langue d'une terre étrangère" (cited in Dorais, 1992: 66). Dorais also suggests that *ajackjimeva* was adapted by early Europeans, becoming 'Eskimo'.

² The Iroquois nation is itself broken down into several smaller nations. The languages spoken by these nations include Mohawk, Oneida, Onondaga, Cayuga, Seneca, Susquehannock (Dorais, 1992).

³ The Algonquin nation can also be broken down into several language groups, including Cree, Ojibwa, Micmac, Abenaki, Mohican, Attikamek, Naskapi, Montagnais, Ottawa (Dorais, 1992).

(Dorais, 1978). Doctrines of Social Darwinism in the nineteenth century further reinforced beliefs that 'primitive' cultures and languages were destined to 'disappear' in the name of progress. It was up to the coloniser, armed with the knowledge of scientific rationality, to bring civilisation to the uncivilised. In the early period of colonisation, Dorais suggests that there were no specific attempts to prohibit the use of native languages. Instead, pidgins, a mixture of French and native languages, were used in commercial relations between Europeans and Natives. Muyard also notes that the Huron language, no longer spoken today, was used as late as the eighteenth century by European traders in their relations with natives and by missionaries for evangelical purposes (Muyard, 1994). Gradually, however, Dorais suggests that the European colonisers changed their position vis-à-vis the use of native languages: "on en vint ensuite à considérer les parlers autochtones comme faisant obstacle à l'avance de la civilisation" (Dorais, 1992: 72). While there seems to have been no formal policy for assimilating native populations, several measures were adopted which had the same effect. As early as 1639, for instance, classes were organised by the Ursulines for native children. The language of education, in most cases, was either French or English. During the seventeenth century, French missionaries also set up special villages, referred to as *réductions*, to Christianize native populations. Similar measures of assimilation, particularly in the educational domain, continued well into the twentieth century. Trudel, for instance, describes the impact of public policy on native language use (Trudel, 1992). Commenting specifically on the assimilationist orientation of federal policy between 1867 and 1973, he writes,

Pendant plus d'un siècle (1867-1973), le gouvernement fédéral, qui a la responsabilité quasi exclusive de l'administration des Indiens (et des Inuit) du Canada, n'a essentiellement qu'une politique envers les premiers habitants du territoire, celle de les assimiler plus ou moins rapidement à la société dominante au moyen de l'éducation et de faire disparaître, par l'école, les cultures et les langues autochtones (Trudel, 1992: 173).

The cumulative effect of such assimilationist measures is described by Dorais. Of the forty-four largest native languages spoken in New France during the sixteenth century, he suggests that only nine languages are still spoken today: Inuit, Mohawk, Abenaki, Micmac, Algonquin, Attikamek, Montagnais, Naskapi and Cree (Dorais, 1992). As Simard suggests, the attitude of the European colonisers towards native populations since the first colonial period has been one of paternalism: "L'Homme blanc [doit] les 'instruire' systématiquement, les 'développer', les 'organiser' [...] en un mot 'les aider à s'aider eux-mêmes'" (cited in Muryard, 1994: 17). This paternalism is also expressed in the following extract from Yves Thériault's novel *Ashini*,

Voyez celui-là? Il est sensé, il est intelligent. Il ne reste pas à vivre misérablement dans les bois. Il vient ici où les Blancs seront bons pour lui. Allez, petits, apprenez le français, oubliez votre langue, méprisez la forêt, on vous offre le paradis sur terre. On vous offre, c'est inouï, de faire de vous des Blancs [...]! N'est-ce pas le comble de l'entendement de la générosité (cited in Maurais, 1992: 1).

This early history of language struggle in Quebec, between native populations and their French and English-speaking colonisers, tends to be overlooked. This struggle, while manifest in language, reveals multiple other forms of exclusion which have marked native history. In this sense, it is an example of linguistic colonialism, to borrow Calvet's terms (Calvet, 1974). In Quebec literature, as Maurais suggests, there have often been references comparing the assimilation of the French Canadians with that of Native communities. He cites as an example Octave Crémazie's poem "Le dernier Huron", written in the nineteenth century (Maurais, 1992). Contemporary debates on language rights are about this latter form of linguistic colonialism, in which the first coloniser became the colonised.

B. *French in the New World.*

The settlement of New France was slow in the early part of the Régime. At the request of François I of France, Jacques Cartier's mission had been instead to "découvrir certaines isles et pays où on dit qu'il doit se trouver grant (*sic*) quantité d'or et d'autres riches choses" (cited in Hamelin and Provencher, 1987: 7). It is only after the first century of French occupation that New France undertook any active policies for encouraging permanent settlement. Between 1627 and 1663, for instance, the population grew from 100 to approximately 2,500 (Trudel, 1973). Although the settlers had all come from the same motherland, France, they were by no means all French-speakers. France itself was not linguistically unified during this period. Emigrating from Normandy, Aunis, Perche, Paris and surrounding regions, Poitou, Maine, Saintongue, Anjou (and so on), the settlers to New France carried the linguistic marks of their respective regions. New France, then, was settled by a plurilingual population. Trudel (1973) divides the settlers into three general language groups:

- a) *francisants*: those that spoke one or another of the varieties of French from Paris and the surrounding regions. This group included members of the nobility, the clergy, the military and administration and represented 38.4% of the population of New France in 1663.
- b) *semi-patoisants*: those that spoke a mother tongue other than French, but nonetheless had a passive knowledge of one of the varieties of French. These speakers represented 31.4% of the population of New France.
- c) *patoisants*: those that spoke only their mothertongues and had no knowledge of French or its variations. These speakers represented 30.3% of the population of New France.

Those with a good knowledge of French were in the minority (38.4%) by comparison with those who had a little or no knowledge of the 'King's tongue' (patois and semi-patois speakers, 61.7%). French was nonetheless the language-of-use in the official domains (cf. Fishman, 1972) of the colony. It was the language of official documents, of the

clergy⁴, of education, and of the military. By the end of the French Régime, most patois and semi-patois speakers had also gradually come to adopt French as the general language of communication (Leclerc, 1986: 428-431). Leclerc comments that New France was even more linguistically homogeneous than France during this period: "Il faut souligner aussi que les anciens Canadiens ont constitué la première population Francophone du monde à réaliser son unité linguistique, et cela, deux siècles avant la France, sans intervention étatique" (Leclerc, 1986: 432-433).

Linguistic unification under the French Régime, however, was not yet attached to a discourse of 'nation-ness'. The idea of an ideologised link between language and nation, only embryonic in Europe during this period, had not yet reached the New World: "Il ne faudrait pas [...] croire, par exemple, que la langue française à cette époque était un enjeu aussi fondamental qu'elle l'est actuellement au Québec [...] Dans les sociétés d'Ancien Régime, les différences linguistiques comptaient pour bien peu" (Noël, 1990: 8). Instead, pragmatic reasons seem to have dictated the adoption of French by patois and semi-patois speakers. First, although several languages were in use in the early period of settlement, the largest single language group was comprised of French speakers (38.4%). Even Norman speakers, the next largest group, comprised only 11.3% of the population. Second, the settlers were dispersed geographically and the same languages were not necessarily to be found on the same territories. Third, women played a major role in the *francisation* of the population. In 1663, over half of the women in New France were French speakers and, since women were responsible for educating children, French became the language of home use. Within the next decade, the marital policies of *les filles du roi*⁵ also brought more French-speaking women (mothers-to-be) to the new colony, thus accelerating the process of *francisation* (Leclerc, 1986).

⁴ With the exception of missionaries working with native populations.

⁵ Brought up in orphanages in France, these women were sent to New France to become wives for settlers. For the most part, they were better educated than most of their contemporaries.

Throughout the following century, travellers would comment on the peculiarities of the French spoken in New France. As early as 1756, for instance, Bougainville, an aide to Montcalm, is reported as having commented that "their diction is full of vicious phrases borrowed from the Indian tongues or of nautical terms used in ordinary style" (Bougainville, 1756; cited in Wade, 1956: 43). The differentiation of the French spoken in Canada from that spoken in France became even more pronounced after the Conquest when many of the French-speaking elites returned to France and the *Canadien's* language became increasingly influenced by Norman and Poitevin speeches, settler groups which remained important in the colony. Cut off from the metropole, the *Canadien's* language was also isolated from the changes taking place in the French spoken in France following the Revolution of 1789 (Leclerc, 1986).

C. *From Conquest to Confederation.*

In 1758, the English took Louisbourg; in 1759, they took Quebec; in 1760, Montreal surrendered and New France fell to the British. Immediately following the Conquest, a provisional Military Régime was set up while the British decided whether they would take possession of Canada or of Guadeloupe (Hamelin and Provencher, 1987). Canada was chosen, thus initiating the history of the two solitudes, of the cohabitation of Francophone and Anglophone communities. As Monseigneur Lafèche would comment in 1866, "La plus lourde taxe que la conquête nous ait imposée, c'est la nécessité de parler la langue anglaise" (in Bouthillier and Meynaud, 1971: 58). James Murray, the first British governor of Quebec, also gave an indication of the type of relations which would characterise this cohabitation when he reportedly referred to French-Canadian merchants as "the most cruel, ignorant, rapacious fanatics that ever existed" (Rudin, 1985; cited in Levine, 1990: 26).

Language was not really an issue during the period of the Military Regime (1759-1763). As Noël (1990) suggests, this was a period of indecision. London had advised its governors and soldiers to be respectful of the *Canadiens'* language: a bilingual secretary was

appointed and all official edicts were published in French (Noël, 1990). Leclerc (1986) attributes this 'respect' to a policy of pragmatism. The *Canadiens* accounted for 99.7% of the population and it would have been unwise for the British to practise a policy of colonisation which was too radical.

The period of linguistic clemency was not to last. In the *Royal Proclamation* (1763) French civil law was replaced by English common law and Roman Catholics were prohibited from holding administrative and judicial functions. While language was not specifically mentioned in the Proclamation, the relation between language, law and religion was a close one. This fact is alluded to in a letter addressed to the King in 1765 in which several Seigneurs and members of the clergy made their grievances known. Although language was not the primary object of the petition (they demand the restitution of French civil laws and the authorisation for lawyers and judges to practise in the courts), they nonetheless asked for the right to "rédigier nos Affaires de famille en notre Langue, et de suivre nos Coutumes, tant qu'elles ne seront point Contraires au Bien général de la Colonie, et que nous ayons en notre Langue une Loy promulguée et des Ordres de Votre Majesté [...]" (in Bouthillier and Meynaud, 1971: 65-67; see also Noël, 1990).

The *Canadiens* had reason to fear for the future of their language (and laws and religion), since the assimilationist objectives of the *Proclamation* were only too obvious. The following text, written in 1766 by Francis Masères, Procureur general of Canada at the time, attests to this intention:

Les difficultés qui sont survenues au sujet du gouvernement de la province de Québec [...] sont si multiples et si sérieuses qu'elles causent les plus grands embarras et les plus grandes craintes aux officiers auxquels Sa Majesté a confié la charge des principaux départements de ce gouvernement et qu'ils désespèrent d'y apporter une solution, sans l'aide d'un acte du parlement pour appuyer et justifier leur conduite. Il s'agit de maintenir dans la paix et l'harmonie et de fusionner pour ainsi dire en une seule, deux races qui pratiquent actuellement des religions différentes, parlent des langues qui leur sont réciproquement étrangères et sont par leurs

instincts portées à préférer des lois différentes (Masères, 1766; cited in Bouthillier and Meynaud, 1971: 69; my emphasis).

However, if a policy of assimilation was implicit in the *Proclamation*, the *de facto* situation was that the law had to be *understood* by the new subjects. Thus, in practice, several measures were put into place to accommodate the fact that most *Canadiens* did not understand English. In 1764, for instance, a dual system of courts was set up: a Superior Court (or Court of the King's Bench) which would deal with serious cases and a Court of Common Pleas which would hear minor cases. French law, lawyers and language predominated in the latter and English law, lawyers and language in the former (Noël, 1990). Summarising the implications of this period for language use, Leclerc (1986) comments that although the use of the English language did not always replace French language use *in fact*, the latter was most certainly relegated to a secondary role.

With increasing anti-British sentiment in the Thirteen Colonies to the south, it was imperative that Great Britain ensure the loyalty of its Subjects in Canada. The *Act of Quebec* (1774) replaced the *Royal Proclamation*, expanding the territory of Quebec, abolishing the oath which excluded Catholics from administrative and judicial positions, reinstating French civil law and assuring Catholics the free exercise of their religion. It was an act which journalist Henri Bourassa would later refer to as the 'Charter of the French Canadians' (Hamelin and Provencher, 1987). Again, language received no specific mention in the Act, but in recognising the rights to religion and French civil law, language was also implicitly protected (Bouthillier and Meynaud, 1971). During the same year one of the earliest known speeches specifically defending the French language was given by Chartier de Lotbinière (1748-1822), a Seigneur:

Enfin un point qui mérite attention et qui doit être fixé, est que la langue françoise étant générale et presque l'unique en Canada, que tout étranger qui y ient, n'ait que ses interets en vue, il est démontré qu'il ne peut les bien servir qu'autant qu'il s'est fortifié dans cette langue, et qu'il est forcé d'en faire un usage continuel dans toutes les affaires particulières qu'il y traite; qu'il est de plus impossible, vû la distribution des etablissements et

habitations du pais, de pretendre ay introduire jamais la langue angloise comme générale -- pour toutes ces raisons et autres non détaillées, il est indispensables d'ordonner que cette langue françoise soit la seule employée dans tout ce qui se traitera et sera arrêté pour toute affaire publique, tant dans les cours de justice, que dans l'assemblée du corps legislatif &c. car il paroistroit cruel que, sans nécessité, l'on voulut réduire, presque la totalité des intéressés a n'être jamais au fait de ce qui seroit agité ou seroit arrêté dans le pais (cited in Bouthillier and Meynaud, 1971: 77).

As Noël suggests, the conception of language in this passage, and in other discourses of the period, is not so much a defense of language as a symbol of identity, but because it was the only language understood by the *Canadiens*, it was "la langue qu'ils parlaient, la seule qu'ils comprenaient" (Noël, 1990: 122). Alongside such discourses defending the French language during this period, other assimilationist discourses on the anglicisation of the *Canadiens* were also becoming common. Hugh Finlay, Postal Director in the late 1700s, for instance, proposed a system of free English schools as a means of anglicising the *Canadiens*: "Que les maîtres d'école soient anglais si nous voulons faire des Anglais de ces Canadiens; qu'ils soient catholiques romains s'il le faut, car les Canadiens, à l'instigation des prêtres, ne confieraient peut-être pas leurs enfants à des instituteurs protestants" (Finlay, in Bouthillier and Meynaud, 1971: 85). Finlay later supported the accommodation of the French Canadians as a means of securing their loyalty against the 'American threat'.

The 'American threat', however, would turn against the French Canadians in the years which followed. When the American Revolution began in 1775, American loyalists began gradually moving up into Canada, adding their numbers to the English-speaking population already there. The loyalists, who had left the States in order to remain Subjects of the King, refused to abide by a system of civil laws and customs and demanded the creation of a parliamentary system of government and English laws. In passing the *Constitutional Act* (1791), the British government sought a compromise situation. The *Act* divided the country into two Canadas, Upper (the West) and Lower (the East). The freedom of religion, French civil law and seigneurial tenure were retained in Lower Canada and each of the Canadas was

granted parallel political institutions (Governor, Executive Council, Legislative Council and Legislative Assembly). Language itself was not mentioned in the *Act*. For the first time, however, its status as a language-of-use in parliamentary proceedings was debated publicly when the time came to choose the language of parliamentary procedures (Noël, 1990). The question was debated for three days in the Legislative Assembly. The *Canadiens* first demanded French unilingualism, but gradually opted for bilingualism in law. Meanwhile, the English had refused to accept that an official status be given to French, despite the fact that the *Canadiens* represented the majority in the Assembly (34 out of 50 members). While a compromise position was adopted by the Assembly, allowing for minutes in both languages and civil laws in French, authorities in London overturned the decision and instated English as the official language of Parliament.

Language was also the object of at least two court cases during the period covered by the *Constitutional Act: King v. Talon* (Court of the King's Bench, 1812) and *The Bowen Affair* (1825). In the first case, the defense lawyer contested the legality of a lawsuit because the summons had been written in French only, arguing that French was not the language of the King. In his decision, however, the Solicitor General defended the status of French as a language of the courts and rejected the lawyer's argument (Bouthillier and Meynaud, 1971: 105): "The French language has been used by His Majesty in his communications to His subjects in this province, as well in his executive as in his legislative capacity [...] It is for the benefit of the subject that this was done, and the defendant cannot be permitted to say that he will not be sued in the language of his country" (Judgement cited in Bouthillier and Meynaud, 1971: 106).

In the *Bowen Affair* (1825), the status of French was interpreted differently when Judge Bowen refused the pleas of two *Canadiens* because their summons were written in French only. Contesting Judge Bowen's decision, Augustin-Norbert Morin, then a student of law, published a pamphlet in defence of French language use in the courts:

Quelle doit être la langue juridique d'un pays? La réponse se présente tout bonnement; c'est la langue du peuple qu'on juge. Ici toutefois d'injustes distinctions politiques tendent sans cesse à faire reconnoître en principe que les Canadiens, dont neuf sur dix au moins n'entendent que le français, sont obligés de se servir de la langue angloise dans tous leurs actes civils, lors même qu'il n'est aucune des parties intéressées qui ne l'ignore [...] les Canadiens, comme hommes libres, et en vertu de titre que la conquête n'a pu leur faire perdre, ont un droit naturel à la conservation de leur langue; que le libre usage leur en a été garanti par la capitulation; qu'il n'est aucune loi subséquente qui les en ait privés; que la Grande-Bretagne n'a jamais prétendu restreindre l'exercice de ce privilège; qu'en le faisant elle s'exposeroit à rendre son gouvernement moins cher aux loyaux habitants de cette Province; que la langue française est le langage des lois civiles qui de droit n'ont jamais cessé d'être en force dans cette colonie [...] Je pose donc comme une vérité reconnue, que les Canadiens sont des hommes libres (...). Il ne s'agit ici que de cette liberté individuelle, de ces droits réciproques qui font la base de toutes les sociétés policées, qui tirent leur origine d'une source antérieure à tous les pactes, et dont la garantie est l'unique décernement avouer... Cette liberté est indépendante des diverses formes de gouvernement... Elle indique la maturité des nations[...]. (Morin, cited in Bouthillier and Meynaud, 1971: 109-110).

A new discourse on language is present in this passage which extends beyond the importance of language as the capacity to *understand* (although this theme too is present in the passage) to language as the '*natural*' right of a people. The influence of the Revolutionary philosophies is clearly evident.

The roots of another discourse bringing together language, nation and religion can also be traced to this period. The motto of the newspaper *Le Canadien*, for instance, read "Notre Religion, notre langue, nos lois" (in Bouthillier and Meynaud, 1971: 117). The following statement, made by Monseigneur Plessis in the 1820s, also provides a good example of such a discourse:

Nous sommes des enfants dévoués de l'Église romaine, et nous entendons l'être toujours; nous parlons la noble langue de nos pères et nous prétendons la transmettre à nos fils; nous aimons notre vieux droit français et tenons à continuer à vivre sous ses lois [...] Nous sommes une nationalité française, issue d'une des grandes races civilisatrices qu'il y ait dans le monde, et nous ne voulons pas devenir une nation dégénérée. Mais rien de tout cela n'affaiblit chez nous la fidélité promise. Catholiques de foi et français de langue, nous pouvons attester devant le ciel et la terre que nous sommes britanniques d'allégeance (Cited in Noël, 1990: p. 243).

Not all 'Catholics of faith', however, demonstrated the same attachment to their language. By the early 1800s, processes of anglicisation were already well anchored in French Canadian society. In 1808, for instance, an article appeared in the newspaper *Le Canadien* describing a salon conversation in English between two young French Canadians, despite the fact that the others present were all French-speaking. The conversation elicited the following comment from an elderly woman: "Mais comment se fait-il qu'ils ne parlent qu'Anglois? me dit-elle. Est-ce qu'ils ne savent pas leur langue? [...] Parler en pleine compagnie, devant des gens honnêtes pour n'être pas entendu. J'ai connu dans ma jeunesse beaucoup d'Anglois bien nés, ils n'avoient jamais commis un acte de grossièreté aussi detestable [...]" (in Bouthillier and Meynaud, 1971: 99-100). Similarly, Alexis de Toqueville, in his travels to the America's in 1831, commented on the English *usage* of Quebec's cities: "Bien que le français soit la langue presque universellement parlée, la plupart des journaux, les affiches, et jusqu'aux enseignes des marchands français sont en anglais [...] Toute la population ouvrière de Québec est française. On n'entend parler que du français dans les rues. Cependant, toutes les enseignes sont anglaises [...]" (de Toqueville, 1831; in Bouthillier and Meynaud, 1971: 118).

Nor did all 'Catholics of faith' share the Church's loyalty to the King. While the Church represented a conservative element in Lower Canada, a more radical element was forming in the ranks of the French Canadian *petite bourgeoisie* whose demands for the recognition of a distinct status for French Canadian society were much more political in character. It is during this period too that cultural activity attesting to the distinctiveness of

French Canadian society flourished (cf. Noël, 1990: 244). By the 1830s, relations between French Canadians and English Canadians were tense. The former denounced the favouritism and corruption of the government, while the latter demanded the union of the two Canadas. The tension came to a head with the Rebellion of the Patriots in 1837 and 1838. In the Patriot's *Declaration of Independence* (1838), article 18 contained their position on language: "Qu'on se servira des Langues Française et Anglaise dans toute matière publique" (cited in Bernard, 1988: 304).⁶ The Patriots were not asking that English be replaced by French, but rather that French be permitted.

The Rebellion was brutally squashed by British soldiers, its leaders either hanged or deported. The Crown sent in an inspector, Lord Durham, to evaluate the extent of the damage and plan for the future of the Colony. His solution was to unite the two Canadas, and his intention, to ensure English predominance in the colonies. A discourse of inferiorisation, such as described by Calvet (1974), was only too clear in his report which appeared in 1839: "on ne peut guère concevoir de nationalité plus dépourvue de tout ce qui peut vivifier et élever un peuple que celle des descendants de Français dans le Bas-Canada, du fait qu'ils ont conservé leur langue et leurs coutumes particulières. C'est un peuple sans histoire et sans littérature [...]" (Le Rapport Durham, 1990: 237).

From Lord Durham's Report resulted the *Act of Union* (1840) which brought together the two Canadas under a single government. For the first time since the Conquest, language was explicitly mentioned in a constitutional document. This language, however, was not French. Instead, Article 41 of the *Act* declared English the single official language of the United Parliament (Leclerc, 1986; Braën, 1987; Noël, 1990). The rule was not always followed to the letter. Louis-Hippolyte Lafontaine, for instance, gave his first speech in the new parliament in French (Gougeon, et al., 1992). In practice, French Canadian deputies also maintained the use of French in the journal of debates, parliamentary exchanges, and bills,

⁶ The *Declaration of Independence* was written while several members of the Patriots were exiled in the United States. Because they had access only to American (i.e. English language) typesetting equipment, the original document contained several typographical errors (punctuation, accents, etc.) (Bernard, 1988).

although the extent of this use was not as widespread as it had been under the *Constitutional Act*. Article 41, however, was not received without debate. In 1842, for instance, Louis-Hippolyte Lafontaine reaffirmed the right to French as a parliamentary language in the Assembly (Bouthillier and Meynaud, 1971: 58). Three years later, in 1845, a petition was presented to Parliament demanding the repeal of the Article: “nous prions humblement Votre Majesté de faire disparaître cette cause de mécontentement [.....]” (Noël, 1990: 353). The petition and other debates of the day were not without their effect. In 1848, eight years following the adoption of the *Act*, French language use was allowed in administrative spheres (Braën, 1987). In the same year, Lord Elgin read the speech from the Throne in both English and French (Noël, 1990). However, as Noël (1990) argues, the repeal of Article 41 did not necessarily advance the cause of the French language since there was no clause introduced which would recognise the official status of French. The French language was no longer prohibited, but neither was it encouraged.

D. *From Confederation to the Quiet Revolution.*

From the 1850s onwards, there was growing frustration in the English-speaking community with respect to the *Act of Union*. The population of Upper Canada now outnumbered that of Lower Canada by approximately 60,000 people and the English community demanded that this fact be recognised by proportional representation in Parliament (Leclerc, 1986). The debates seemed to lend support to some sort of federation and, in 1867, the BNA Act created a Confederation of four provinces: Ontario, Quebec, New Brunswick and Nova Scotia⁷. Two articles of the *Act* – Articles 133 and 93 – have relevance to language⁸. The first protects the use of French and English in Parliamentary

⁷ Manitoba joined the Confederation in 1870, British Columbia in 1871, Prince Edward Island in 1873, Alberta in 1905, Saskatchewan in 1905 and Newfoundland in 1949.

⁸ As new provinces and territories were added to the Confederation, language provisions in some form or another were also added to their respective constitutional documents. The *Manitoba Act* (1870) and the *Act to Amend the Law Respecting the Northwest Territories* (1877), for instance, contain sections analogous to article 133 of the BNA Act. The acts creating the provinces of Saskatchewan and Alberta also both contain provisions respecting the laws in force prior to their admittance into the Union in 1905. These provisions have been

debates and official documents in both Quebec and Canada; and the second, educational rights for Catholic and Protestant minorities. While language as such is not mentioned in Article 93, the overlap between religious and language minorities implies that in protecting the one, the other was also protected (Braën, 1987). Ostensibly, the *BNA Act* guarantees certain rights -- language and educational -- to the French-Canadian population. However, as Chevrette argues, the language guarantees included in the *BNA Act* reflect English Canadian interests more than French Canadian ones:

Au plan constitutionnel les garanties accordées aux minorités ont reçu une interprétation judiciaire restrictive, opérée sans référence à quelque principe philosophico-juridique que ce soit et dont l'effet pratique fut de laisser le plus possible libre cours à la volonté politique majoritaire de la collectivité dont ces minorités faisaient partie (Chevrette, 1972: 418).

Braën, for instance, suggests that the inclusion of Article 133 in the *Act* was a means of assuring French-Canadian participation in the Union, rather than a voluntary effort to protect their language rights (Braën, 1987). Similarly, Chevrette argues that Article 93 was intended more to protect the protestant (i.e. English) population in Quebec than to afford religious (and by extension, language) protection to the French-Canadians (Chevrette, 1972). As some have argued, the *BNA Act* payed lip-service only to language equality and, in practice, French became largely a language of translation in official domains (Braën, 1987; Leclerc, 1986; McRae, 1970; Chevrette, 1972). According to Brazeau, *in theory* the language guarantees of the *BNA Act* applied equally to all provinces, but *in practice* they created a bilingual region within Canada: "On perçoit mieux dès lors la portée de la Loi de 1867, qui allait créer une région bilingue pour le bénéfice d'une minorité nationale reconnue, les Canadiens français, et sauvegarder les droits de la minorité numérique anglophone résidant au Québec" (Brazeau, 1992: 106).

interpreted as attributing some legal status, although restrictive, to the French language (Braën, 1987).

For Francophone populations outside Quebec -- *Acadiens, Franco-Ontariens, Franco-Manitobains, Fransaskois, Franco-Albertains, Franco-Colombiens* (cf. Juteau, 1994) -- the *BNA Act* did little to stop a process of assimilation which was already well under way. In 1864, during the Confederation debates, Nova Scotia closed its French schools. In 1871, New Brunswick closed its Catholic schools and prohibited the teaching of French. Prince Edward Island followed suit in 1877 as did the Northwest Territories in 1892 and the district of Keewatin in 1912 (SSJB, 1983). In 1890, Manitoba adopted an Act declaring English the only official language of legislation and the courts and abolished its system of confessional schools in the same year (subsequently making English the single language of instruction) (Braën, 1987). While the Greenway-Laurier agreement in 1897 allowed for education in a language other than English, French-language education at the primary school level was abolished at the primary level two and a half decades later, 1916. Ontario followed a similar pattern. In 1890, it restricted French-language education to the primary levels for students who did not understand English and in 1912, adopted Regulation 17 severely limiting the conditions for French language education (Braën, 1987; Brazeau, 1992).

These measures reflected an assimilationist movement that was particularly strong in the late 1800s, accentuated by the Louis Riel Rebellion in Saskatchewan in 1885, the Jesuit Estates Act in 1888⁹, and the adoption of the *Northwest Territories Act of 1890*. In Quebec, a group representing Anglo-protestant interests -- the *Equal Rights Movement* -- was formed in the 1890s to contest the Jesuit Estates Act. The movement was both anti-French and anti-clerical (Bouthillier and Meynaud, 1971). Dalton McCarthy, an Ontario deputy, was part of this movement. Reacting to the *Northwest Territories Act* of 1890, he spoke out publicly for 'One Nation [an English-speaking one], One Language':

⁹ The objective of the *Act* was to settle claims on revenues accumulated by the Jesuit Estates. It sparked fierce opposition from some English Protestants who qualified the *Act* as a measure of 'papist aggression' (Wade, 1956).

Je dois dire maintenant que s'il s'agissait de former une constitution, pour un pays nouveau, nul n'oserait commettre la folie d'établir deux langues officielles; avec l'expérience que nous avons acquise, j'ose dire que nul ne voudrait établir ou maintenir, selon le cas, deux langues officielles [...] au lieu d'encourager les Canadiens-français à conserver leur langue, si l'on eût adopté une politique pour les induire -- non par des moyens violents, non par des mesures aggravantes -- pour me servir d'une expression anglaise, à parler l'anglais -- je voudrais savoir si, aujourd'hui, au lieu de la différence de race, ou de cette race divisée que nous voyons maintenant, laquelle se divise de plus en plus, et menace de scinder le Canada en deux, si l'on ne s'y oppose pas --je voudrais savoir, dis-je, si nous verrions le spectacle qui nous frappe maintenant? Il est évident, selon moi, que ce spectacle n'existerait pas. (McCarthy, 1890, cited in Bouthillier and Meynaud, 1971: 234-239).

Not all Anglo-Protestants, however, could be said to have belonged to this movement. A telling example is offered by an anonymous English speaker in a letter published in the *Canadian Courier* of Toronto in 1912, declaring his support for the French cause in Ontario:

Une des choses les plus singulières qu'on remarque au Canada, c'est la peur, que quelques-uns d'entre nous, qui parlons l'anglais, semblent avoir de la langue française. Nous sommes portés à la traiter comme une maladie contagieuse. Nous voulons l'isoler, la mettre en quarantaine, nous vacciner contre son infection [...] Pourtant la langue française ne fait de mal à personne. Sa délicate beauté embaume de son parfum la meilleure partie de la littérature connue [...] Toute autre langue est plus ou moins gauche et n'est qu'un véhicule imparfait de la pensée humaine. ('Monocle Man', cited in Bouthillier and Meynaud, 1971: 337)

Despite sporadic appeals to the reconciliation of the two communities, it is evident that the image of 'two solitudes' would continue to mark the twentieth century. As Levine suggests, it was an image of accommodation, rather than one of open conflict (Levine, 1990). The persistence of 'two solitudes' was demonstrated in C. Everett Hughes' classic study of relations between French- and English-speaking communities in Drummondville,

renamed Cantonville, in his monography entitled *French Canada in Transition* (1943). He begins his chapter on the division of labour in this city with the following statement: "In Cantonville's major industries the English hold all positions of great authority and perform all functions requiring advanced technical training [...]. The French constitute a large majority of all persons employed in industry. In the ranks of labor they predominate most strongly" (Hughes, 1963: 46). This division of labour was also reinforced by stereotypes which reveal the constructed 'laziness' of French-Canadian workers by comparison with the industriousness of the English-Canadians. Hughes provides several illustrations: "The French have to be told what to do and therefore cannot be trusted with jobs requiring initiative and the meeting of crises"; "they are good routine workers but are inclined to take things easy if left to themselves"; "they are so jealous of one another that they do not yield to the authority of one of their own number"; "they have so many relatives and friends that they cannot avoid favoritism" (Hughes, 1963: 55).

The 'two solitudes' can also be seen in Montreal's urban geography. St-Laurent Boulevard had been the dividing line between French Montreal and English Montreal since at least the mid-1800s. In 1860, for instance, the British origin population inhabited 68% of the city's western sectors, while those of French-origin represented 69% of the sectors in the city's east end (Levine, 1990; Linteau, 1982). Although these boundaries have become increasingly blurred, with Francophones gradually moving into western sectors and immigrant populations settling in various pockets of the urban space, the St-Laurent Boulevard corridor remains embedded in collective consciousness as a boundary marking the relative absence of contact between the Anglophone and Francophone populations (Montgomery, 1991). This absence of contact is described in the following passage by Douglas Fullerton, a west-end Montrealer who grew up in the 1920s and 1930s:

We saw little of the French Canadians, never mixed with them socially, such contact as there was occurred mostly in the streets, tramways, in stores, with the milkman or the breadman. And I'm not just speaking of the wealthy Montrealers, the

Westmount dwellers, but of the rest of us at every level of society. I did meet several French-Canadians in school -- they had been sent to learn English -- but to the best of my memory, I was never a guest in a French-Canadian home, or a French-Canadian friend in mine [...] We English Montrealers lived in different parts of town from the French-Canadians, went to different schools, attended different churches, socialized among our own (Fullerton, cited in Levine, 1990: 14).

Although these two solitudes were lived out in different languages, language in itself was not a major object of struggle in the first half of the century. There were nonetheless some exceptions. In 1918, for instance, Henri Bourassa addressed the French Canadians, declaring "luttons pour la langue afin de mieux garder la foi" (Bourassa, 1910; in Noël, 1990: 57). Even Bourassa, however, was conservative in his conception of the future of the French fact in Quebec, admitting the "penetrating influence of Americanism" and the "undeniable fact that English is, at present, and will likely remain the language of communication between all classes of Canadians [...]" (Bourassa, 1925; in Bouthillier and Meynaud, 1971: 472-473). Associations were also created, their objective being to protect the French language. One such association was the *Société du parler français au Canada* (S.P.F.C., founded in 1902). The programmes of such organizations were largely based on corpus planning (the 'quality' of French) rather than on status planning (the 'prestige' of the language). In 1937, for instance, the S.P.F.C. organised its second French Language Congress and adopted resolutions calling for the creation of an *Office de la langue française* responsible for the quality of language in commercial advertising (Resolution 7) and a Commission responsible for revising the language of legal texts (Resolution 13) (Bouthillier and Meynaud, 1971: 588).

Attempts at language legislation were few during this period. Only two legislative measures were passed by the province of Quebec between 1867 and the 1960s. The first became known as the 'Lavergne Bill' (1910), named after Armand Lavergne, a prominent lawyer, politician and nationalist spokesperson. In 1908, he introduced a Bill to Parliament calling for the obligatory use of French in public utility firms. The proposed Bill was accompanied by a petition containing 433,845 names. Lavergne later withdrew the Bill when

Sir Wilfred Laurier, then Prime Minister, watered it down in order to accommodate some of the concerns expressed by the railway companies. The Bill was reintroduced again in 1910 and was legislated as articles 1682c and 1682d of the *Civil Code of Quebec* (Bouthillier and Meynaud, 1971: 334-5). In the words of Camille Tessier, then Vice-president of the *Association catholique de la jeunesse canadienne-française*, "la Loi Lavergne et les luttes auxquelles elle a donné lieu, ont déjà fait plus, pour l'utilité de notre langue en ce pays, que les nombreux et éloquents discours des orateurs qui, à toute époque de notre histoire, ne nous ont jamais manqué" (Tessier, 1912; cited in Bouthillier and Meynaud, 1971: 335). The second Bill, passed in 1937, gave priority to French in the interpretation of Quebec laws and regulations. The law, however, was contested by the Anglophone community and repealed one year later by Duplessis who publicly acknowledged his 'error'. As Leclerc writes, "cette capitulation linguistique est passée à l'époque pour un acte de courage politique et a valu à Duplessis les félicitations de toute la communauté anglophone" (Leclerc, 1986: 448-9).

Only two Bills relating to language were passed in the federal domain in the period between 1867 and 1960: the bilingual Postal Stamps Bill (1927) and the Bank Bill (1936). The first was adopted to mark the sixtieth anniversary of Confederation. The law, however, gave lip-service only to full bilingualism in the issuing of stamps. This is implied in a letter written by the *Ligue d'Action nationale* in 1936 to the Minister responsible for the Canadian postal service: "Le 18 février 1936 j'avais l'honneur de vous demander au nom de notre Ligue [...] de faire disparaître de la série actuelle de nos timbres-poste toutes les légendes anglaises qui n'ont pas été traduites [...] ce qui à nos yeux ne peut être toléré indéfiniment par l'élément français de ce pays à moins que le caractère de citoyens de seconde zone ne soit par lui jugé sans importance [...]" (cited in Bouthillier and Meynaud, 1971: 587). The second Bill was adopted under Mackenzie King's Liberal government. Under the previous Bank of Canada Bill, a double series of bank bills had been in circulation, in French and English respectively. The new bill proposed the adoption of bilingual currency which would replace the double series. The adoption of the Bill sparked heated debate in the House of Commons with the Deputy M. Bennett arguing that the double set of unilingual bills afforded enough liberty of choice for French Canadians because they could ask for French-printed bills at the bank.

Mackenzie King responded that the liberty of choice became a farce as soon as the bills were out in circulation because there was no way of ensuring that the language of bills received in everyday exchanges would correspond to the language of choice. Some, such as journalist Dostaler O'Leary, were against the idea of bilingual currency because it represented a symbol of the economic imperialism of the English: "Qu'est-ce que cela peut bien nous f... d'avoir une monnaie bilingue si en échange vous donnez aux anglais et à l'impérialisme des écumeurs des mers, les clefs de notre économie nationale" (O'Leary, 1937; cited in Bouthillier and Meynaud, 1971: 583). Although O'Leary made this statement in 1937, its tone would find an echo in the language debates of the 1960s.

II. Thirty Years of Language Policy : the 1960s to the Present.

A. *A Time of Change.*

The 1960s is a crucial period in the history of Quebec, known as the Quiet Revolution. It would be a mistake, however, to think that the 1960s marked a radical break with earlier periods. Instead, with respect to language issues, the Quiet Revolution represented both continuity and change with the past. It represented continuity in the sense that the language debates of the 1960s, 1970s and 1980s were rooted in a history of conquest. They were foreshadowed by events and individuals throughout the history of Quebec: constitutional measures, early court challenges on the official status of French, opposition to the assimilatory policies of the British and Canadian governments, the Lavergne Bill and other pieces of legislation, the nationalist speeches of Lotbinière, Lafontaine, Bourassa and so on. There was, however, a qualitative shift which took place in the 1960s in the relations between Anglophone and Francophone communities and in the way in which language fitted into these relations. In this sense, the Quiet Revolution represented a break with the past. Much of this recent history is known, but it is nonetheless worth reviewing some of the milestones of the language debate over the past thirty years.

As Levine (1990) comments, French Canadian nationalism – now a *Québécois* nationalism – shifted from a defensive orientation to an offensive one. Language too was a part of this shift, occupying an important place in the renewal of nationalism. It became part of a 'cultural renaissance' which witnessed the proliferation of French-language theatre, literature, publishing houses, music and intellectual production (cf. Fournier, 1978 on the *travailleurs du langage*). It also became a symbol of the subordination of the Francophone community and sparked what Levine refers to as 'street politics'. Several examples can be given: in 1962, the *Rassemblement pour l'indépendance nationale* (RIN) distributed a pamphlet entitled "Le bilinguisme qui nous tue"; between 1963 and 1965, the *Société Saint-Jean Baptiste de Montréal* (SSJBM) organised a campaign called "Opération visage français" whose objective

was to make Montreal a visibly French city ; in 1969, several nationalist groups organised "Opération McGill français", a mass demonstration meant to pressure the government into making McGill a French university.

B. *From Street Politics to Planned Policy.*

According to Levine, while the 'street politics' of language were relatively marginal in terms of mass participation during the 1960s, the theme of language was gradually gaining ground in the domain of government policies. He writes,

Clearly [...] by the mid-1960s the issue of language policy was gaining attention in mainstream Francophone political circles. Although unilingualist groups were still at the margins of provincial political life, their agitation was forcing Quebec's established political parties into positions more responsive to growing nationalist sentiment. (Levine, 1990: 55).

In 1961, for instance, the Ministry of Cultural Affairs was established with the mandate of promoting French language and culture. In the same year, the *Office de la langue française* was created within the Ministry, its function being to advise the government on language questions (Braën, 1987; Levine, 1990). A few years later, in 1965, the Lesage government came out with a White Paper on Cultural Policy, its objective being to make French 'the priority language in Quebec'.¹⁰ The language question was also introduced in the 1966 Liberal platform which promoted *Le Québec français*. The platform was abandoned later, when the Liberals lost the election (Levine, 1990). In the same year, the Parent Commission¹¹ presented its report on the reorganisation of public education, calling for the elimination of separate confessional school boards and reaffirming the principle of freedom of choice in education (Braën, 1987). Finally, at the federal level, the Royal Commission on

¹⁰ Premier Lesage disagreed with the conclusions of the White Paper that the French language was in decline. Consequently, the White Paper was never released.

¹¹ *The Report of the Royal Commission of Inquiry on Education in the Province of Quebec.*

Bilingualism and Biculturalism (B & B Commission) reported in 1969, concluding that Francophones were disadvantaged in all work-related domains by comparison with Anglophones:

Our examination of the social and economic aspects of Canadian life (based on 1961 census figures) shows that there is inequality in the partnership between Canadians of French origin and those of British origin. By every statistical measurement we used, Canadians of French origin are considerably lower on the socio-economic scale. They are not as well represented in the decision-making positions and in the ownership of industrial enterprises, and they do not have the same access to the fruits of modern technology. The positions they occupy are less prestigious and do not command as high incomes; across Canada, their average annual earnings are \$980 less than those of the British. Furthermore, they have two years less formal education (Royal Commission, 1969: 61).

The federal *Official Languages Act* was adopted in response to the Commission's findings, although its effectiveness has been severely criticised.

C. *The Triptych: Bills 85, 63 and 22.*

The B & B Commission also drew attention to an ignored 'third solitude' in relations between Francophone and Anglophone communities: these were the 'ethnic' groups defined by their being neither of French nor of English origin. It was also the 'ethnic' question which ignited the language debates of the late 1960s, especially with respect to the Saint-Leonard¹² school conflict. In the late 1960s, 34% of Saint-Leonard's population was of immigrant descent (especially of Italian origin), representing a significant change from ten years earlier when its population was 99% Francophone. The Catholic Schools could not ignore these changes and, in 1962, implemented a programme of 'bilingual classes'. The

¹² A municipality in the northern part of the Island of Montreal.

classes were intended to give immigrant children a sound knowledge of French, while still maintaining the English language education desired by their parents. The programme was more popular than the School Board had anticipated, not only within the immigrant population, but also amongst Francophone parents wanting an English education for their children (Levine, 1990). As Plourde (1988) notes, the programme tended to encourage greater integration into the Anglophone community than into the Francophone community. By the late 1960s, this situation became unacceptable to growing numbers of nationalist groups, particularly given the somber portrait of a declining Francophone community painted by the B&B Commission. This resentment was voiced in a 1968 meeting of the Saint-Leonard Catholic School Commissioners where the following proposition was made:

Que dans toutes les premières années du cours primaire se trouvant sous la juridiction de la commission scolaire de Saint-Léonard-de-Port-Maurice à compter de septembre 1968, la langue d'enseignement soit le français. (Cited in Plourde, 1988: 9).

Applauded by several nationalist groups, the proposition was contested by Anglophone and Allophone communities in the courts. Yvon Groulx of the SSJB, for instance, wrote that "Saint-Léonard has become the conscience of Quebec" (cited in Levine, 1990: 71). Allophone parents established the *Saint-Léonard Parents Association*, advocating freedom of choice in education; clandestine English classes were held in basements (including one referred to as the 'Citizens' School'); parents threatened to withhold school taxes (Levine, 1990).

Later the same year, Premier Bertrand's *Union nationale* government introduced Bill 85. By recognising French as the *priority* language of Quebec, but still maintaining the principle of freedom of choice in education, the Bill went little further than reaffirming the *status quo*. Raymond Lemieux, leader of the *Mouvement pour l'intégration scolaire* (MIS), denounced Bill 85 as "a proposal legalizing the theft of French in Quebec by the minorities" (in Levine, 1990: 74). Bill 85 was withdrawn in March 1969, accompanied by Premier

Bertrand's proposition to await the recommendations of the Gendron Commission (see below) before adopting a new language strategy. Gémar (1983) introduces a certain 'relativity' in his evaluation of Bill 85, suggesting that the Bill at least showed politicians what not to do with language policy:

Le Bill 85, malgré ses nombreuses imperfections et ses limites évidentes, avait servi de banc d'essai pour lancer la véritable offensive du gouvernement dans la bonne direction. En fait, cette tentative a servi de modèle négatif, voire de repoussoir, et permis au gouvernement de reconsidérer la tactique à suivre. (Gémar, 1983: 45).

With growing tensions in Saint-Léonard, the Bertrand government was forced to reopen the language debate in 1969, despite its earlier promise to wait for the Gendron Commission findings. On October 23, Bill 63, "An Act to Promote the French Language in Quebec" was introduced in the Assembly. The Bill required that all Quebec graduates possess a 'working knowledge' of French; created a new mandate for the *Office de la langue française* which included advising the government on legislative means for protecting the French language, especially in public and private business; and emphasised freedom of choice with regard to the language of instruction. Plourde (1988) describes this latter provision as a "chef-d'oeuvre d'ambivalence". Pressure groups such as the *Front du Québec français* (FQF), *Société Saint-Jean Baptiste* (SSJB), *Rassemblement pour l'indépendance nationale* (RIN), *Mouvement laïque de la langue française*, *Club Fleur de lys de Québec*, *Mouvement pour l'intégration scolaire*, *Ligue de l'action nationale* organised mass rallies and demonstrations in protest (Gémar, 1983). The FQF even proposed an alternative language policy, symbolically titled "Projet de loi numéro 1", which would declare French the only official language of Quebec, of the workplace, of public administration and of education (Levine, 1990). The FQF's proposition foreshadowed the language policies to come.

The Gendron Commission presented its report three years after the adoption of Bill 63, during reign of the Liberal government of Robert Bourassa. The Commission had received over forty research reports and undertaken extensive public hearings. In a study of

the briefs presented at the Parliamentary hearings by various associations, Côté and Hamelin (1974)¹³ concluded that the arguments presented differed according to both 'ethnic' belonging (Francophone, Anglophone, Allophone) and 'sectoral' interests. Anglophone business and 'ideological' groups tended to be the most conservative, opting for the *status quo* and refusing any compromise on Anglophone rights (-5 to -3). Francophone business groups, and Anglophone groups working in the educational domain, tended to be more favourable to priority status for the French language as long as Anglophone rights received some protection (-2 to +1). Finally, Francophone associations in the educational and cultural fields tended to be the most militant in their support for coercive measures supporting the French language (+3 to +4). Despite the varied arguments heard at the Commission hearings, the conclusions and recommendations of the Gendron Report have been described as decidedly moderate (Plourde, 1988; Levine, 1990). The Commission did propose to make French the *official* language of Quebec – a first for any Quebec government – but in the same breath it proposed that English be considered a *national* language alongside French (Plourde, 1988). While most Anglophone business groups were relieved by the Commission's findings, most Francophone groups found that the \$2.3 million price tag for the Commission's activities was far too high for a mere reaffirmation of the *status quo* (Levine, 1990).

In the wake of severe criticism from several leading Francophone groups, including the unions and nationalist associations, Bourassa had no choice but to toughen the measures. When Bill 22 was introduced in the National Assembly in May 1974, Bourassa's compromise was to eliminate two of the most contested recommendations (i.e. contested by Francophone interest groups) – that English become one of the two national languages and the principle of freedom of choice concerning the language of education (Plourde, 1988; Levine, 1990). Still considered too moderate for several Francophone interest groups, the Bill was now also contested by Anglophone and Allophone interest groups. After debate in Parliamentary Commission, in which few presenting groups actually supported the proposed

¹³ The arguments were coded on a scale ranging from -5 to +4, whereby -5 represents the status quo and +4, the restriction of acquired anglophone rights in order to promote French in areas of public life.

measures, Bill 22 was adopted on July 31, 1974. French became the official language of Quebec, measures were put in place for reinforcing the use of French in key sectors of activity (public administration, enterprises and professions, the workplace and education), and a *Régie de la langue française* was established for investigating violations of the law.

In making French the official language of Quebec, Bill 22 went further than Bill 63.¹⁴ Although Bill 22 acknowledged the priority of French on a symbolic level, exceptions and compromises meant that the *de facto* extent of English language use would be maintained, especially in the domains of education and the workplace. As Gémard writes, "l'article premier de la loi prévoit que 'le français est la langue officielle du Québec'. Or, rien par la suite ne vient confirmer cette déclaration! [...] Le terme 'langue officielle', lui, est cité à de nombreuses reprises, mais il est pratiquement vidé de toute substance [...]" (Gémard, 1983: 93). Camille Laurin, Minister responsible for the later Bill 101, wrote that Bill 22 "sought to attain two conflicting and irreconcilable goals by trying to make French the official language of the State of Quebec and then bilingualizing Québec at every level and considering it as a provincial branch office of a centralized unitary federal system" (Laurin, 1978: 122). The type of bilingualism proposed by the Bill was even rejected by the Anglophone community who withheld their votes in the elections of 1976. The Liberals were voted out and the Parti Québécois voted in. As Plourde suggests, the government had learned a valuable lesson: in matters of language, it is impossible to serve two masters (Plourde, 1988: 19).

Commenting on the evolution of language policy since the 1960s, Gémard (1983) suggests that Bills 85 and 63 had belonged to the Iron Age; that is, the era in which Quebec was transformed from a closed society to a society of 'hope'. Then followed the Age of Empiricism, the era of Bill 22, in which government language policy was characterised by a systematic attempt to promote the status of French. With the rise to power of the Parti

¹⁴ Two minor pieces of legislation with a language dimension were passed in the interim period between Bills 63 and 22. First, Bill 40 (1970) permitted access to certain professions for immigrants who, although not yet citizens, could prove a sufficient knowledge of French. Second, Article 4 of Bill 45 (1971) on consumer protection stated that contracts must be written legibly in French, although a consumer could also demand an English version of the text (Maurais, 1987: 365).

Québécois in 1976, a new era of language policy had begun, which G  mar referred to as the Age of Faith (G  mar, 1983).

D. A Bill Symbolically Numbered '1'.

In March 1977, a year after the PQ's election, Camille Laurin (Minister responsible for Bill 101) tabled a White Paper entitled "La politique qu  b  coise de la langue fran  aise". The White Paper was more than a language policy, it was a societal project:

Cette Charte a d'abord ceci de singulier qu'   la diff  rence de la plupart des autres lois, elle porte sur l'ensemble de la vie en commun; elle suppose un projet de soci  t   [...] Pour tout dire, le Qu  bec dont le portrait d'ensemble est d  j   esquiss   par la Charte est une soci  t   de langue fran  aise. Il ne sera donc plus question d'un Qu  bec bilingue (Extract from White Paper, cited in Plourde, 1988: 27).

Based on the White Paper, the symbolically numbered Bill 1 was introduced in the Assembly in April of 1977. "The building of a French Qu  bec", wrote Laurin, "officially announced to the world with this bill, has been a work of patience, of courage, and of pride. It bears witness to the strength of the human spirit and to the qualities of the people of Qu  bec" (Laurin, 1978: 115). Ren   L  vesque, the PQ leader, did not share Laurin's vision of what a language policy should be. L  vesque believed that legislating language was a sign of humiliation: "Un jour, si nous le voulions, c'est le fran  ais qui serait partout chez lui au Qu  bec et, comme dans tout pays normal, pourrait se d  barasser de ces b  quilles l  gislatives qui m'ont toujours paru fonci  rement humiliantes" (L  vesque, 1986: 388).¹⁵ Laurin believed that such policy was a necessary evil, a message to Anglophones who "should be seeing themselves as a minority and not as the Quebec wing of the English-Canadian majority, at a

¹⁵ This point of view was also shared by some intellectuals. Marcel Rioux, for instance, wrote that "As a Quebec Francophone, I cannot but reflect that for a community to have to use the law to preserve its own language and culture shows its fragility and is indicative of its weakness as a political and economic entity" (Rioux, 1978: 142).

time when what is required is a mature and positive reaction to a necessary loss of privileges that no normal and healthy society could uphold" (Laurin, 1978: 127).

Laurin's vision of language policy was also contested in the Anglophone community. Brédimas-Assimopoulos and Laferrière (1980) examined press coverage in two English-language newspapers – the *Montreal Star* and the *Gazette* – during the period of the debates on Bill 1 (and later, Bill 101). They list five types of arguments used to disqualify the Bill: socio-economic (the exodus of large enterprises and of the Anglophone population, difficulty of recruitment, cost of translation, etc), political (e.g. the division of Canada or the independence of Quebec), humanitarian (human rights, discrimination, racism), the insecurity of the Francophone population in needing a law, and statistics claiming that the historical arguments that the Bill was founded on were false. They concluded that the future law was interpreted in the English-language newspapers as leading Quebec to certain economic ruin. In conclusion, they wrote that "[...] les Francophones sont présentés comme faibles, dépendants, non qualifiés, ayant besoin d'apports de l'extérieur; mais aussi comme exerçant de la discrimination, donc peu respectueux des grandes valeurs humanistes. Par conséquent, les Anglophones sont le contraire de tout cela et ils ne sont que rarement présentés sous un jour défavorable" (Brédimas-Assimopoulos and Laferrière, 1980: 89). As for the perceptions of other 'ethnic' groups, the authors argue that the newspaper coverage used arguments designed to win them over to the 'Anglophone side'. The boundaries of 'We' and 'Other', according to the analyses of Brédimas-Assimopoulos and Laferrière, are clearly marked.

The White Paper was withdrawn and Bill 1 replaced by Bill 101. Although Bill 101 was purged of some of its more excessive language and measures, its essential orientation and structure was left intact (Levine, 1990). Unlike the wishywashy approaches of Bills 63 and 22, Bill 101, in Levine's words, had 'teeth' (Levine, 1990). It was conceived of as an integral piece of legislation, rather than a set of piecemeal measures. According to Gémard, it was much more coercive in character, providing the mechanisms necessary for acting on a *status* level,

whereas the previous Bills had tended to limit their effectiveness to a *corpus* level (Gémar, 1983):

Comparée à la Loi 22, la Charte de la langue française constitue, par rapport à la notion de langue officielle, un progrès notable avec l'introduction du principe juridiquement établi du 'statut de la langue française'. Jusqu'alors [...] les notions de corpus et surtout de statut linguistique représentaient des catégories commodes pour désigner le degré de planification plus ou moins avancée auquel un État pouvait accéder. La Loi 22 représentait sur ce plan une tentative poussée d'aménagement d'un corpus, celui-ci formant le premier degré d'une politique de planification dont le stade avancé, le but visé restent ceux du statut [...]. Avec la Loi 22, c'était la qualité d'une langue qui était recherchée, et cette étape, toute brève qu'il fût, était une transition nécessaire sur le chemin de la réhabilitation du français aux yeux mêmes de ceux qui le parlaient. L'exemple était donné, la voie tracée pour lancer l'affirmation du fait français en établissant les fondements sur lesquels pouvait reposer le nouvel édifice du statut (Gémar, 1983: 126).

E. *The Charter of the French Language: Structure and Contents*

The preamble and structure of the *Charter* attest to this new 'building of status'. The basic structure of the *Charter* is outlined in Table 6-1. In all, Bill 101 contained 232 articles, almost twice that of Bill 22 which contained 123 articles (Plourde, 1988). Chapter 1 is made up of a single article, declaring that "le français est la langue officielle du Québec". Chapter 2 contains the fundamental linguistic rights which are broken down into five types: the right of all Québécois to express themselves in French before the Assembly, to work in French, to be informed and served in French, to be instructed in French and to be addressed in French in contacts with administration, public services and enterprises. The remaining chapters of the *Charter* define the status and use of French in different sectors of activity as well as the measures for application. In all, there are eight domains in which the 'status' of French is promoted: legislation and tribunals, public administration, education, professional orders, signs, toponymy and corporate names, commercial labels, the workplace, Amerindian and

Inuit affairs. As Maurais comments, the media and the universities are two important domains which remain unprotected by the Charter (Maurais, 1987).

TABLE 6-1 : STRUCTURE OF THE FRENCH LANGUAGE CHARTER

Preamble

Langue distinctive d'un peuple majoritairement Francophone, la langue française permet au peuple québécois d'exprimer son identité.

L'Assemblée nationale reconnaît la volonté des Québécois d'assurer la qualité et le rayonnement de la langue française. Elle est donc résolue à faire du français la langue de l'État et de la Loi aussi bien que la langue normale et habituelle du travail, de l'enseignement, des communications, du commerce et des affaires.

L'Assemblée nationale entend poursuivre cet objectif dans un esprit de justice et d'ouverture, dans le respect des institutions de la communauté québécoise d'expression anglaise et celui des minorités ethniques, dont elle reconnaît aux Amérindiens et aux Inuit du Québec, descendants des premiers habitants du pays, le droit qu'ils ont de maintenir et de développer leur langue et culture d'origine.

Ces principes s'inscrivent dans le mouvement universel de revalorisation des cultures nationales qui confère à chaque peuple l'obligation d'apporter une contribution particulière à la communauté internationale.

Titre I:	Le statut de la langue française
Chapter 1	La langue officielle du Québec
Chapter 2	Les droits linguistiques fondamentaux
Chapter 3	La langue de la législation et de la justice
Chapter 4	La langue de l'administration
Chapter 5	La langue des organismes parapublics
Chapter 6	La langue du travail
Chapter 7	La langue du commerce et des affaires
Chapter 8	La langue d'enseignement
Chapter 9	Dispositions diverses
Titre II:	L'Office de la langue française et la francisation
Chapter 1	Interprétation
Chapter 2	L'Office de la langue française
Chapter 3	La Commission de Toponymie
Chapter 4	La francisation de l'administration
Chapter 5	La francisation des entreprises
Titre III:	La Commission de protection et les enquêtes
Titre IV:	Le Conseil de la langue française
Titre V:	Infractions, peines et autres sanctions
Titre VI:	Dispositions transitoires et diverses.

F. *The Charter, a Contested Site.*

Bill 101 provides the frame of reference for the examination of language rights debates in the following chapter. The Bill adopted in 1977, however, is not the same Bill that we find in 1997. Through a continual process of debate and adjustment, several modifications have been made to the original *Charter*, a process which leads Plourde to compare Bill 101 to a chunk of gruyère cheese: "La Charte de la langue française n'est pas 'tricotée serrée'. Son tissu est assez ferme pour avoir été efficace, mais, en réalité, n'en laisse-t-il pas trop passer entre ses mailles? Et, à force de tirer sur la Loi 101 à boulets rouges, ses ennemis ne l'ont-ils pas transformée en fromage de gruyère?" (Plourde, 1988: 97). The principal modifications to Bill 101 since 1977 are summarised in Table 6-2.

TABLE 6-2. MODIFICATIONS TO BILL 101 SINCE 1977.	
I.	<p>Signs: i.e., the exclusive use of French in public and commercial signs.</p> <p><i>Antecedents</i></p> <p>a) obligatory use of French in labelling agricultural products. Becomes article 51 of Bill 101.</p> <p>b) 1974, Bill 22: imposes use of French in public signs</p> <p><i>Modifications since 1977:</i></p> <p>a) (15 December) – Ford ruling – Supreme Court concludes that the prohibition of languages other than French in public and commercial signs is contrary to the liberty of expression.¹⁶</p> <p>b) 1988, Bill 178 – The National Assembly invokes the notwithstanding clause (5 years) in order to maintain the exclusive use of French in exterior signs.</p> <p>c) 1993, Bill 86 – Adopted after five-year limit allowed by the notwithstanding clause. Legislates priority, rather than exclusive, use of French in public and commercial signs.¹⁷</p>
II.	<p>Francisation of Commercial Businesses: i.e. <i>francisation</i> programmes for all enterprises with over 50 employees.</p> <p><i>Antecedents</i></p> <p>a) Bill 22 (1974) all enterprises dealing with the State must adopt <i>francisation</i> programmes.</p> <p><i>Modifications since 1977:</i></p>

¹⁶ See also Vandycke (1989; 1993) on this issue.

¹⁷ For comparison of Bills 178 and 86 on public and commercial signs, see Office de la langue française. 1993. *La législation linguistique québécoise. Jalons historiques et contexte constitutionnel*. Mimeographed Table.

- a) Bill 86 (1993): amendments to Chapter on the *francisation* of enterprises.

III. Education: limits English instruction to children with at least one parent who had received their primary education in English in Quebec.

Antecedents

- a) Bill 63 (1969): obligation for School Commissions to give French language courses; parents have choice of principal language of education.
 b) Bill 22 (1974): restrains access to English schools to students with a sufficient knowledge of English.

Modifications since 1977:

- a) *Canadian Charter of Rights and Freedoms* adopted, recognizing the right to education in the languages of the Francophone or Anglophone minorities of each province (Art. 23). Written in a way so as to invalidate Chapter VIII of Bill 101.
 b) 1984 – 26 July – the Supreme Court concludes that Chapter VIII on the language of instruction is incompatible with Article 23 of the *Canadian Charter*.
 c) 1993, Bill 86: access to English language education and insertion of the Canada Clause in the Charter.

IV. Legislation: the French version of laws is official.

Antecedents

- a) Bill 22 (1974): priority accorded to French text of law.

Modifications since 1977:

- a) *Attorney General for Quebec vs. Blaikie* (1979): Supreme Court ruling concludes that articles 7 to 13 of Bill 101 are unconstitutional.
 b) 1979: law readopting Bill 101, and all other laws adopted since 1977, in both French and English versions.
 c) 1993, Bill 86: bilingualism of laws and regulations. Articles 7 to 13 of the Charter replaced.

(OLF, 1993).

Plourde describes the modifications to Bill 101 in three stages: 'the Great Fidelity' (1977-1982), the 'Compromise' (1982-1985) and 'Procrastination' (1985-1987) (Plourde, 1988). While his book was published prior to Bills 178 and 86, he might well have labelled the period from 1987 to present as 'Compromise II'. The 'Great Fidelity' corresponds to the years in which Camille Laurin was the Minister responsible for the *Charter*. It was a period, according to Plourde, of a progressive strategy of *refrancisation* (cf. G mar, 1983). Even during

this period, however, the first signs of compromise were appearing. In 1979, Chapter III of the *Charter* on the language of legislation and justice, was declared unconstitutional (*Attorney General for Quebec versus Blaikie*).¹⁸ English translations of all Quebec laws adopted since 1977, including Bill 101, were made obligatory (Braën, 1987).¹⁹ According to Plourde the defeat of the referendum of 1980 was the next challenge to the integrity of Bill 101, because it created hope in the Anglophone community for a softening of the *Charter* (Plourde, 1988). This hope was crystallised in the form of Alliance Québec, an Anglophone rights lobby group established in 1982 which represented a new form of militantism in the Anglophone community (Caldwell and Waddell, 1982). Several incidents also made the *Charter* a privileged subject of media attention. In 1982, Joanne Curran was obliged to leave her job as a nurse because she had failed the written language examination for professionals required by the *Charter*. When she was interviewed by French-language television and radio *in French*, the requirements of the language test, and consequently, Bill 101, were made to look excessive (Levine, 1990). One year later, St. Mary's Hospital made the headlines when a terminally ill patient complained about the lack of services in French. The investigation had, in the words of Alliance Québec, "all the trappings of a criminal proceeding". Even the French language newspapers condemned the coercive measures used by the *Commission de surveillance de la langue* (Levine, 1990). The media, French and English language alike, began calling into question the excesses and bureaucratisation of the *Charter's* application and surveillance mechanisms, referred to as the 'Language Police' in English-language newspapers. The economic recession also became a favourite theme of the media which argued that the *Charter* was a luxury at a time when people were losing jobs and going hungry (Plourde, 1988).

Such events ushered in the first period of 'Compromise', which also coincides with the replacement of Camille Laurin by Gérald Godin as the Minister responsible for the

¹⁸ In a similar judgment (*Forest v. Attorney General for Manitoba, 1980*), the Manitoba Court of Appeal ruled that the Manitoba Official Language Act of 1890, making English the only language of legislation, was also unconstitutional (Braën, 1987).

¹⁹ *An Act Concerning a Judgment of the Supreme Court of Canada on December 13, 1977 on the Language of Legislation and the Courts in Quebec*, SQ, 1979, c. 61.

Charter. According to Plourde, Gérard Godin "incarnait en quelque sorte l'art du compromis" (Plourde, 1988: 56). The appointment of Godin, however, was also a strategic effort on the part of the government to break with the negative image which had tarnished the *Charter* in the early 1980s. This did not mean that the government was backing down on the core of its language policy. A letter addressed to Alliance Québec by Premier Lévesque²⁰ gives a good indication of Lévesque's stance on the place of French in Québec:

Il est important que le visage du Québec soit d'abord français, ne serait-ce que pour ne pas ressusciter aux yeux des nouveaux venus l'ambiguïté qui prévalait autre fois quant au caractère de notre société, ambiguïté qui nous a valu des crises déchirantes.

À sa manière en effet, chaque affiche bilingue dit à l'immigrant: 'Il y a deux langues ici, l'anglais et le français; on choisit celle qu'on veut'. Elle dit à l'anglophone: 'Pas besoin d'apprendre le français, tout est traduit'. Ce n'est pas là le message que nous voulons faire passer" (Extrait de lettre de René Lévesque à Eric Maldoff, président d'Alliance Québec, cited in Plourde, 1988: 61).

In 1983, the *Charter* was brought to a Parliamentary Commission for debate on the modifications proposed by Bill 57, "An Act Modifying Bill 101". Approximately 60 groups presented briefs to the Commission, representing all the major interest groups involved in the language rights debates: business, union, 'ethnic', educational. After two months of debate, Bill 57 was adopted. The core of the *Charter's* measures and objectives remained intact, although some modifications were made to take into account some of the opposition expressed: the recognition of Anglophone institutions in the preamble, the elimination of French proficiency language exams for some categories of professionals, the acceptance of written communications in a language other than French within and between some organisations, the replacement of the 'Québec' clause with the 'Canada clause' in some cases (i.e. access to English schools based on whether one of the parents had been educated in English elsewhere in *Canada*), the allowance for some research centres to function in a

²⁰ The letter was in response to demands made by Alliance Québec for a milder language policy.

language other than French, some exceptions to unilingual signs, and a name-change for the *Commission de surveillance* which becomes the *Commission de protection de la langue française* (Plourde, 1988; Levine, 1990). Only a single measure was introduced to reinforce the Bill, the strengthening of *francisation* committees in businesses.

The period of 'Procrastination' (1985-1987), to borrow again Plourde's (1988) term, is dated to the return of Robert Bourassa and the Liberal government. The Liberals had lost the elections of 1976 over the language question and had come to power in November 1985 with language as part of their programme, vowing to eliminate some of the 'irritants' of the *Charter* (Plourde, 1988). In 1986 alone, three Bills were introduced in the National Assembly which had implications for language. Bill 58 gave amnesty to students illegally enrolled in English schools. Bill 140 was intended to reduce the number of administrative agencies mandated by the *Charter* by abolishing the *Commission*, transforming the *Conseil* into a High Committee for the French Language and giving the *OLF* a double mandate for the francisation of enterprises and inquiries. In the wake of strong opposition, Bill 140 was withdrawn. Bill 142 introduced the right of English-speaking individuals to receive health and social services in English. The Bill drew significant protest from nationalist groups because it applied to *all* health and social services in Quebec and to *any* English-speaking individuals (Levine, 1990). When Bill 142 was passed in December 1986, it had been modified and applied only to regions with significant English-speaking populations.

The next challenge to the *Charter*, a challenge which still creates headlines today, was the signs question. In April 1986, three enterprises were prosecuted by the Minister of Justice for having signs in both English and French. Bourassa considered the possibility of changing the regulations, which would allow bilingual signs in specified areas, or 'bilingual districts'. In changing the regulations, rather than the law itself, he could bypass the National Assembly. The idea of 'bilingual districts', however, did not go very far. In December 1986, the Quebec Court of Appeal concluded that unilingual French signs were contrary to the freedom of expression. A new wave of 'street politics' hit the province, heightened by the death of René Lévesque in 1987. Bourassa decided not to act right away, preferring to let the issue quieten

down while the Canadian Supreme Court studied the question. In 1988, the Supreme Court upheld the earlier Appeal Court ruling and declared the articles relating to unilingual signs to be illegal. Bourassa invoked the notwithstanding clause of the Canadian Constitution, which enabled him to override the Charter of Rights and Freedoms for a period of five years. In the meantime, he rapidly pushed Bill 178 through the National Assembly which allowed for unilingual French signs on the outside of buildings, and bilingual signs with predominance given to French on the inside. The compromise did not go unnoticed. Anglophones in Quebec resented the fact that Bourassa had once again reneged on his election promises on language; Anglophones outside Quebec resented the fact that he had invoked the 'notwithstanding clause'; Francophones protested with mass demonstrations (Levine, 1990).

The Parliamentary Commission on Bill 86, in 1993, marked the end of the five-year period allowed by the notwithstanding clause. The objective of this Bill was to 'harmonise' several articles of the Charter in light of outside juridical decisions, especially by the Supreme Court of Canada. These articles touched in particular the domains of legislation and justice, commerce and affairs, and education. Some modifications were also made to the chapter on the *francisation* of enterprises, especially with respect to the use of French in relation to new information technologies, and to the special status accorded to some municipal, educational, health and social service institutions to allow them to use languages other than French. Finally, the Bill also called for the fusion of the *Commission de protection de la langue française* with the *Office de la langue française* (OLF, 1996). The bill was not passed without debate. During the period of the Parliamentary Commission mandated to study the bill, a demonstration was organised in which close to 2000 people crowded into an auditorium to protest against the dangers of bilingualism inherent in the project, particularly with respect to the proposed increased use of English in commercial signs. ("Dans la rue, dans la rue", *La Presse*, 11 May, 1993: A1-2). In the media coverage of the Parliamentary Commission, the actors were clearly divided into two antagonistic camps:

Tandis que le milieu anglophone considère que le projet de loi 86 lui donne 'plus d'air pour respirer', les organismes nationalistes et syndicaux le dénoncent ouvertement et concluent que le gouvernement du Québec a choisi de 'rendre les armes' ("Les anglophones 'respirent'; Bourassa rend les armes, selon les nationalistes". *La Presse*, 7 May, 1993: B1).

As the above passage suggests, media coverage of language debates still tends to be polarised around a conception of Quebec characterised by 'two solitudes'.

III. Conclusion

This brief survey takes us into the period covered by the analysis of the following chapter. From the official policies of the Royal Proclamation (1763), the Act of Quebec (1774), the Constitutional Act (1791), the Act of Union (1840) and the British North America Act (1867) to other unofficial policies of assimilation; from discourses of inferiorisation to discourses of contestation; this history provides the background for understanding language rights as sites of struggle in Quebec. It is the objective of the following chapter to examine this struggle in more detail.

Chapter 7.

The Anatomy of a Debate: Community, Language and Rights in Quebec

Language groups, and indeed any other form of group, only exist in struggle [...]. Furthermore, since struggles are located within discursive contexts, part of the struggle over and in language involves the struggle to establish the salience of language (Williams, 1996: 299).

Language rights were theorised earlier as sites of struggle; as commodities which are constantly negotiated in relations between communities. As the previous chapter demonstrates, the emergence of language legislation in Quebec is grounded in a history of struggle. It is a history which has been largely defined in terms of the relations between two communities identified by the ethnolinguistic tags 'Francophone' and 'Anglophone'. It is also in the relations between these communities that the designations language minority and majority, central to the earlier theoretical discussion, must be situated. It was argued that the sociological significance of these terms resides in their relational dimension; that is, in the understanding that the minority community does not exist in isolation from the majority community. These terms take on a particular meaning in the context of Quebec because of the duality of the Francophone community as both a numerical majority in Quebec, in demographic terms, and a sociological minority in terms of its situatedness as a community historically subordinated within a federal context. I use the word 'duality' here in the sense intended by Feldman:

Dualism suggests that the world cannot be divided into black and white, public and private, rational and non rational, and that these 'opposites' neither necessitate one another nor commingle in any significant way. Duality suggests that the 'opposites' are related as two sides of a coin -- one implies the other; one cannot exist without the other; the boundaries of each are thoroughly permeated by the other (Feldman, 1995: 54).

From this point of view, the meaning of the terms majority and minority in Quebec is not 'black and white'; rather, it is constructed around a duality of signification whose 'face' changes depending on the side of the coin being examined. In the literature on language issues in Quebec, and in the briefs analysed below, the term 'majority' is generally applied to the Francophone community and, inversely, the term 'minority' to the Anglophone community. For purposes of clarity, this terminology will be maintained in the following discussion, keeping in mind the duality by which the numerical majority in this case is also a sociological minority. The implications of this duality for understanding language rights will also be addressed in the final discussion.

The objective of the present chapter is thus to examine the boundaries of negotiation underlying language rights in Quebec: the ways in which community is constructed around rights and language, and the power relations which underlie these constructions. At the same time, one of the guiding hypotheses of the earlier theoretical discussion was the possibility that multiple subjectivities (cf. Williams, 1996) might cut across the minority-majority distinction, thus adding a pluralist dimension to the understanding of language rights as sites of struggle. This hypothesis can be explored in an examination of the rights conceptions of the principal actors involved in language rights debates. These actors were selected according to 'sectoral' and 'ethnic' interests. In the first case, the actors represent the interests of unions (*Fédération des travailleurs et travailleuses du Québec*, *Confédération des syndicats nationaux*), business organisations (*Conseil du Patronat du Québec*, *Chambre de Commerce du Grand Montréal*), and educational organisations (*Protestant School Board of Greater Montreal*¹). In the second, the actors represent the interests of the Francophone (*Société Saint-Jean Baptiste*), Anglophone (*Alliance Québec*), Jewish (*Canadian Jewish Congress*), Italian (*Italo-Canadian Congress*) and Cree (*Grand Council of the Crees*) communities. What does the 'right' to language mean according to the representatives of these interest groups and communities? The chapter is divided into three sections: an

¹ In 1993, it is the brief of the Quebec Association of Protestant School Boards (QAPSB) which is examined.

analysis of the ways in which the selected actors 'think' language rights, and the boundaries implicit in these conceptions, and a critical discussion for understanding language rights as sites of struggle.

I. 'Thinking' Language Rights in Quebec: 1977 to 1993.

A. A 'Clash and Balance'.

From the perspective of legal pluralism, it was argued that positive law is elastic, representing a synthesis, or 'clash and balance', of actors and interests. This argument draws out the dynamic basis of rights phenomena, defined earlier as a 'law-in-action' approach which places emphasis not on legal norms, but on the social action and social actors behind the norms (cf. Rocher, 1988). By extension, the codified rights of the French Language Charter can also be considered to be 'elastic' in the sense that the code itself is constantly re-negotiated in the interaction between social actors. A first stage of analysis, as suggested in the methodology chapter, would be to examine this interaction and the possibility that these actors are differentiated by their ways of 'thinking' language rights.

B. 'Thinking' Rights: The Positions of the Actors.

i. The Unions: Fédération des travailleurs et travailleuses du Québec (FTQ) and Confédération des syndicats nationaux (CSN).

The meaning attributed to the 'right' to language by both unions is situated at two levels. At a global level, it is defined as a national right and a collective right of the majority. It is, for the FTQ, the right that the language and culture of the majority be respected and, for the CSN, an indispensable means of affirming the identity of a people. It is also, for the FTQ and the CSN, the right to unilingualism in all public

sectors of activity. In the FTQ's 1977 brief, the 'rights' of the majority are juxtaposed with the 'privileges' of the minority: "consacrer en droits les privilèges de la minorité serait porter atteinte [...] aux droits collectifs de la majorité, dont la position nous semble actuellement plus menacés que celle de la minorité anglophone" (FTQ, 1977: 562). The CSN also argues that English is not a language of 'right'; it is a "langue de fait et non de droit" (CSN, 1977: 1479). The protection of the rights of the majority is considered possible only within an interventionist framework. The CSN, for instance, congratulates the PQ government in 1977 for intervening "avec les instruments que seul un État possède" where previous governments had only confirmed the majority's domination (CSN, 1977: 1478). At a more immediate level, the right to French is the right to work in French. It is, for the FTQ, "le droit de travailler en français", "le droit du français au travail", "le droit de négocier ou travailler en français". Similarly, for the CSN, it is "le droit de travailler dans sa langue, d'une façon collective". Although interconnected with other domains of activity, the workplace is considered by the unions to be the pivotal domain for the *francisation* of Quebec.

There are no significant changes in the union conceptions of the right to language in their 1983 and 1993 briefs. The most prevalent theme in the 1983 briefs is the distance between the ideal of right proposed in the Charter and the practice of this right; more specifically, the distance between the potential of the Charter for creating a unilingual French workplace and the day-to-day reality of workers who continue to be surrounded by English language use. According to the CSN, the Charter has been used by enterprises for purposes other than *francisation*, notably as an instrument to restrict union activity. Similarly, the FTQ accuses enterprises of impeding the process of *francisation*: "[...] non seulement constatons-nous que la francisation n'est pas chose faite, mais encore nous parviennent des témoignages alarmants des militants syndicaux: les entreprises, dans bien des cas, freinent la francisation" (FTQ, 1983: 3). Situating their argument in the perspective of 'industrial democracy', the FTQ argues that worker participation is necessary for combating the 'institutionalisation of employer privilege'. In theory, the Charter provides for such participation in the *francisation* committees whose potential is described by the FTQ as being the "chevilles ouvrières de la

francisation" (FTQ, 1983: 3). In practice, however, both unions argue that this potential has been short-circuited. Obligated to work in a context of hostility, excluded from some meetings and ignored in others, the worker role in the *francisation* committees is a myth.

Breaches to the right of worker participation in the *francisation* committees remains a principal theme in the FTQ's 1993 brief. They also question the value of the certificates granted to some enterprises, qualifying them as 'cosmetic' or 'superficial' because they do not reflect the state of language in day-to-day use. Even in the FTQ's discussion of the proposed bilingualism of commercial signs, and relaxed measures for temporary permits granted to professionals from outside of Quebec, their interventions reflect a concern for worker rights, particularly in the commercial sector and sectors in which workers are in contact with non French-speaking professionals. As for the CSN's 1993 brief, there is no specific mention of the right to work in French. Instead, the right to language is situated in a more global perspective of the Charter as a whole and the right to a French Quebec. Reaffirming their original position of unilingualism, they warn against the project of bilingualism which underlies Bill 86.

In addition to management resistance to the Charter as a principal limitation to the translation of the 'right' to language into practice, in 1983 and 1993 both unions also comment on the federal role in constraining this right. This is expressed, for instance, in the following passage from the CSN's 1993 brief: "on s'acharne en effet sur des lambeaux de Charte. On s'acharne sur ce qui reste après le passage des oiseaux de proie fédéral, Cour suprême en tête" (CSN, 1993: 3).

- ii. Business and Management Voices: Conseil du Patronat du Québec (CPQ) and Chambre de Commerce du Grand Montréal (CCGM).

In their 1977 briefs, both the CPQ and the Chamber of Commerce acknowledge the legitimacy of the Charter's objectives. The Chamber of Commerce, for instance, voices its support for the linguistic and cultural security of the Francophone community, the protection and promotion of the French language, and the economic

promotion of Quebecois Francophones. Similarly, the CPQ lends its support to French as the principle language of economic and cultural activities, the right of the Francophone majority to work in French and to be served in French. Despite this support, there are nonetheless important differences between the ideal of right proposed in the Charter and the ideal of right as conceived by these business organisations. For both organisations, the right to French finds its limits in the rights of minorities, expressed by the Chamber of Commerce as "libertés individuelles" and "droit de cité des minorités", and by the CPQ as "libertés démocratiques fondamentales" and "le respect des minorités". Couched in a discourse of formal equality, the meaning of the minority right to language is further described as the equal status of English and French languages. In the Chamber of Commerce's 1977 brief, this conception of right is stated in the following way: "qu'à partir de maintenant, au Québec, la langue française et la langue anglaise aient toutes deux la place qui leur revient dans le secteur économique, tout comme dans les autres secteurs d'activité, et surtout qu'aucun Québécois ne soit handicapé par son appartenance à un groupe linguistique plutôt qu'à l'autre et que tous aient des chances égales de réussir" (CCGM, 1977: 1462). The CPQ further adds that this equal status should be given legal recognition, with the inclusion of the 'fundamental rights of minorities' in chapter 2 of the Charter. Equal status is justified by the argument that the Charter should not contravene 'linguistic reality', a term which is further specified by the CPQ as economic development, commercial and technological relations, and the right of citizens to maintain the high standard of life made possible by the economic integration of Quebec in North America (CPQ, 1977: 552).

The conception of the right to language as the equal status of French and English is maintained in the subsequent briefs of the business organisations, although state intervention in the field of language is increasingly called into question. In 1983, both the CPQ and the Chamber of Commerce argue that the economic, social and linguistic context of Quebec has changed and that the past injustices which necessitated intervention in the domain of language have been corrected. Referring to Bill 101 as an example of *Realpolitik*, the Chamber of Commerce writes that the Charter has gone too

far: “[...] il est temps maintenant [de] corriger les aspects dysfonctionnels [...]. Les conséquences économiques sur les pertes d'emplois et les effets sociaux sur la communauté anglophone étaient vus à l'époque comme des prix acceptables à payer pour les objectifs visés; ils ne le sont plus maintenant” (CCGM, 1983: 17). Commenting specifically on the objectives of language policy, the Chamber of Commerce argues that tensions over language should be solved through 'usage' rather than through 'prescription'. The meaning of 'usage' takes on its full meaning in the following passage, in which the Chamber states its disagreement with the authors of the Charter “[qui] étaient arrivés à la conclusion que le français progresserait, non plus par les mécanismes sociaux naturels tels que l'offre de la main-d'oeuvre francophone hautement qualifié, la propriété francophone d'entreprise et les incitatifs du marché mais grâce à l'intervention législative en matière linguistique” (CCGM, 1983: 17). 'Usage', or 'linguistic reality' can thus be understood as the encouragement of laissez-faire policy. While the CPQ presented only a short brief in 1983, structured around the results of a poll on the “problèmes réels et nombreux vécus par les entreprises”, it also questions state interventionism and calls for a Charter which is “mieux adapté à la réalité d'un Québec nord-américain” (CPQ, 1983: 15).

The scenario is somewhat changed in the 1993 briefs of the business organisations. Both organisations applaud the measures proposed in Bill 86, arguing that they represent an attempt by the Government to reduce the distance between the Charter and 'linguistic reality' or, to borrow the terms used by the Chamber of Commerce, “pour refléter la réalité juridique ou les pratiques déjà en vigueur” (CCGM, 1993: 5). Reassured by the realignment of the Charter with so-called 'reality', they both affirm the need to reinforce bilingualism in Quebec society, invoking the theme of the globalisation of markets as a legitimating argument. The Chamber of Commerce comments once again on the theme of non-interventionism, proposing this time that language policy should be based on 'promotion' and not 'interdiction'. 'Promotion' is further defined as measures to improve the quality of French: “mesures pouvant donner plus de vigueur au français utilisé au Québec [...] La qualité du français enseigné dans les

écoles ne peut être sous-estimée en tant que facteur de protection de la langue maternelle de la majorité de la population du Québec” (CCGM, 1993: 15).

iii. Educational Interests: Protestant School Board of Greater Montreal (PSBGM) and Quebec Association of Protestant School Boards (QAPSB)

The PSBGM explicitly acknowledges the 'right' to French as the language of the majority in their 1977 brief: “Il va de soi qu'il s'agit d'une société surtout francophone, où la langue française reste *de droit* la langue de la majorité, une société dans laquelle il est possible d'évoluer et de vivre pleinement en français” (PSBGM, 1977: 648; my emphasis). The openness of their initial argument, however, is undermined further in the brief when they ask: “Pourquoi cette loi sur la langue?”, “Une intervention gouvernementale aussi radicale est-elle vraiment de rigueur?” (PSBGM, 1977: 652). Bill 1, they argue, has 'Orwellian implications' for Quebec society, particularly with respect to the treatment it reserves for the minority; treatment which the PSBGM describes in terms of “suppression” and “elimination”. Drawing on jurisprudence in both Canadian and international law, they qualify the Charter as “unconstitutional” and in contradiction with international instruments on the protection of minorities. The status which should be accorded to minority rights, according to the PSBGM, is described at two levels. First, at a more general level, they demand the legal recognition of English as an official language alongside French. More specifically, however, their argument is developed around the educational domain as a principal site for the preservation of minority rights. Here they demand that English be granted a legal status as a language of education and that the principle of the freedom of choice in education be inscribed in law.

There is no explicit acknowledgement of the right to French in the PSBGM's 1983 brief,² or of the claim for the official recognition of English. Instead, they comment on the impact of the Charter on day-to-day practice. The Charter, they argue, has “seriously disrupted the lives of the many people who settled in Quebec prior to

² The English version of the PSBGM brief is analysed here.

1977" (PSBGM, 1983: 8). In the educational sector, more specifically, it has "contribut[ed] to the demise of English language education" (PSBGM, 1983: 18), has had a "dysfunctional impact" on school enrolments, has created a surplus of English language staff, prompted school closings and led to "uncertainty about the future of English language education" (PSBGM, 1983: 2). They call for a "full scrutiny of the democratic process", the need for a "greater sense of justice" and for "just and equitable measures". Overall, the Anglophone community is perceived as a community without right: "the law disregards the right which the English community in Quebec has to grow together with the French community" (PSBGM, 1983: 8).

While the PSBGM did not present a brief in 1993, that of the Quebec Association of Protestant School Boards (QAPSB)³ shares the general position on language rights presented in earlier PSBGM briefs. In the QAPSB brief, there is no acknowledgement of either the 'right' to French or even the promotion of French. Instead, the stated objective of the brief is "to highlight our concerns about the negative effects of the Charter of the French Language on English-speaking Quebecers and its adverse influence on the maintenance of the English-language community in Quebec and on the maintenance and development of its schools and necessary support services" (QAPSB, 1993: 2). Like the PSBGM, they argue that state intervention must respect the majority and minority equally: "The Government of Quebec must assume leadership for its minority as well as its majority linguistic community" (QAPSB, 1993: 5). The theme of immigration plays a significant role in the QAPSB's argument. Commenting on the importance of immigration for the survival of English-language schools, they propose that the 'right to an English language education' should be extended to immigrants from English-speaking parts of the world.

³ The English version of the QAPSB brief is analysed here.

iv. The Société Saint Jean-Baptiste (SSJB).

In 1977, the right to language for the SSJB is the right to a single official language and to the exclusive use of French in all domains of collective life (SSJB, 1977: 5). The struggle for its consecration in law, qualified as a “lutte linguistique humiliante” (SSJB, 1977 : 4), is justified as a refusal of linguistic domination: “nous refusons la subordination de la langue d’un pays à une autre langue” (SSJB, 1977 : 13). Exceptions in law for the use of languages other than French are considered to be ‘privileges’ and not ‘rights’. Furthermore, these ‘privileges’ are presented as temporary measures which must not interfere with the francisation of Quebec: “la Société Saint-Jean-Baptiste de Montréal n’accepte, pour le moment, les privilèges accordés aux anglophones par la loi [...] que comme une mesure temporaire sujette à révision si ces dispositions nuisent en quoi que ce soit au développement et au rayonnement du français au Québec ou à l’intégration de la minorité anglophone à la vie communautaire du Québec” (SSJB, 1977 : 29).

In its 1983 and 1993 briefs, the SSJB maintains its basic position of French unilingualism in all collective domains of activity and focuses on three principal themes: the distance between law and practice, privilege versus right and the federal role in weakening the Charter. In 1983, for instance, it contests the “campagne concertée de ‘défrancisation’” led by Anglophone community leaders (with specific reference to Alliance Quebec), and by the media, in which the Charter is presented as a “monstre de mesures répressives” (SSJB, 1983: 20). Citing numerous cases of what they refer to as ‘civil disobedience’ – the return to bilingual commercial and road signs, film programmes in English only, ‘illegal’ students in the English school system and the anglicisation of the workplace – they caution against the slowing down of *francisation*. Commenting on similar discrepancies between law and practice in 1993, they add a reminder that “le français, il en faut plus, pas moins” (SSJB, 1993: 15). The movement towards ‘défrancisation’ is expressed as a manifestation of the continued privileges of the Anglophone community. As in 1977, they emphasise once again that these privileges must be considered as exceptions to the right to French: “On sait qu’il n’est pas facile de se voir départir de privilèges. C’étaient précisément des privilèges. Quant à nous, nous ne sommes pas coupables ni de parler français, ni d’avoir fait de

cette langue le reflet véritable de la majorité de la population" (SSJB, 1983: 52). The maintenance of privilege as a principal limiting factor to the right to French is accompanied by protests against federal intervention in the language question. Supreme Court rulings, they argue, have reduced some parts of the Charter to "une pure et simple fiction juridique" (SSJB, 1983: 25), leaving Quebec with "un instrument abîmé et diminué" (SSJB, 1993: 3).

v. Alliance Quebec (AQ).

Created in 1982, Alliance Quebec presented their first brief to a Parliamentary Commission on language legislation in 1983. While they acknowledge the legitimacy of promoting French predominance in Quebec, they argue that French unilingualism is 'discriminatory' because it goes against "le droit de constituer une présence visible" for the English-speaking community (AQ, 1983: 19-20) and constitutes a negation of "le droit d'utiliser sa langue en public" (AQ, 1983: 20). The Charter, they argue, creates tensions rather than eliminating them, is the source of fear, confusion, mistrust and incertitude, has penalised large numbers of English-speaking Québécois and has caused unnecessary damage to the Quebec economy. Although designed to protect the French language, they suggest that it has been used instead to suppress the English language: "La loi 101 a été conçue pour protéger le français mais on l'a utilisée pour submerger l'anglais" (AQ, 1983: 6). State intervention, they argue, must help develop "la diversité de nos patrimoines et de nos cultures" (AQ, 1983: 27) and stimulate "le développement des instruments d'expression des deux communautés linguistiques du Québec et des communautés culturelles dont elles se composent" (AQ, 1983: 28). Thus, the protection of French must be accompanied by the protection of English. Commenting on the health and social services domain, the right of all Quebecois to be cared for and served in French is paralleled with three rights to the use of English: the right for English-speakers to be cared for in English, the right of unilingual English-speakers to work in the health and social service domain as long as the institution is capable of providing bilingual services, and the right for institutions to be respected as English-language establishments. Parallel sets of rights for English- and French-speakers are also

proposed in the educational domain, in which Alliance Quebec calls for the 'right of English-speaking families to send their children to English-language schools'. In 1993, Alliance Quebec comments that Bill 86 is at least a step in the right direction, although it still does not go far enough in ensuring the survival of the English-speaking community. "It is more than a question of language rights", they argue, "it is a question of survival" (AQ, 1993: 4).

vi. The Canadian Jewish Congress (CJC).

There are no explicit references to the 'right' to French in the CJC's 1977 brief, although they do acknowledge French as "la langue primordiale et langue d'usage au Québec" and lend their support to the "épanouissement du français" (CJC, 1977: 1617). There is explicit mention, however, of the 'rights' of the minority or, more specifically, of the suppression of these rights: "L'élimination des droits linguistiques de la minorité [...] est inéquitable et injuste" (Jewish Congress, 1977 : 1618). Language rights, they argue, should be equal for everyone: "Nous croyons que toutes les personnes devraient avoir des droits linguistiques égaux au Québec" (CJC, 1977: 1618). The meaning of 'equal language rights' is further specified as "[le fait de] respecter la différence linguistique" (Jewish Congress, 1977 : 1621). The respect of 'linguistic difference' is articulated at two levels. At one level, it refers to the recognition of the special language needs of the Jewish community concerning exemptions for religious education and for product labels on kosher foods. At another level, it refers to the recognition of English-language use by the Jewish community in the domains of community services, administration, health and social services, municipal councils, professional orders, commerce (signs, corporate names) and education. The right to English-language services is justified by an argument based on historical practice and what they refer to as 'linguistic reality': "[les membres de] notre communauté ont toujours bénéficié et s'attendent à recevoir des services communautaires offerts en langue anglaise. Telle est la réalité linguistique de notre communauté" (CJC, 1977: 1617). State intervention in the sphere of language is contested by the Jewish Congress on the basis that it contravenes these historical practices: "Toute intrusion par l'État constitue une dérogation majeure

aux pratiques qui ont été adoptées au Québec pendant des générations” (CJC, 1977 : 1625).

Practice, or 'linguistic reality', remains the principal limiting factor to the promotion of French in the 1983 and 1993 briefs of the CJC. In 1983, the respect of 'linguistic difference' is expressed as “équité, en termes de loi, habitude et usage” (CJC, 1983: 1). The minority rights argument which was central to their 1977 argument, however, is absent in the subsequent briefs, although they do refer to the special language needs of the Jewish community in terms of 'right': “le plein droit [de la communauté juive] en matière de religion” and “le droit du professionnel à l'exercice de sa profession” (CJC, 1983: 5). In both cases, and in their comments on other articles of Bill 57, the maintenance of bilingual practice remains central, particularly in the domains of administration, parapublic organisations, commerce (publicity, labelling, corporate names) and the freedom of choice in education. In 1993, the practice of bilingualism is transformed into a discourse on pluralism and the “capacity [of the community] to function effectively in *at least* both French and English” (CJC, 1993: 2; my emphasis). While French-English bilingualism remains at the core of this new discourse, the tolerance of other languages is also emphasised throughout the text.

vii. The Italo-Canadian Congress (ICC).

In 1977, the Italo-Canadian Congress perceives interventionism in the sphere of language as being fundamentally illegitimate; it is “un paravant permettant aux dirigeants de violenter les droits de l'individu et de la personne” (ICC, 1977 : 23). Distinguishing individuals on the basis of language, they argue, is discriminatory. Drawing on a discourse of individual rights, they state that language legislation must respect the principle of 'equal rights' and 'equal justice'. This argument is developed primarily around the principle of freedom of choice in education, itself justified by a discourse on historical privilege and acquired rights. Historically, they argue, there has been a way in which language has been practised by the Italian community and these practices should be maintained: “Il sera donc injuste par un truchement de loi rétroactive d'empêcher

nos italo-canadiens résidents de continuer à bénéficier du privilège (droit historique) que jadis on leur avait accordé" (ICC, 1977 : 43). Immigrants, they suggest, are excluded from right: "ils n'ont pas les mêmes droits historiques, ils ne sont que des immigrants" (ICC, 1977 : 11). Thus, the meaning of 'equal rights' mentioned above is further specified by the Italo-Canadian Congress as "droits égalitaires *aux autres minorités*" (ICC, 1977: 20; my emphasis).

To some extent, there is greater acknowledgement as to the legitimacy of promoting the French language, and to the state role in language planning, in the 1983 brief of the Italo-Canadian Congress. They write, for instance, that "le gouvernement du Québec est le premier responsable du maintien et du développement de l'identité culturelle des francophones" (ICC, 1983 : 2). In the same breath, however, they also argue that the language situation has changed and that French has become the common language of all Québécois. It is no longer French that needs protection, but other languages. The legitimacy attributed to state language planning is thus transformed by the Italo-Canadian Congress into a demand that the government adopt measures for the protection and promotion of *minority languages*:

Au Québec où le français est désormais la langue commune des Québécois, les problèmes linguistiques concernent autant les communautés culturelles anglophones ou allophones. Or, sauf exception, les droits linguistiques des groupes minoritaires ne sont ni reconnus ni protégés par la Charte ou par toute autre loi québécoise. Les Québécois de souche française qui depuis la colonisation se battent pour la sauvegarde et la promotion de leur langue devraient être très sensibles à notre plaidoyer en faveur des langues minoritaires [...] le gouvernement devrait reconnaître et promouvoir les droits linguistiques minoritaires au Québec [...] (ICC, 1983 : 16).

As in their earlier briefs, in 1993 the most important limitation to their conception of the right to French is the recognition of other cultures. Commenting further on the form which state intervention should take, they argue that the government should concentrate on promotional, rather than legislative, measures: "Une

fois les règles de base établies, ce sera la promotion du français qui sera le plus avantageux à long terme. Cette promotion doit se faire par une intensification de nos efforts dans le domaine de l'éducation et par le renforcement des programmes d'apprentissage du français" (ICC, 1993: 4-5).

viii. The Grand Council of the Crees.⁴

There is no explicit mention of the right to, or the promotion of, the French language in the Grand Council's 1977 brief, although there are references to the special statuses of Cree and English. These latter, as they suggest, have conferred status in light of the James Bay and Northern Quebec Agreement signed between the Quebec government and the Cree people in 1975.⁵ Chapter 16 of the Agreement grants the right to Cree language use in the educational domain: "le droit aux Cris à l'instruction dans leur langue maternelle". The Agreement also allows for Cree language use in the domains of local administration "la Convention consacre le statut du cri comme langue de communication, reconnaissant ainsi son importance pour le peuple cri sur le plan culturel et sur le plan pratique." (Cree, 1977 : 1628). While English language use is not referred to in terms of 'right' *per se*, they suggest that its continued use is legitimated by historical practice: "pour des raisons historiques, la pratique actuelle dans les communautés cries est à l'effet que les langues d'enseignement sont le cri et l'anglais" (Cree, 1977 : 1628). Furthermore, this practice is granted a quasi-legal status in the James Bay Convention which allows for a general programme of education in which "les langues d'enseignement sont le cri et, quant aux autres langues, *selon la pratique actuelle* dans les communautés cries du Territoire" (Cree, 1977 : 1628; my emphasis).

While there is explicit acknowledgement in 1983 of the legitimacy of the Charter, and of the protection of the French language, the special status of the Cree community

⁴ The Grand Council of the Crees did not present a brief in 1993. Consequently, only those of 1977 and 1983 are examined here.

⁵ The Convention regulates relations between the Quebec state and the Native nations which signed it: Cree, Naskapi, Inuit. See Trudel for a discussion of the Convention and language policy (Trudel, 1992).

in the James Bay Agreement remains the most important argument in the Cree conception of the right to language. They argue further that these rights, which acknowledge the cultural specificity of the Cree community, were won in struggle: "The James Bay and Northern Québec Agreement was the climax of a long and intensive struggle by the Cree and Inuit people of northern Quebec to preserve their way of life and to have their rights as the aboriginal occupants of a large part of northern Québec respected" (Cree, 1983: 2).⁶ In addition to this recognition of status, they also propose that a distinct language Charter should be created for the preservation of Cree and other native languages and cultures :

The Charter of the French language was adopted in order to preserve and allow for the flourishing of the French language, but the provisions of the James Bay and Northern Québec Agreement and the specific recognition of the importance of the Cree language in the Charter, as well as commitments by the Government, point to the necessity of setting up a special Charter for the Cree language, and by implication for other native languages in the Province. This Charter should provide for the growth, preservation and development of all native languages in Québec, the first and founding cultures [...]. In respect to the Crees, this Charter should relate to the specific situation of the Cree language in the James Bay territory and the special regime which has been set up under the Charter and under the James Bay and Northern Québec Agreement. It should also provide for the enhancement and growth of this language, allowing for a development with respect to toponomy, grammar, and the more extensive use of this language among a founding people of the Province (Cree, 1983 : 9).

This passage represents a claim for the transformation of the Grand Council's conception of the right to native languages into a legal form.

⁶ The English version of the brief is examined here.

C. *Thinking' Language Rights: A Comparison.*

The ways in which these actors 'think' language rights reveal both similarities and differences. These can be examined in the ways of 'naming' (or not 'naming') language rights, in the contents of these rights and in the legitimating discourses behind these ways of 'thinking' rights.

Several actors refer explicitly to the 'right' to French: the FTQ, the CSN, the SSJB, the Chamber of Commerce, the CPQ, the PSBGM/Q.APSB and Alliance Quebec. References to the 'right' to language, however, are not made in the same way by these actors. Throughout the 1977 to 1993 period, the unions make reference to the rights of the majority, national rights, the right to work in French and the right to be served in French. Similarly, the SSJB refers to the right to French in Quebec, the defence of the right to French, the right to language as the right to exist and the right of a people to live in French. For both the unions and the SSJB, English is not considered to be a language of right, but of 'privilege'; it is an exception to the right to French.

In the briefs of the Chamber of Commerce, the CPQ, the PSBGM/Q.APSB and Alliance Québec, the use of the term 'right' to French is more restrictive. The Chamber of Commerce, for instance, makes an allusion to the 'right' to French only in its 1977 brief (the right of the Francophone public to receive notices from parapublic organisations in the official language, the right of consumers to be informed in French, the right that order forms, bills, receipts, menus and wine cards be written in French). This use, however, appears to be calqued on the wording of the corresponding articles of the Charter, rather than on a developed argument of the Chamber itself. The CPQ makes greater use of a 'rights' terminology than the Chamber of Commerce. In 1977, for instance, it refers to the fundamental language rights of the majority, the legitimate rights of the majority, and the right of the Francophone majority to work and be served

in its language. Only this latter formulation, again calqued on the text of the Charter, survives in the CPQ's 1983 and 1993 briefs. Despite these brief allusions to the 'right' to French, however, for the most part the use of the term 'right' is reserved for references to the Anglophone minority.

A similar situation can be observed in the briefs of the PSBGM/QASPB and Alliance Quebec. Both mention the 'right' to French only once, in 1977 for the former and in 1983 for the latter. Otherwise, their adoption of a 'rights' terminology is reserved for references to the English-speaking community. The PSBGM/QASPB, for instance, makes several references to minority rights and also to the "right which the English community in Quebec has to grow together with the French community". Similarly, Alliance Quebec refers to the rights of the minority, the right to constitute a visible presence, the right for English-speaking Québécois to be served in English, the right of unilingual English-speaking Québécois to work in health and social service establishments which offer bilingual services, the right of English language institutions to be respected.

In the briefs of the Jewish and Italo-Canadian Congresses, and of the Grand Council of the Crees, there are no references to the 'right' to French in any of the years examined, although the term 'right' is applied to other languages. The Jewish Congress, for instance, refers generally to the language rights of the minority, equal language rights, and the rights of English-speaking individuals. More specifically, they also refer to the special 'rights' of the Jewish community with regards to language use in religious practices and professional activities. Similarly, the Italo-Canadian Congress makes important use of a 'rights' discourse in referring to 'equal rights for other minorities', 'language rights of minorities' and the 'right to express oneself in languages other than French'. In the briefs of the Grand Council of the Crees, the term 'right' is used only in relation to the Cree community. They refer, for instance, to the James Bay Agreement as a 'Charter of Cree Rights', to their 'rights as aboriginal occupants of a large part of Quebec' and to the right of Crees to be educated in their mother tongue. The explicit use of the term 'right', in relation to language, is summarised in Table 7-1.

Table 7-1 . Explicit Designation of the 'Right' to Language.

Actor	'Right' to French/'Rights' of Majority	'Right' to Other Languages/'Rights' of Minority
FTQ CSN	✓ Most frequent use of 'right'. ✓ Most frequent use of 'right'.	Reference only to 'privileges' of the minority.
Chamber of Commerce Conseil du Patronat	✓ Used only once, in 1977. ✓	✓ Most frequent use of 'right'. ✓ Most frequent use of 'right'
PSBGM/Q.APSB	✓ Used only once, in 1977.	✓ Most frequent use of 'right'.
SSJB	✓ Most frequent use of 'right'.	Reference only to 'privileges' of the minority.
Alliance Quebec	✓ Used only once, in 1983 brief.	✓ Most frequent use of 'right'
Jewish Congress	No mention of 'right' to French or of majority.	✓
Italo-Canadian Congress	No mention of 'right' to French or of majority.	✓
Cree Grand Council	No mention of 'right' to French or of majority.	✓

As suggested in the methodology chapter, ways of 'naming' can provide important traces of social processes (Calvet, 1974; Guillaumin, 1972; Achard, 1986). And, while it would be misleading to interpret this table causally, there is nonetheless a pattern which emerges from this comparison which would seem to indicate that the use of a 'rights' terminology is not completely arbitrary. Only the unions and the SSJB make exclusive use of the term 'right' in relation to French or the Francophone majority. For the other actors, this use is either sporadic (business organisations, PSBGM/Q.APSB, Alliance Quebec) or absent altogether (Jewish and Italo-Canadian Congresses, Grand Council of the Crees). As suggested in the rights chapter, the idea of rights is attached to processes of legitimation. In this sense, these ways of 'naming' are also indicative of the degree of legitimacy attributed to the French Language Charter: high in the case of the unions and the SSJB, lower in the case of the other actors. This difference can be

further illustrated in the meaning attributed by these actors to the 'right' to language and the supporting arguments invoked to justify these conceptions.

For the unions and the SSJB, the conception of the right to language corresponds to the conception of right set out in the Charter. English-language use is considered to be an exception to French unilingualism. While the FTQ acknowledges that complete French unilingualism in the workplace would be difficult to attain, it argues that the goal of language policy is 'a maximum level of francisation', defined as the point of non-return beyond which it would be impossible for English to regain its dominant position (FTQ, 1983). The restraint of English language use in some sectors of activity finds its justification in an effort to redress an historical situation of inequality. It is from this point of view that the collective rights of the Francophone majority are perceived as taking precedence over other claims to right. It is thus an argument based on the substantive forms of equality and the rights of the collectivity. Furthermore, the power necessary for redressing this situation of inequality is considered to reside in the Quebec State.

For the other actors, there is a disjunctive relationship between their conceptions of the right to language and that embodied in the Charter. In different ways, they all claim the recognition of status for other languages. For the business organisations, the right to language is expressed as the equal place for French and English in the economic sector. The business conception of language rights is justified by an argument based on individual liberties and formal equality, expressed as "*chances égales de réussir*". The laws of the market, they argue, and not those of the state, should dictate the distribution of the linguistic good.

For the PSBGM, QAPSB and Alliance Quebec, the right to language means parallel sets of rights for French- and English-speaking communities; more specifically, it is the right of each community to use its own language in its own institutions. The legitimating arguments of the PSBGM/QAPSB and Alliance Quebec differ in some respects from those of the business organisations. Inequality, for instance, is central to

their arguments. Unlike the unions and the SSJB, however, it is the Charter itself which is considered to be the generator of inequalities, relegating the English-speaking community to the status of a community without right. Also, neither organisation draws on discourses of individual rights and liberties. While they do not mention collective rights *per se*, their arguments are very clearly structured around the English-speaking community as a collectivity. It is from this perspective too that they support some degree of state intervention in the sphere of language, although they argue that the basis of such intervention should be the promotion of *both* Francophone and Anglophone communities and their languages.

To some extent, the conception of the right to language proposed by the Jewish and the Italo-Canadian Congresses can also be situated in a framework of French-English bilingualism. At the same time, however, and to varying degrees, their conceptions of right are also extended to include languages other than French and English. Although Yiddish and Hebrew are not specifically named by the Jewish Congress, they are implied in references to language practices relating to Judaism (kosher product labelling, religious education). The Italo-Canadian Congress goes even further in demanding the acknowledgement of 'equal rights for *other* minorities' (i.e. other than Anglophone) in 1977 and, in 1983, that specific measures protecting minority languages be inscribed in the French Language Charter. Their argument, in large part, is based on the perceived inequality of treatment of immigrant communities. Both the Jewish and Italo-Canadian Congresses justify their arguments in terms of a liberal discourse of equal language rights for all, calling for minimal state interventionism.⁷

In the conception of the right to language presented by the Grand Council of the Crees, the theme of the specificity of the community is taken to an even greater extreme than was the case of the Italo-Canadian Congress: the right to language is,

⁷ While the Italian Congress seemed to attribute some degree of legitimacy to intervention in 1983, especially in demanding that the state intervene in the protection of the language rights of 'other' minorities, their 1993 comments that language policy should be based on the promotion of French in the schools, rather than on legislative measures, would also seem to indicate a preference for *laissez-faire* policies.

primarily, the right to the Cree language. This is manifest in their 1983 demand for a distinct Charter of Cree and Native languages. Their argument reflects the collective basis of Native rights. While state interventionism for promoting the French language is neither contested nor specifically endorsed, their argument is structured around their own legal status guaranteed by the James Bay Agreement, itself a product of state intervention. The conceptions of the right to language, and their legitimating arguments, are summarised in Table 7-2.

Table 7-2. The 'Content' of Language Rights and Legitimating Arguments.

Actor	Conception of Right
Unions (FTQ, CSN)	<ul style="list-style-type: none"> • Right to French unilingualism in all sectors of activity. English language use as exception only. • Collective rights of Francophone majority justified for redressing situation of inequality. State intervention necessary for fostering substantive equality.
Business organisations (CCGM, CPQ)	<ul style="list-style-type: none"> • Right to bilingualism; equal status of English and French languages. • State intervention should not contravene current economic practices (linguistic reality). Individual rights and formal equality advocated in laissez-faire framework.
PSBGM/Q-APSB	<ul style="list-style-type: none"> • Right to bilingualism; official status for English language; legal status for English as language of education. Protection of English as right of English community to grow with French community. • Argument based on inequality of treatment of English-speaking community. • State interventionism is acknowledged, but must respect minority and majority communities equally. Although not explicitly named, argument would seem to emphasise collective basis of right, for both Francophone and Anglophone communities.
SSJB	<ul style="list-style-type: none"> • Right to French unilingualism in all sectors of activity. • English language use as exception only. • Collective rights of the Francophone majority have precedence over privileges of minority as means of redressing past injustice. Necessity of state-intervention implicit.
Alliance Quebec	<ul style="list-style-type: none"> • Right to bilingualism; parallel sets of rights for English and French languages. • Argument based on inequality of treatment of English-speaking community. • Legitimacy of state intervention acknowledged, although state must promote the 'instruments of expression' of both of Quebec's language communities'.
Jewish Congress	<ul style="list-style-type: none"> • Right to pluralism, situated in bilingual framework. 'Equal language rights' which respect 'linguistic differences'. Need to recognise specific language needs of Jewish community, implied as English and other languages related to religious practice. • Liberal discourse of individual rights and liberties. State intervention should be minimal.
Italo-Canadian Congress	<ul style="list-style-type: none"> • Right to pluralism, in the respect of French as predominant language. Stated in 1977 as 'equal rights for other minorities' (i.e. immigrant communities). In 1983, demand protection for minority languages (English and other languages). • Argument based on inequality of treatment of immigrant communities. • Liberal discourse of 'equal justice for all'. State interventionism contested.
Grand Council of the Crees	<ul style="list-style-type: none"> • Right to Native languages. In 1977, emphasise status granted to Cree and English in James Bay Agreement. In 1983, emphasis especially on Cree and creation of Charter for Cree and other Native languages. • Collective basis of native rights; legitimacy of state interventionism with respect to legal status of Cree autonomy.

These findings support the proposition that the global categorisations of majority and minority are too broad for understanding language rights as sites of struggle. The above analysis, for instance, reveals three principal types of language rights conceptions: the recognition of French unilingualism (unions, SSJB), of French-English bilingualism (business organisations, PSBGM, Alliance Quebec), and of other languages in addition to French and English (Jewish and Italo-Canadian Congresses, Grand Council of the Crees). As for the legitimating discourses supporting these conceptions, they cannot be perfectly classified according to the ideal-typical models presented in the methodology chapter; that is, in which the (sociological) minority would invoke discourses based on collective rights, substantive forms of equality and state-intervention; and the (sociological) majority, would invoke discourses based on individual rights, formal equality and non-interventionism. The arguments of the PSBGM/QAPSB and Alliance Quebec, are both structured around the theme of inequality, the collective basis of English-speaking rights and the support of some degree of state intervention. The Italo-Canadian Congress also places emphasis on the need to address inequalities, but justifies this argument on the basis of a discourse of individual liberties. Finally, the Grand Council of the Crees, which is more difficult to place in the classic distinction between Francophone majority/Anglophone minority, also emphasises the collective basis of Cree rights. How should these ambiguities be interpreted?

II. Contested Boundaries: Language, Territory and Interests.

As argued in the rights chapter, rights do not exist in a vacuum. They do not constitute absolute truths, but rather, are themselves social constructions. It is necessary then, to look closer at these constructions, at the interface between language-as-value and the territorial interests which structure relations between actors.

A. *Constructing Boundaries.*

i. The Unions.

The union conception of language rights reveals a class-based boundary separating workers and management. This boundary is perceived as cutting across ethnolinguistic lines, revealing an alliance of Francophone and Anglophone business actors. In 1977, for instance, the FTQ comments on the “solidarisation instinctive et immédiate des petits et grands patrons francophones avec le grand patronat anglophone” (FTQ, 1977: 559). Similarly, the CSN refers to Francophone employers as “rois nègres à la solde de leurs patrons anglophones” (CSN, 1977: 1481). Furthermore, the relationship between workers and management is described as being one of domination. While the marxian terminology which characterises the 1977 union briefs is less pronounced in subsequent years, class remains the principal form of boundary throughout the period studied. Majority and minority are thus divided into class actors, and struggles for the improvement of working conditions are at the same time linked to national struggles.

It is in this context too that the significance of language for the unions must be situated. For both unions, language has been a marker of domination. In relation to worker domination, for instance, English is described by the FTQ as the language of economic domination, financial success and social prestige. Similarly, the CSN refers to “cet envahissement, cette domination de fait de la langue anglaise” (CSN, 1977: 1476).

While both unions agree that there has been progress in the possibilities for workers to work in French, they argue in 1983 and 1993 that the state of *francisation* remains fragile. Examples provided of the distance between the right to work in French and the actual practice of this right suggest that language is still a factor of exclusion in the workplace. A relationship between language and domination is also present in the union briefs at a more global, national, level. As the FTQ writes, "Nous sommes un petit peuple, îlot francophone en Amérique du Nord, dont l'économie demeure dominée par des capitaux étrangers [...] la loi 101 est venue répondre à une situation invraisemblable qu'aucun peuple ne peut tolérer et qui faisait du français une langue subalterne" (FTQ, 1983: 38). Domination on a national level is not only situated in the past, but also in the present relations between the federal and Quebec states. The federal role in invalidating articles of the Charter is a case in point, revealing a relation of domination in law. As the CSN writes in 1983, "Des pans entiers de la loi sont tombés [e.g. sur la langue de la législation et la langue de l'éducation] [...] Nous cueillerons alors les fruits empoisonnés d'une Constitution canadienne qui nous a été imposée par un coup de force[...]" (CSN, 1983: 4).

The legislation of language rights, for both unions, reflects struggle against these forms of exclusion. It draws on the reform-orientation of law, in which language is linked to struggles for the reappropriation of other 'markets', both in the sense of control over the workplace and in the national sense of the sovereignty of the Quebec state. Furthermore, these two 'markets' are conceived as being interrelated, as the following passage from the FTQ suggests: "Les travailleurs et les travailleuses n'ont jamais cru que leur langue puisse être dissociée de leur travail comme de leur culture et nous avons toujours considéré, à la FTQ, que la francisation des milieux de travail était le pivot de la francisation de la société québécoise" (FTQ, 1993: 3).

Thus, the struggle over language is not only related to the workplace, but is also linked to the construction of a new societal project. The union conception of this project, already present in their 1977 briefs, is elaborated on by the FTQ in 1993 where they comment on "l'impérieuse nécessité et l'obligation même qui devraient être

partagées par l'ensemble du peuple québécois de 'faire du français la langue de l'État et de la Loi' [...] Bref, le français doit être la langue commune des Québécois et des Québécoises car il exprime l'identité de notre peuple et constitue un facteur de cohésion sociale" (FTQ, 1993: 3). In 1977, there are relatively few arguments on the place reserved for 'immigrants' or 'allophones' in this societal project. In one of the few mentions made by the FTQ, 'allophone' workers are pointed to as prohibiting the generalisation of French language use in the workplace: "un travailleur allophone qui occupe un poste-clé et qui empêche pratiquement l'instauration du français comme langue de travail pour tout un groupe de travailleurs devrait être obligé d'apprendre le français et de l'utiliser quotidiennement" (FTQ, 1977: 564). In the above passage, immigrants were singled out as being one of the causes of non-*francisation*. In 1993, the FTQ draws attention instead to the structural barriers which impede integration -- misinformation about Quebec prior to immigration, concentration in small enterprises where *francisation* programmes are not in place, poor accessibility to French courses -- and emphasises the importance of linguistic measures for encouraging integration. There would thus seem to be a shift towards a greater inclusion of 'immigrant' and 'allophone' communities in the societal project, with language at the basis of this inclusion.

ii. The Business Organisations: Chamber of Commerce and CPQ.

In the conception of the right to language presented by the business organisations, there is a denial of tension. Majority and minority, identified respectively as 'Francophone' and 'Anglophone', are presented as economic partners rather than as antagonistic communities. Solidarities are thus constructed across ethnolinguistic boundaries. The members comprising the business community are designated variably as Francophone and Anglophone elites or management, as business leaders and employers, as professionals and R&D scientists, as shareholders and investors. Three shared values structure this partnership: economic performance, mobility across nation-state boundaries (references to Canadian, North American and international contexts), and bilingualism. Workers would appear to lie outside the boundaries of this

partnership. Both organisations deny, for instance, that workers should have a say in the implantation of *francisation* programmes, which are considered instead to be an 'affaire' of management. This is expressed in the following passage from the Chamber of Commerce: "il faut signaler que l'implantation d'un programme de francisation est essentiellement une opération de gestion, qui relève de la responsabilité de l'entreprise [...]" (CCGM, 1977: 1475).

For both the Chamber of Commerce and the CPQ, the significance of language is directly linked to their conception of a business community structured around an integrated market economy, the mobility of its members, and internationalisation. In this context, English is clearly perceived as the prestige language. In 1977, for instance, the CPQ comments that "dans le concret, la place du français au Québec ne peut pas ne pas être relative à la place de l'anglais dans la science, la recherche et le commerce international, et à la place de l'anglais dans les relations du Québec avec le monde économique auquel il est intégré" (CPQ, 1977: 552). Even fifteen years after the adoption of the Charter, this conception of language remains the same. In 1993, for instance, the Chamber of Commerce still qualifies English as the "langue par excellence des affaires internationales" (CCGM, 1993: 10). Similarly, the CPQ argues that English is not simply a 'question of culture' for Francophones, "c'est maintenant une nécessité, au même titre que bon nombre d'autres éléments du curriculum pédagogique" (CPQ, 1993: 5). These statements reflect the 'inevitable linguistic reality' referred to in the rights discussion above, which constitutes the principal limiting argument to the right to French for these actors. There is a fatalism to this argument which suggests that the laws of Quebec are powerless against this 'reality'. Expressed in the words of the CPQ, "la langue commune des scientifiques, c'est l'anglais. Les lois du Québec n'y peuvent rien" (CPQ, 1977: 555). It is also this fatalism which underlies the Chamber of Commerce's 1993 argument that the promotion of French should concentrate on the 'quality' of language. From this point of view, English is considered to be an affair of the market; French, an aesthetic concern.

The territorial interests of the Chamber of Commerce and the CPQ are thus clearly identified. The economic sector is their principal 'market' and the language-of-use in this sector, English. The promotion of French, divorced from all relations of struggle, is reduced to the promotion of 'quality', a concern which is considered to lie outside the economic sector. The whole of the business/management argument is thus based on the denial that change is necessary within the confines of this 'market'. In this sense, the argument reflects the conservative basis of law and rights; that is, the maintenance of advantage. Yet, as suggested in the theoretical discussion of the previous chapters, this 'market' is a key sector for the social reproduction of community. The non-promotion of the French language in this sector has negative implications for its further promotion in other sectors of activity and, more importantly, for the real possibility of workers to work in French. While both organisations support, in principle, the right of workers to work in French, neither comments on the potential impact of the anglicisation of business/management leaders on this right. There is, in fact, explicit denial of any relation between language and worker struggles. This is expressed by the CPQ in the following way: "la loi sur la langue [devient] une arme dans une lutte qui n'a aucun rapport avec la promotion du français" (CPQ, 1977: 555).

It is clear in the above argument that the societal project proposed in the business briefs is built around the principle of bilingualism. In 1983, this was expressed in the following way by the Chamber of Commerce: "la communauté francophone du Québec forme un groupe culturel vigoureux et confiant dans l'avenir. Les entraves et les blocages sociaux qui freinaient l'épanouissement de ce groupe culturel ont été largement levés. Grâce à la participation de plus en plus active de francophones, *Montréal est devenue un centre cosmopolite biculturel où des chefs d'entreprises des deux communautés linguistiques canadiennes se rencontrent sur un terrain d'égalité*" (CCGM, 1983: 5; my emphasis). The meaning of 'terrain d'égalité', however, would seem to apply only to the closed circle of economic actors who already wield a certain power within Quebec society and the promotion of English language use within this circle serves only to reinforce the existing division of labour.

The place of immigrants in this project receives only passing mention in the 1977 and 1983 briefs of the business organisations. In 1993, however, the Chamber places emphasis on the diversity of its membership and acknowledges the role of the organisation in integrating new immigrants into the business community: "l'organisme est le reflet de la diversité et de la richesse culturelle des milieux d'affaires montréalais. Au cours des années qui viennent, la Chamber jouera le rôle de lieu de convergence d'une partie des nouveaux arrivants au Québec" (CCGM, 1993: 2). Once again, however, the boundaries of community are drawn around those who form part of the economic elite; that is, those for whom English will be promoted as the language of the economy.

- iii. The Protestant School Board of Greater Montreal (PSBGM) and Quebec Association of Protestant School Boards (QAPSB).

The boundaries underlying the conception of language rights proposed by the PSBGM and the QAPSB are structured around the perceived *minorisation* of the English-speaking community as a result of the Charter. The Charter, they argue, goes beyond the mere promotion of French and Francophones to the willed suppression of the English-speaking community.

The educational domain is considered to be the core institution for the social reproduction of this community: "Schools operated for English pupils are viewed by parents as linguistic and cultural centres which over the years have helped to maintain the values and well-being of the English community" (PSBGM, 1983: 16). Consequently, declining enrolment in English language schools is pointed to as further evidence of the Charter's exclusionary objectives. Throughout the period studied, concern for declining enrolment is also coupled with concern for the growth of the community through immigration. This is expressed most explicitly in the QAPSB's brief in 1993: "admit[ting] children of English-speaking immigrants to English schools would have helped to slow the decline in English-language school enrolments without being detrimental to French school enrolments. It would have simply given a measure of

needed stability and optimism to the English school system and the English-speaking community of Quebec" (QAPSB, 1993: 5). Thus, the two 'markets, – education and immigration – are closely linked; both are perceived as necessary for the social reproduction of the English-speaking community.

An understanding of the significance of these 'markets' must also be situated in the context of the societal project proposed by the PSBGM and the QAPSB. In 1977, this project is expressed by the PSBGM as a return to the 'harmonious' cohabitation of French- and English-speaking communities:

Ensemble nous devrions avoir un seul but commun, celui d'un Québec où la culture de la majorité de langue française et les cultures des groupes minoritaires pourraient s'épanouir côte à côte et où il n'existerait qu'une catégorie de citoyens, peu importe l'origine de chacun, qu'il soit né au pays, qu'il soit immigrant, qu'il soit de langue anglaise ou de langue française ou de toute autre langue. Dans un contexte plus large, nous nous devons élaborer un Canada prospère avec une culture dynamique de langue française dans bien des régions, une culture qui sera encouragée et soutenue par les autres gouvernements provinciaux de notre grand pays" (PSBGM, 1977: 649).

There is, in this statement, a denial of the power relations which situate the Francophone community as a minority within the federal context. The history of struggle between Francophone and Anglophone communities – the *raison d'être* of the Charter – is passed over in silence. While explicit references to Canadian 'nationness' are less present in subsequent briefs, the conception of distinct communities living side by side in harmony is nonetheless maintained throughout the period studied. Aside from the acknowledgement in 1983 and 1993 of a greater willingness of English-speaking parents to send their children to French schools, there are otherwise no measures proposed which would establish a common ground between these two communities. While French-language learning is encouraged as a value, the role played by language in this societal project is otherwise linked to the preservation of two distinct, and isolated, 'cultures'. The struggle for the control of English-language education, and the

integration of immigrants within the English-language system, thus reflect a desire to maintain the two solitudes which have characterised relations between communities in Quebec; relations which have not always been as 'harmonious' as suggested in the briefs.⁸ From this point of view, the conception of language rights presented in these briefs reveals the conservative function of law and rights; that is, rights oriented towards a resistance to change.

iv. The SSJB.

The SSJB's conception of the right to language is clearly situated in the historical context of relations between two antagonistic communities structured along ethnolinguistic lines: Francophone and Anglophone. In 1977, the latter is designated as the 'adversary'. While the discourse on the 'adversary' is absent from the SSJB's later briefs -- replaced by the designations of 'Anglophone' and 'Anglo Saxons' in 1983 and by the 'minority' and 'Anglo-Québécois' in 1993 -- ethnolinguistic belongingness remains the principal form of boundary construction from 1977 to 1993. The relationship between the two communities is described as being one of economic and political domination: "le fait d'une minorité économiquement et politiquement dominante, héritière d'une situation de conquête. Et c'est d'avoir été frustrée si longtemps de sa propre image que la population franco-québécoise s'est soudainement mise, il y a déjà deux décennies, à revendiquer un environnement linguistique conforme à sa réalité de fait [...]" (SSJB, 1983: 7). While the SSJB acknowledges progress in the social and economic status of the Francophone community in both its 1983 and 1993 briefs, this status is nonetheless perceived as being a precarious one due to the continuing pressure of the Anglophone community to retain its privileges: "ce refus du nouvel ordre des choses, ce désir de retourner à l'ancien" (SSJB, 1993: 3). Language is perceived as a marker of this situation of domination. In 1977, this was expressed as the imposition of "l'ordre linguistique canadien" (SSJB, 1977: 8). Federal intervention in the sphere of language, commented on in the SSJB's 1983 and 1993 briefs, is also an indicator of a

⁸ See Chapter 6 on the history of struggles over language in Quebec.

continued relation of domination, manifest in the subordination of Quebec's juridical system to the federal juridical system: "l'État québécois n'est qu'un demi-État, forcé de partager sa juridiction avec un autre dont le français n'est pas la première langue" (SSJB, 1993: 4).

The SSJB's argument is thus conceived on a global scale, oriented towards the control of the 'national market'. Language plays an important role in the definition and appropriation of this space, as the common language in the new societal project. The SSJB argues that the French language was defined defensively in the past. Conceived of organically as a shared mother tongue, it excluded the participation of others for whom French was a second-language. As expressed in 1977, a new societal project would be based on the construction of a single 'language community': "[...] il faut en finir avec toutes les exclusives, tous les apartheid et tous les ghettos linguistiques [Le projet vise à] rassembl[er] et un[ir] sous une même loi et dans une même communauté de langue" (SSJB, 1977: 11). It is necessary, they argue, "[d'] aller à l'autre et lui donner notre langue [...]. À une attitude de fermeture sur nous-mêmes, l'Histoire nous permet aujourd'hui de préférer une stratégie d'ouverture sur l'autre" (SSJB, 1977 : 10; my emphasis).

This discourse of openness is addressed especially to 'immigrant' communities and is maintained throughout the period studied. In 1993, for instance, they write, "la Société a aussi pris l'initiative de rapprochements entre Québécois de vieille souche et ceux d'autres origines à maintes reprises au cours de son histoire [...] La Société Saint-Jean-Baptiste de Montréal a été et demeure une société nationale dynamique, ouverte aux Québécoises et Québécois de toutes origines" (SSJB, 1993: 1). Despite this discourse of openness, however, the societal project remains nonetheless a project constructed around a relation of tension: "il n'aurait servi à rien, en effet, de doter les Québécois francophones de meilleurs garanties de pouvoir vivre dans leur langue, si ces garanties se retrouvaient un jour à la merci d'une éventuelle majorité politique de citoyens anglicisés, quelles que soient leurs origines, ou à tout le moins d'une minorité de citoyens anglicisés suffisamment nombreuse pour que, joignant sa pression à toutes celles qui jouent déjà en faveur de l'anglais sur notre continent, elle puisse dicter ses

conditions au reste du Québec en matière d'usages linguistiques" (SSJB, 1993: 3). As the passage suggests, English-French relations remain at the core of this tension.

v. Alliance Quebec.

Like the PSBGM and QAPSB, boundaries underlying Alliance Quebec's conception of the right to language are structured around the existence of two distinct language communities: French speaking and English speaking. The distinctiveness of the English-speaking community, according to Alliance Québec, resides in its institutions, particularly in the domains of health and social services and education, considered to be the strongholds of identity: "la communauté d'expression anglaise a bâti un important réseau d'institutions de santé et de services sociaux qui, avec les écoles et les commissions scolaires de langue anglaise, sont des éléments indispensables de son identité propre [...]" (AQ, 1983: 9). The preservation of these institutions is linked to the survival of the community as a whole. Commenting on declining school enrolments in their 1993 brief, they write, "Quebec needs to secure the future of its English school system if it is to secure the future of its English-speaking community" (AQ, 1993: 9). Language plays a key role in the construction of this internal boundary and is described as the means by which the community expresses its 'culture'. In the following passage, 'culture' is conceived as being at the heart of the community's being, its thoughts and its sentiments: "La culture n'est pas simplement un reflet passif de notre société; elle est un ferment actif de notre être, de nos pensées et de nos sentiments. Elle influence nos valeurs et nos priorités, façonne nos moeurs et contribue à notre vitalité et notre dynamisme" (AQ, 1983: 27). While this statement resembles Herder's eighteenth-century argument on language as the 'soul' of the community, it is not a conception based on common origin or blood ties. The English-speaking community, they write, does not constitute an 'ethnic entity', but rather is comprised of individuals from diverse origins. It is, they write, "une communauté linguistique, liée par la langue anglaise" (AQ, 1983: 3).

As suggested in the earlier discussion on rights, a discourse on the perceived *minorisation* of the English-speaking community marks the external boundaries of community. Alliance Quebec argues, for instance, that “[the English-speaking] community is considered expendable by Quebec’s French-speaking majority” (AQ, 1993: 10). The French Language Charter is pointed to as being the source of exclusion: “where a community is not permitted by law to appear to exist, threats to its survival can also go unnoticed” (AQ, 1993, 7). Exclusion in law is also considered to create other forms of exclusion, particularly in relation to the erosion of community institutions. These institutions thus constitute important ‘markets’ for the English-speaking community. They are, as Alliance Quebec suggests, the ‘battlefields’ where the political, linguistic and cultural interests of the community are fought out. Immigration is another ‘battlefield’, or contested ‘market’, since the survival of the community is also dependent on demographic growth: “[Immigrants] ont été et sont toujours des ressources importantes pour le soutien et la préservation de nos institutions” (AQ, 1983: 28-29).

The meaning of exclusion, and of these ‘markets’ as sites of struggle, can be interpreted from the point of view of the societal project proposed by Alliance Quebec. This project, as implied earlier, is based on the principle of ‘linguistic duality’. In the following passage, it is contrasted with the perceived ‘closure’ of the societal project outlined in the Charter:

Sur quoi porte le débat? Sur la nature même de la société québécoise. En aurons-nous une vision noble ou une vision étriquée? Deviendrons-nous une société dynamique et attrayante, point de mire pour son excellence, protégeant la langue française et assurant son épanouissement tout en reconnaissant la dualité linguistique de notre histoire et en tirant tous les bénéfices possibles? Ou bien deviendrons-nous une société unilingue, cloîtrée, isolée et timorée? (AQ, 1983: 1).

Alliance Quebec’s project is thus based on the principle of two communities living side-by-side, with separate institutions, separate languages and even separate sources of immigration. It is not clear what the basis of interaction should be in this ‘shared’

project. While they do support bilingualism, its meaning is defined restrictively as 'institutional bilingualism'. That is, on an institutional basis, English-language institutions must have the human resources to be able to provide services in French (i.e., some token bilingual speakers). This would imply that on an individual basis the knowledge of French is not considered to be a necessity. Concretely speaking, it is a model which differs little from that which has characterised the history of relations between French- and English-speaking communities: it remains a model which fosters the maintenance of two societies closed in upon themselves. It is a conception of right which reveals a resistance to change.

vi. The Canadian Jewish Congress.

The boundaries which underlie the Jewish Congress's conception of the right to language can be read at two levels: the specificity of the Jewish community and their situatedness within Quebec society as a whole. On the first level, the community is defined around religion, as is suggested in references to religious practices, education and kosher products. They also emphasise the construction of the Jewish community around institutions, particularly in relation to the domains of health and social services, community services and education. In 1993, there is increasing emphasis on the exercise of liberal professions and commercial practice, also key domains of activity for the Jewish community. Language also plays a role in this conception of the community. In 1993, for instance, they comment on the importance of language and culture in the construction of community: "as Jews and Quebecers, we understand the desire to retain and enhance one's language, culture and identity" (CJC, 1993: 2). On the second level of boundary construction, there is a movement from Jewish specificity to a more global identity. In 1977, this identity is referred to in terms of an alliance between "toutes les minorités", "groupes minoritaires" and "minorités au sein de la Province". In designating minorities in the plural, it is also implied that there is not one minority, but many. There are also specific references to the Anglophone (mother-tongue) minority

in 1977, and its historical place in Quebec society. Interestingly, there are no further references to the specificity of this minority in subsequent years, as if the Jewish Congress were consciously attempting to demarcate itself from this group. This is also implied in their adoption of a pluralist discourse in 1993 in which they emphasise the contribution of diverse communities to Quebec society: "Quebec's Jews, like all Quebecers, regardless of origin, will play their part in shaping the evolving identity of Quebec [...]" (CJC, 1993: 1). As suggested earlier, the tolerance of plural languages forms part of this project. In the domain of education, for instance, they call for "improved and increased training in 'second' and *other languages*" (CJC, 1993: 7; my emphasis). Similarly, they encourage "the knowledge of more than one language [and] heightened sensitivity to cultural diversity" (CJC, 1993: 9).

Apart from the value of bilingualism and pluralism for the Jewish Congress, language otherwise receives very little emphasis in the briefs. Nor are there any references to a potential relationship between language and power. Although they acknowledge the 'past injustices' suffered by the Francophone community in all of their briefs, they deny that these constitute sufficient reason for the adoption of coercive language measures. Instead, they propose the need for measures based on cooperation and understanding: "les problèmes culturels et linguistiques du Québec doivent plutôt être résolus par la coopération et la compréhension la plus étroite de la part de tous les citoyens, sans distinction d'origine" (CJC, 1977: 1617). Language is thus considered to be a 'cultural' and 'linguistic' problem, rather than a potential instrument of exclusion or an indicator of inequalities. The meaning of 'cooperation' was implied in the rights discussion earlier as the maintenance of linguistic practices, which can be further interpreted as a resistance to change in 'markets' considered to be key to the preservation of the interests of the Jewish community (religion, health and social services, community services, education, liberal professions, commerce). In part, this resistance reflects the conservative function of law and rights; that is, the maintenance of past privileges. At the same time, however, it also reflects conscious efforts to affirm the distinctiveness of the Jewish community vis-à-vis Francophone and Anglophone (mother tongue) communities. It is also on this basis that they call for a renewed

societal project which “take[s] into consideration the views of francophones, anglophones and allophones” (CJC, 1993: 1). In this latter sense, there is also a reform-orientation to their conception of the right to language, which can be interpreted as an attempt to break with the dichotomic division of Quebec society into two rigid groups identified by ethnolinguistic criteria.

vii. The Italo-Canadian Congress.

The acknowledgement of difference is also at the basis of the Italo-Canadian Congress' conception of the right to language. In 1977, 'being Italian' is expressed in terms of exclusion: “quand un néo-canadien au Québec deviendra-t-il un citoyen à part entière [...] L'apport culturel économique et social du néo-canadien, n'appartient-il pas aussi à l'histoire du peuple québécois francophone et anglophone même s'il est jeune cet apport?” (ICC, 1977 : 35). Positioned between Francophone and Anglophone communities, the Italian community is described as being the 'troisième solitude', the 'bouc-émissaire', the 'entêté', and the 'traître'. The theme of exclusion is particularly emphasised with respect to relations between Italians and Francophones, described as “un dialogue de sourds” (ICC, 1977 : 17). While relations with the Anglophone community are implied as being closer, the Italo-Canadian Congress nonetheless insists on the distinctiveness of their community which is “ni anglaise ni française” (ICC, 1977: 43), and voices its resentment that the Anglophone community is granted certain privileges that are denied to 'new immigrants'. The theme of the exclusion of the Italian community is less present in the Congress' 1983 and 1993 briefs. Instead, there is a greater acknowledgement of the legitimacy of a Quebec national project and of the place of immigrant communities in it. No longer 'neo-Canadians', the Italian community is referred to in 1993 as “250,000 Québécois fiers de leurs propre origine italienne”, “nous, Québécois d'origine Italienne”, “Italo-Québécois” and “Québécois de souche italienne”. The educational domain is the principal site of intervention for the Italo-Canadian Congress (freedom of choice with respect to the language of education),

although there is also greater emphasis in 1983 and 1993 on the economic domain and the internationalisation of markets. The implications of this shift in priorities for understanding their conception of language rights can be interpreted in light of the meaning attributed to the pluralist project proposed by the Italo-Canadian Congress.

On one level, they agree that French should be the "véhicule de communication" within Quebec society (ICC, 1983: 2). On another level, they argue that this recognition should also allow for the promotion and preservation of languages other than French and English. This is expressed in 1983 in the following way: "20% de la population québécoise est d'origine autre que française, et il est important pour que ces gens là ne perdent pas leur culture, qu'ils puissent utiliser leur propre langue conjointement avec le français" (ICC, 1983: 13). The interface between French as the common language and the use of other languages is also expressed in the following way in 1993: 1) "le français comme langue officielle du Québec et le devoir que chaque citoyen doit respecter ce statut" and 2) "le principe que chaque citoyen a le droit de s'exprimer dans une autre langue dans le respect de la première exigence" (ICC, 1993 : 3). In light of other comments in their briefs, however, it becomes clear that this second principle constitutes a serious limitation with respect to the first since English, and not French, is promoted as the 'prestige' language of the economy. In 1983, for instance, English is described as "la 'Roi né' internationale, la 'lingua franca' du virage technologique, de la révolution cibernetique (*sic*)" (ICC, 1983 : 10). In 1993, they support the fact that the French language has an important symbolic value, but argue that two other values -- openness towards the world and openness towards other cultures -- take precedence over this 'symbolic value'. Thus, while French is promoted on a symbolic level, its use is considered to be limited by the fatalism of the international market: "[...] la langue ne devrait pas être une barrière au développement économique du Québec" (ICC, 1983 : 15). The significance of the French language in these statements is limited to its status as a 'cultural value' and is divorced from the relations of power which construct it also as an instrument of exclusion. The negation of a power dimension to language is stated explicitly in the Italo-Canadian Congress'

1977 brief: "Il nous semble d'une importance capitale de ne pas confondre le débat culturel avec l'accession du peuple au pouvoir économique" (ICC, 1977: 25).

As was the case with the Jewish Congress, there is a double message in this conception of the right to language. On the one hand, there is a conscious effort of the Italo-Canadian Congress to establish its distinctiveness as neither strictly French nor English speaking. The promotion of languages other than French and English thus reflects a desire to change the conception of Quebec society based on two solitudes. At the same time, however, these 'other' languages and French are constructed as being of 'cultural', or 'symbolic', value, in opposition to English as the 'prestige' language of the economy. In denying a power dimension to language, the linguistic market is conceived as being unrelated to other markets. Consequently, the project of French as the common language of Quebec is undermined, since French language use is excluded from key 'markets' of activity (education, economy) necessary for the social reproduction of the national community.

viii. The Grand Council of the Crees.

The construction of boundaries in the briefs of the Grand Council of the Crees also reflects claims to distinctiveness, but in a significantly different way from those of the Jewish and Italo-Canadian Congresses. The Cree community is described as being one of the founding peoples of Quebec, a people which shares fundamental values and a common culture based on the traditional activities of hunting, fishing and trapping (Cree, 1977 : 1627). These internal boundaries of the community are also, and especially, defined around a legal status; that is, as conferred by the James Bay and Northern Quebec Agreement, described in 1983 as "an agreement between *nations*" (Cree, 1983 : 1 ; my emphasis). Relations between communities – identified as the Quebec government and Cree community – are also defined in terms of their respective legal statuses: "il faut souligner aux membres de la Commission que les Cris ne réclament du gouvernement du Québec à titre de représentant du peuple du Québec,

que le respect de son propre engagement à titre de signataire de la Convention” (Cree, 1977 : 1628). Thus, in both 1977 and 1983 briefs, the relations between communities are structured around a contract, their boundaries fixed by the technical contents of this contract.

The role of language in the construction of community must also be understood in terms of this contract, since the use of Cree and English within the community are legitimated by the James Bay Agreement. Cree, English and French are also presented as serving different roles in the community. While Cree plays both a cultural and communicational role, English is described as being a language of communication only. In 1977, French is clearly given tierce status, its acquisition considered to be ‘voluntary’ : “[les] diplômés de ses écoles [peuvent] poursuivre leurs études en français, *s'ils le désirent*” (Cree, 1977 : 1628 ; my emphasis). In their 1983 argument, there is significantly less attention given to the historical importance of English in the community. Inversely, there is greater legitimacy attributed to the promotion of French. Despite this legitimacy, however, the preservation of the Cree language remains the principal preoccupation of the Grand Council, with French and English as support languages: “the overall intent of the Crees [is] to provide [...] a general program of education for the introduction of French and English as teaching languages within the system, the whole *compatible with the use of Cree*” (Cree, 1983: 4; my emphasis).

It is by virtue of a renewed valorisation of native languages that they propose, in 1983, a Native Language Charter which would be parallel to the French Language Charter. The two Charters, however, are not considered to be contradictory, because they would apply to two distinct populations under two distinct Governments and two distinct legal orders. The markets controlled by each community are thus considered to be exclusive and right is defined intemally as the right of the Cree community to a status of exemption from the provisions of the Charter : “[the application of the Charter] aurait pour résultat concret de causer tant de problèmes, d’ennuis et d’inconvénients [...] que l’auto-détermination des Cris, un des fondements de la Convention, se trouverait sérieusement compromise” (Cree, 1977 : 1628).

III. Discussion: Language Rights and Territory.

As suggested at the beginning of the thesis, language rights, and language issues more generally, have tended to be ignored in sociological literature. And yet, as social phenomena which give rise to political mobilisation in many contexts worldwide, such as Quebec, language rights and language issues are fertile ground for the 'sociological imagination' (cf. Mills, 1977). It is possible now to comment on the meaning of the language right expressed variably by the actors as national rights, collective rights, individual rights, majority rights, minority rights, minority privileges, equal status between languages, equal rights, respect of linguistic difference, equal justice (and so on). In and by themselves, it was argued that these discourses on rights have little meaning. Instead, the specificity of a sociological reflection on language rights as objects of study was to draw out the social action dimension which constructs them as sites of struggle.

i. The Model.

According to the territorial model elaborated earlier, the language right was defined as a negotiated claim between communities occupying distinct social spaces and competing for the control of 'markets', or key domains of activity. This model can be summarised. From a rights point of view, the community may be constructed around a juridical space in which it exercises control over certain 'markets' through the attribution of advantages to its members or, inversely, through the denial of advantage to those groups and individuals considered to be outside of its boundaries (cf. Weber, 1978; Turner, 1988; Kymlicka, 1996). There is a double face to advantage: inclusive on the one hand, it invites the participation of new members; exclusive on the other hand, participation is limited to an already established circle of members. Furthermore, advantage may be legitimised in law as the right of the few to maintain a monopoly of control over certain resources. This was described as the conservative function of law (cf. Freund, 1971). Inversely, it may be inscribed in law as the right of the many; that is, motivated by the ideal of extending the control of resources to categories of individuals

previously excluded from control. This was described as the reform function of law (Freund, 1971).

Considered in isolation, however, the construction of communities around right and advantage can provide only a general framework for understanding language rights. They must necessarily have a signifier: right or advantage on what basis? From this point of view, the meaning of the language right cannot be divorced from the importance of language in relations between communities. The objective has not been to argue that language is necessarily attached to community or nation-building projects in any intrinsic way, but rather to explore the way in which language *sometimes* becomes part of the social space occupied by *some* communities. The idea of language as a value, or symbol, for communities was denied in some of the nation literature examined, particularly that of Anderson (1991) and Deutsch (1966, 1968), for whom the significance of language was limited to its communicative function as a human faculty or technical medium. Yet, the language debates in Quebec are surely evidence that language is more than just a medium in the same way as a fibre optic cable or satellite relay.

Instead, it was suggested that language may become a constructed value for communities; an objective trait which has been transformed into a subjective marker of difference (cf. Brass, 1990). In this sense, the social space of the community may be structured around what Bourdieu refers to as a 'linguistic market': that is, the constructed belief in a legitimate language. The linguistic market, however, is always related to other forms of 'markets' (cf. Bourdieu, 1982; McAll, 1992; Calvet, 1974). These other 'markets' are the domains of social life which are essential to the social reproduction of the community (cf. Williams, 1992; 1996): the workplace, the economy, institutions, juridical activity. From this point of view, the meaning of advantage is not only the right to speak one's language, but the right to control these vital domains of social reproduction. Thus, the meaning of language rights as sites of struggle takes its significance from the fact that these domains are contested sites (cf. Juteau, 1993, 1994) in the relations between communities.

The case-study of Quebec at once confirms and clarifies this model and the provisional definition of language rights.

ii. Linguistic Markets in Quebec.

Applied to the Quebec case, the adoption of the French Language Charter in 1977 represents an attempt to establish a new 'linguistic market', its objective being the construction of a legitimate language (Bourdieu, 1982). From the point of view of juridical pluralism, however, the language guarantees contained in the Charter – the codified rights to language – represent a synthesis of interests, a 'clash and balance' of social actors. The unions and the SSJB, for instance, support the conception of the linguistic market as presented in the Charter; that is, a market based on French unilingualism in all public sectors of activity. To varying degrees, the other actors demonstrate a resistance to the establishment of this new market. The 'clash and balance', however, goes further than this dichotomy. On a descriptive level, this was demonstrated in the conceptions of the right to language which were identified as being of three general types: the recognition of French unilingualism (unions, SSJB), of French-English bilingualism (business organisations, PSBGM, Alliance Quebec) and of other languages in addition to French and English (Jewish and Italo-Canadian Congresses, Grand Council of the Crees).

These differences can also be found in the varied perceptions of the role played by language in the community. Overall, there were few elaborated ideological arguments on language. There were no discourses, for instance, which recalled the eighteenth-century romantic arguments in which language is linked to blood ties and common origins; that is, of language as the symbol of a glorious or historic past, as the 'soul' of the nation, or as being intrinsically beautiful.⁹ Nor were there any explicit discourses in

⁹ The only near exception to this statement can be found in Alliance Québec's 1983 brief in which language was identified as the means by which a community expresses its culture, described as "un ferment actif de notre être, de nos pensées et de nos sentiments" (AQ, 1983: 27). Even this case, however, escapes the

which communities were constructed as inferior because of the language(s) they speak. Such discourses can, however, be traced in the history of struggles over language in Quebec. William Chapman's poem (1890), cited in the preface to the thesis, provides an illustration of the first type: "Notre langue naquit aux lèvres des Gaulois; Ses mots sont caressants, ses règles sont sévères; Et, faite pour chanter les gloires d'autrefois; Elle a puisé son souffle aux refrains des trouvères" (in Bouthillier and Meynaud, 1971: 239). Similarly, Lord Durham's Report (1839) provides an illustration of the second type: "on ne peut guère concevoir de nationalité plus dépourvue de tout ce qui peut vivifier et élever un peuple que celle des descendants de Français dans le Bas-Canada, du fait qu'ils ont conservé leur langue et leurs coutumes particulières. C'est un peuple sans histoire et sans littérature [...]" (Durham Report [1839], 1990: 237).

In contemporary Quebec, the value of language in the briefs examined tends to be structured instead around a civic discourse on communication, participation and inclusion in the societal project; that is, the bringing together of individuals from diverse origins through a common language.¹⁰ This discourse, however, is not used in the same way by all of the actors. For the unions and the SSJB, throughout the period studied, this discourse is articulated around French as the common language in *all* public sectors of activity. Linked to a societal project, French is perceived as the basis of inclusion for individuals from all origins. The business organisations also support French as the 'common language' of Quebec. The meaning of 'common language', however, is more restrictive, since English is clearly constructed as the 'prestige' language of the market, and French as the language of 'culture'. The meaning of 'common language' is thus differentiated by sector of activity. For the PSBGM/QAPSB and Alliance Quebec, it is not French which is promoted as the common language, but French *and* English as two distinct link languages between individuals of

criticism of essentialism, since the significance of language is not linked to blood ties, but rather to language as a shared medium between individuals of diverse origins.

¹⁰ An important distinction must be made here between the communication models of Anderson and Deutsch (Anderson, 1991; Deutsch, 1966, 1968) and the discourse of language as communication. In the first case, the significance of language is reduced to its strictly technical dimension as a human faculty which enables communication. In the second, communication is ideologised as a value for the community in the sense that identity is constructed around "multiple cultural identities" linked through communication (cf. Juteau and McAndrew, 1992). In this latter case, the discourse of a shared common language is not only medium (language as system), but also message (language as a constructed value of the community).

different origins. The proposed societal project is thus structured around two separate language communities in which French and English are, respectively, the languages of all sectors of activity.

In some ways, the arguments of the Jewish and Italo-Canadian Congresses resemble those of the business organisations. They both support French as the common language of Quebec, but clearly attribute a prestige status to English in the economic sector. At the same time, in emphasising the 'cultural' importance of languages other than French and English, these associations distinguish themselves from the business organisations and the PSBGM/QAPSB and Alliance Quebec. Their arguments contain a two-tiered conception of language: English in prestige sectors of activity (the economy and education) and French and other languages as languages of 'cultural' importance. As for the Grand Council of the Crees, while they do give greater acknowledgement to the promotion of the French language in their 1983 brief, it is clearly Cree which is considered to be the link language of the Cree community.

It would thus seem that there has been a transformation in discourse of the role played by language in the construction of the national community, at least in the case of Quebec. On the one hand, it could be argued that this transformation is indicative of the rejection of an essentialist-type conception of society in which communities are identified by common origin or blood ties. In itself, this can be considered an advance both for societies and scientific knowledge. On the other hand, however, the actual extent of this advance can be questioned: Beyond a discourse of inclusion, references to 'common languages' and 'shared societal projects' did not have the same meaning for all of the actors examined. In the cases of the unions and the SSJB, it was used to legitimate a new societal project based on a single common language. Language here was conceived explicitly as an instrument of power, related to reform and the extension of advantage. A relationship between language and power was also identified by the PSBGM/QAPSB and Alliance Quebec. In this case, however, it was used to legitimate the maintenance of a societal project based on two solitudes and two languages. A relationship between power and language was denied in the briefs of the business organisations and the Jewish and Italo-

Canadian Congresses. This denial is reminiscent of the sociolinguistic literature examined at the beginning of the thesis, in which status differences between communities were marked by prestige qualifiers of languages and domains as being 'superior' and 'inferior'. It is the negation of power, in these cases, which is used to legitimate the continued use of English as the 'prestige' language of the market, and French and other languages as languages of 'culture'. At the same time, however, in emphasising the recognition of 'other' languages, the discourses of the Jewish and Italo-Canadian Congresses, and of the Grand Council of the Crees, also represent attempts to carve out a space for the recognition of immigrant and native communities which are caught in the duality of English-French relations.

Thus, the meaning of discourses on 'common language', through which individuals are united despite differences in origins, is variable. The analysis reveals competing conceptions of the 'linguistic market' and the construction of the 'legitimate' language. These differences demonstrate the theoretical interest of examining the relationship between language and community more closely in order to reveal, as Singh has suggested, "what unites members of a language community and what divides them" (Singh, 1996). Already, this understanding of language enables us to go farther than the sociolinguistic literature examined in Chapter 2 by placing emphasis not on language itself, but rather 1) on the meaning attributed to it by the actors being studied and, 2) on the social relations which underlie this constructed meaning. This second dimension of understanding is manifest in the examination of the relationship between the linguistic market and other markets.

iii. Language Rights and Territory in Quebec.

The relationship between the linguistic market and other markets is not conceived in the same way by all of the actors. For the unions and the SSJB, this relationship is explicitly stated. As an instrument of power, language is both constraining and enabling, exclusionary and inclusionary. As an instrument of exclusion, it is a marker

of economic, political and cultural domination. Domination, from the union point of view, is the product of class divisions: the obligation to work in English and the lack of opportunities for advancement because of language. The workplace, as a form of controlled 'market', is also linked to the national 'market'; it is, for the unions, at the centre of the process of *francisation*. The SSJB intervenes especially at this more global, or 'national', level of the debate. Here, language as a marker of relations of domination is situated at political and juridical levels. At the political level, both the CSN and the SSJB refer to failed federal attempts to give legal recognition to the distinct status of Quebec (history of conquest, BNA Act, constitutional debates of 1982, Charlottetown accord, Meech Lake). At the juridical level, all three organisations make reference to the lack of juridical autonomy of Quebec within the federal context (i.e. federal intervention in eliminating articles and chapters of the Charter). The struggle for language – the construction of a new linguistic market – represents the enabling dimension of language as an instrument of power. For these actors, the struggle for language is intricately, and explicitly, linked to the struggle for the control of other 'markets', particularly the workplace and the 'national' territory. The language rights of the community are thus defined in terms of social mobility and the extension of opportunities for the Francophone community as a whole and, in the case of the unions, for workers more specifically. The legislation of these rights draws on the reform function of law.

Because of the denial of struggle in the briefs of the business organisations, the linguistic market is considered to be divorced from the economic market. It is in this way that these organisations are able to justify the disjunctive relationship between French as the language of 'culture' and English as the language of the economy. The relationship between English and economic market is stated not only as a given, but as an irrefutable law of the market, as if the invisible hand of Adam Smith's liberal doctrine of economics was necessarily accompanied by an English voice. Behind these irrefutable laws, however, lies a resistance to intervention in this sector which might upset the monopolistic control of resources.

Linguistic and other markets are inextricably linked in the briefs of the PSBGM/QAPSB and Alliance Quebec. For both organisations, the protection of the English language is associated with the survival of institutions (education, health and social services, community services) and, ultimately, with the survival of the community as a whole. These institutions are explicitly named as sites of struggle, or 'battlefields' in Alliance Quebec's terms. In a reversal of logic, the arguments traditionally used to describe the *minorisation* of the Francophone community are here turned against it. From the 'past' *minorisation* of the Francophone community, these actors contest the 'current' *minorisation* of the English-speaking community in law. Their proposed societal projects based on two language communities, two languages, and two distinct sets of institutions, however, merely serve to reinforce existing boundaries. It is a strategy of the maintenance of two solitudes, rather than of their convergence.

The control over 'markets' in the briefs of the Jewish and Italo-Canadian Congresses, and the Grand Council of the Crees, reveals a dual process of the maintenance of advantage (demands for the maintenance of 'linguistic practices') and the extension of advantage (the acknowledgement of their specificity as communities which are not strictly English or French speaking, but also structured around languages and cultures which are their own). In the case of the Italo-Canadian Congress and the Grand Council of the Crees, claims to the acknowledgement of difference are also expressed in terms of specific measures for the protection of the languages and cultures of communities whose mother tongues are other than French or English (a distinct Charter, in the case of the Crees). In both cases, the adoption of a rights model is used to justify claims to distinctiveness. In the debates over the adoption of international human rights instruments of the twentieth century, discussed in the first chapter, there was a tendency to exclude immigrant and native communities from definitions of 'national minorities'. The rights conceptions of these actors thus reveal claims for the construction of a new social space characterised by the inclusion of immigrant and native communities.

In light of this discussion, it is possible to comment further on the provisional definition of language rights as negotiated claims between communities occupying distinct social spaces and competing for the control of 'markets'. In much of the theoretical literature examined, both on rights and on language, there has been a tendency to define communities by the dichotomous opposition between language and/or national 'minorities' and 'majorities'. At the same time, however, one of the principle hypotheses of the thesis was to explore the possibility of multiple subjectivities (cf. Williams, 1996; Fenet, 1990) which feed into the construction of language rights. This hypothesis was largely confirmed in the analysis. While language rights in Quebec remain largely embedded in the French-English (Anglophone-Francophone) duality, the relations which structure them as sites of struggle are not 'black and white'. We and Other cannot be easily categorised as majority and minority, but rather reveal social actors constructed around competing logics: different conceptions of what should, ideally, constitute the right to language, different values attributed to the role of language in the community and in the societal project and, especially, different 'markets' considered to be essential to the preservation of the communities represented by each of these actors. Majority and minority, from this point of view, are constructed around different kinds of boundaries. In the Quebec case-study, these boundaries revealed class relations, Francophone-Anglophone relations, 'host society'-immigrant relations, 'coloniser'-native relations.

Similarly, these actors cannot be divided strictly according to the types of advantage that they are claiming; that is, in terms of rights claims to social mobility and the extension of advantage versus rights claims based on the maintenance of advantage and a resistance to change. At one level, for instance, the language rights conceptions of the Jewish, Italian and Cree actors can be situated on the second axis; that is, related to the maintenance of existing practices. At another level, however, these conceptions also represent claims to social mobility based on the history of the marginalisation of immigrant and native communities in Quebec. Theoretically, then, it is of interest to break down the global categorisations of minority and majority and to examine more closely the 'clash and balance' which structures language rights as sites of struggle.

A territorial approach to language rights also has implications for understanding the nation as a specific form of community. For some authors examined, such as Anderson (1991), Deutsch (1966; 1968), Gellner (1983) and Smith (1983, 1993), the national community is a relatively harmonious and integrated whole. For others, such as Bauer (1987), Weber (1978), Brass (1990) and Juteau (1992, 1993, 1994), the national community is constructed around a relation of tension, revealing both internal and external boundaries. The case-study supports this latter position, but also expands on it. The 'clash and balance' underlying language rights was theorised in terms of the control, or aspired control, of actors over certain sectors of activity. In the case-study, the most important 'markets' indicated by the actors were the workplace, the commercial sector, institutions (health and social services, education) administration (municipal councils) and control over immigration. In turn, these 'markets' were understood as key sites for the social reproduction of the communities represented by these actors. From this point of view, the 'national market' itself can be understood as a composite of 'local markets'. Language rights, as sites of struggle, are fought out initially in these 'local markets', each of the collective actors fighting for the preservation of their respective 'markets' (maintenance of advantage) or their participation in other 'markets' (the extension of advantage). From this point of view, the national community is itself a composite of interest groups revealing fragmented voices, and more immediate projects and interests.

iv. Negotiated Boundaries.

Thus, the legislated language right in Quebec is 'elastic'. This was the meaning given earlier to the conception of rights phenomena as law-in-action; that is, as being constantly negotiated in the interaction between social actors. This process of negotiation was demonstrated above in terms of the different conceptions of the 'right' to language, the different values attributed to language and the different 'markets' protected by these actors. It was suggested at the outset that there might be a temporal dimension to this negotiation; that is, that these boundaries might change over time.

Overall, however, there were few changes in the positions of the actors during the period studied. This fact, surprising as it might be, is nonetheless a finding in itself, demonstrating the relative stability of boundary construction in Quebec and the tendency to maintain distinct social spaces.

The only exception to this finding is the growing interest of the actors for the themes of pluralism and the integration of immigrant communities in Quebec society. The SSJB is the only actor for whom the integration of immigrants constitutes a principal preoccupation throughout the period studied. While the specificity of the Jewish, Italian and Cree communities are present in all of their briefs, demands for the acknowledgement of pluralism become increasingly central only after 1977. In the early briefs of the unions, immigrant communities play an ambiguous role. While there are passing references to the need for their integration, immigrants are also singled out as being the 'cause' of the non-*francisation* of the workplace (FTQ, 1977). By 1993, however, there is a shift in this argument in which the structural barriers to integration are acknowledged and propositions for the adoption of concrete measures for combating them are made. Similarly, in 1977 and 1983, the theme of immigration occupies very little place in the argument of the business organisations. It is only in 1993 that the Chamber of Commerce comments on the diversity of its members and emphasises its role in integrating them into the business community. For the PSBGM/QASPB and Alliance Quebec, there is also a growing preoccupation with the question of immigration in 1993, particularly in relation to its potential for 'resourcing' the English-speaking community. There would thus seem to be a growing acknowledgement of the pluralism of Quebec society in debates over language legislation.

At the same time, however, the case study presented here focused on the 'classic' groups involved in language rights debates in Quebec. The Cree community inhabited this territory before colonisation and even the Jewish and Italian communities have been long-established in Quebec. The reality of pluralism in Quebec, of course, is much more extensive and, ideally, it would have been interesting to expand the analysis

to more recent immigrant communities. While the absence of these actors constitutes a limitation to the present analysis, it also reflects the current state of language rights debates in Quebec. Parliamentary commissions themselves, as privileged forums for debate on language legislation, tend to reinforce the classic divisions in Quebec society. For the most part, the actors present in these forums are there by invitation, and more recent immigrant communities have not yet 'made the list'. This closure of parliamentary commissions on language legislation is thus itself an indicator of the relative stability of ethnolinguistic boundaries in Quebec around the language question, despite the more recent openness to pluralism.

v. Avenues for Further Research.

The extent of language legislation in the world today, and the numerous empirical examples of language as an object of tension between communities, are evidence of its importance as a social phenomenon and as an object of sociological study. While analysis was restricted here to a single case study, it would be of interest to expand the analysis on a comparative basis with other states: the multiple actors which feed into the construction of language rights, the role played by language in the construction of community by these actors, the 'markets' controlled by them. It would also be interesting to further explore the theme of a civic discourse on language. Is this discourse characteristic of the Quebec case or other contexts in which immigration is an important societal issue? Or is it generalised in most contexts where language has become an object of juridical intervention?

Comparative analysis could also be undertaken at different levels within the same society. The analysis above was based on official actors and official discourses. It would also be possible to bring the analysis down to the level of individual actors, their conceptions of the right to language, and the integration of these conceptions into actual language practices. The potential of this type of analysis was examined, on an exploratory level, in another paper which combined the language rights conceptions of

union and business/management actors with data on the actual language use of engineers and workers in the aeronautics sector¹¹ (Montgomery, 1997). In this instance, the idea of territory was applied to the professional divisions of an enterprise (e.g. engineering versus production). The principal argument was that each sector might be characterised by different ways of 'thinking' the right to language and, consequently, that this conception of right might also influence the way in which this right was practised in these sectors (i.e. in terms of real language use). While the data were not collected specifically for this purpose, the reflection did nonetheless indicate that such a study could be fruitful.

Finally, it would also be possible to apply this model to other forms of rights claims against social exclusion. According to the definition given in the rights chapter, the sociological minority may be structured around any number of defining values; for instance, gender, disability, sexual orientation or poverty. These are also communities whose statuses are increasingly articulated in terms of 'right' and which have become the subjects of legislative guarantees and public policies. From this perspective, it is not only language rights which can be understood as negotiated claims between communities, but all forms of status rights. The language right is only unique in its language dimension: that is, as evidence of the role played by language in the construction and differentiation of communities. On a more global level, however, it belongs to the much larger social phenomenon of minority rights in general, in which struggle is played out "[...] *entre une volonté d'assimilation battue en brèche et la revendication d'une identité perdue de vue*" (B. Poirot-Delpeeh).¹²

¹¹ This data was collected in the context of a research project on language use in the aeronautics sector in Montreal. In all, fifty individuals were interviewed, including engineers, methods agents, foremen and workers (McAll, *et. al.*, 1997).

¹² Cited in *Liberté* (numéro spécial 101 "Watch ta langue!"). p. 36

CONCLUSION

CONCLUSION

I have often wished, that as in our constitution there are several persons whose business is to watch over our laws, our liberties, and commerce, certain men might be set apart as superintendents of our language, to hinder any words of a foreign coin from passing among us [...] The present war has so adulterated our tongue with strange words, that it would be impossible for one of our great grandfathers to know what his posterity have been doing, were he to read their exploits in a modern newspaper (*The Spectator*, England, 1711, no. 165).

The context of this passage takes us back to eighteenth-century England and the struggle against Gallicisms in the English language. For its author, the possibility of legislating language was only an idea, a fancy. This idea has become a part of contemporary political landscapes. As suggested in the first part of the thesis, attempts at intervening in the *confusio linguarum* can be traced throughout history. Generalised measures for the protection of language rights in law, however, are considered to be a product especially of the nineteenth and twentieth centuries (Capotorti, 1991; Braën, 1987; Leclerc, 1986; Tabory, 1980; Fouques DuParc, 1922). It has become conceivable to legislate in the area of language. To borrow Calvet's expression, this conceivability marks the passage from *in vivo* struggles over language to the systematic planning of languages *in vitro*. In constitutional law alone, three quarters of the 172 state constitutions examined by Gauthier, Maurais and Leclerc contained language guarantees (Gauthier, *et.al.*, 1993). The language right also extends beyond these measures, including other forms of legislative guarantees, official policies or administrative directives and, in a broader sense, even *de facto* practices which permit a community to use its language (Cobarrubias, 1983; Daoust and Maurais, 1987; Leclerc, 1986).

Although the object of study here was particularly the meaning of the legislated right to language, there is nonetheless a common denominator to all of these types of measures: language rights as sites of struggle between communities. Struggle was examined from different points of view, the trajectory of the previous chapters leading us from the history of the legislated language right and its conceptualisation in juridical and sociolinguistic literature, to the constitution of a sociological space for understanding these rights as sites of struggle and, finally, to the implications of this theorisation for understanding language rights in Quebec.

From a juridical point of view, the significance of the language right was restrained to its legal dimension. Circumscribed by a series of technical distinctions – positive versus negative rights, civil and political versus economic, social and cultural rights, individual versus collective rights – this conception limits understanding to a closed system of meaning in which social processes are considered to be a form of interference, rather than the foundation of the right itself. Struggle is only hinted at in references to political obstacles which hinder the adoption, interpretation or application of language guarantees. The sociolinguistic literature provides another point of view, by emphasising the importance of language issues in contemporary societies. While this literature provides a wealth of descriptive material on situations of 'language planning' and 'language contact', the conceptualisation of this material is weak. Once again, struggle is hinted at, particularly in the qualification of languages and domains of language-use as prestige/non-prestige, modern/backward, civilised/non-civilised, official/non-official, formal/informal. The meaning of struggle, however, is explained by presumed status differences between language systems, rather than between the communities which use them. From the juridical closure of the first type of literature, we pass here to another form of closure circumscribed by language as system. In both cases, the social dimension of language rights tends to be evacuated; the complexity of social relations and social actors is reduced to closed systems of meaning.

This void in the literature opens up a space for the specificity of a sociological reflection, its objective being to draw out the social action dimension which underlies language rights. The following questions oriented this reflection: What meaning should be attributed to the concepts of language and/or national 'minority' and 'majority' in the context of pluralism? What is the sociological 'content' of rights claims to language which would enable an understanding and the relationship between struggles for the protection of language and the political projects of 'minority' and 'majority' communities? In what way is language tied into these claims, both in terms of the construction and differentiation of communities?

The juridical and sociolinguistic literature tended to focus on the minority in isolation, as a community sharing fixed traits and qualities. A more dynamic argument was presented in the theoretical chapters, which suggested that the minority exists only in a relation to the majority. This relation is an asymmetrical one, in which the minority is constructed as such through processes of *minorisation* and exclusion. Furthermore, it was argued that minority and majority are themselves comprised of numerous collective actors who are in constant interaction. The sociological meaning of the 'right' to language, must also be situated in the dynamism of this relation between diverse collective actors. Drawing on the theme of 'law-in-action', it was suggested that the sociological interest does not lie in the legal norm itself, but in the social action and actors behind the norms (cf. Rocher, 1988). Thus, legislated rights were considered to be 'elastic', representing a synthesis, or 'clash and balance', of actors and interests (Gurvitch, 1963; 1973). The signification of this 'clash and balance' was further situated in a territorial perspective; that is, the idea that within any given society at any given point in time, collective actors occupy distinct social spaces (cf. Weber, 1978; McAll, 1991, 1992; Bourdieu, 1982). These spaces demonstrate at once internal and external boundaries by which We and Other exist in a constant relation to one another; the one does not exist without the other. Furthermore, the spaces were described as being multi-dimensional in the sense that communities may be structured around any number of factors, such as language and rights.

With respect to language, the social space of the community may be structured around the idea of a 'linguistic market' (cf. Bourdieu, 1982); that is, in which language is a constructed value for the community. The 'linguistic market', however, cannot be divorced from other 'markets' (cf. Calvet, 1974; Bourdieu, 1982; Mc-All, 1992). These other markets were described as being the domains of social life which are regulated by legislated language guarantees, such as the workplace, commerce, community services, health, social service and educational institutions, and juridical activity. The sociological significance of these 'markets' is related to the role that they play in the social reproduction of the community (cf. Williams, 1992; 1996).

With respect to the 'right' to language more specifically, this social space is also structured around the idea of advantages attributed to members of the community. These may be defined inclusively, in terms of the extension of rights of participation in these 'markets'; or exclusively, in terms of limited access to these 'markets' for individuals considered to be outside the boundaries of the community. In the first case, the language right is a claim to social mobility and the extension of advantage: in the second case, this right is restricted by the limitation of advantage to a select group. Thus, the meaning of the language right is not only the right to speak one's language, but also, and especially, the right of participation in these vital domains of social reproduction. The significance of language rights as sites of struggle is grounded in the fact that these domains are contested sites (cf. Juteau, 1993, 1994) in the relations between communities. From this point of view, language rights were defined as *negotiated claims between collective actors occupying distinct social spaces and competing for the control of different 'markets'*.

This model was applied to a case study of language legislation in Quebec since the adoption of the *French Language Charter* in 1977. The corpus consisted of 28 briefs presented to Parliamentary Commissions on language legislation in 1977 (Bill 1), 1983 (Bill 57) and 1993 (Bill 86) by collective actors representing various sectoral and 'ethnic' interests: unions, business organisations, educational organisations and

Francophone, Anglophone, Jewish, Italian and Cree interest groups. The *French Language Charter*, it was argued, represents an attempt to establish a new 'linguistic market', its objective being the construction of a legitimate language (Bourdieu, 1982). Both the unions and the SSJB support the establishment of the new 'linguistic market', as proposed in the *Charter*, that is, a market based on French as the common and legitimate language. The rights of the community, for both organisations, are defined in terms of social mobility and the extension of opportunities for the Francophone community as a whole and, in the case of the unions, for workers more specifically. For these actors, the struggle for language is explicitly linked to the struggle for other 'markets', especially the workplace and the 'national' territory as a composite of all public sectors of activity.

Although in different ways, the other actors demonstrated a resistance to the construction of the new linguistic market as proposed in the *Charter*. While the business organisations support French as the common language of Quebec, the linguistic market is considered to be divorced from the economic market. In this way, they are able to justify a disjunctive relationship between French as the language of 'culture' and English as the language of the economy. Behind this conception of the right to language lies a resistance to intervention in the economic sector, the principal 'market' controlled by these actors. The PSBGM/QAPSB and Alliance Quebec propose an alternative linguistic market based on two common languages – English and French. Institutions (health and social services, education) are named as the principal 'markets' to be protected, their preservation being linked to a societal project based on two distinct language communities, two distinct common languages, and two distinct sets of institutions. It is a strategy which implies the maintenance of two solitudes, rather than their convergence.

As for the Jewish and Italian Congresses, and the Grand Council of the Crees, their conceptions of the right to language reveal both claims for the maintenance of current practices and claims for the acknowledgement of their specificity as communities which are not strictly English- or French-speaking. At this second level,

institutions, education, and the economy to some extent, are considered to be important 'markets' for the preservation of their distinctiveness. In this sense, their conception of language rights can also be understood as claims for the appropriation of a social space which recognises a distinct status for immigrant and native communities in the context of English-French relations.

Thus, the language right is continually re-negotiated in the interplay between social actors, revealing different kinds of boundaries. In the case-study of Quebec, these boundaries were defined in various ways, based on class relations, English-French relations, and relations which oppose 'host communities' to immigrant and native communities. Furthermore, the sites of this negotiation were conceived as being multi-local, each collective actor struggling for the preservation of its sectoral interests. In this way, the 'national community' too can be understood as a construct of innumerable collective actors, occupying diverse social spaces and competing for the control of different 'markets'.

The legislated language right emerged in the age of nations, in the context of the protection of the so-called 'national' minorities. The discourses which linked language to nation in the eighteenth and nineteenth centuries tended to be constructed around common origin, blood ties and language as the 'essence' of the community. In the case of contemporary Quebec, these discourses have given way to a new civic discourse on language, participation and communication in which a common language provides the link between individuals and groups of diverse origins. As suggested in the analysis, however, the meaning of this discourse is not the same for all of the actors examined. Beneath the outward appearance of consensus, the meaning of 'common language' and 'participation' is defined by the interests of the collective actors, each preoccupied with protecting, or extending, the advantages of its members.

At the same time, this civic discourse on language is also evidence of a redefinition of the boundaries of the national space in response to increasing claims to the distinctiveness and social mobility of the innumerable social groups which make up

society. While pluralism has no doubt been the *de facto* reality of all societies in all historical periods, it has increasingly entered the domain of law. In this sense, the legislated language right is part of a larger phenomenon which bears witness to the proliferation of status claims to social mobility in contemporary societies. The meaning of minority 'rights', however, whether in relation to language or to other forms of belongingness, cannot be understood strictly within a juridical framework. Beyond their codification in terms of rules and regulations, they are social products and, as such, also necessitate a form of understanding which places social actors and social action at the heart of investigation. This has been the objective of the present reflection.

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APPENDICES

APPENDIX I : Domains of Official Language-Use in Multilingual States.

States	Official Languages	Stamps	Passports	Currency	Text of Laws	Parliamentary Debates
Afghanistan	Dari Pashto	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
Belgium	French Dutch	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
Brunei	Malay English	✓ ✓	✓ ✓	✓ ✓	✓ ^{viii} ✓	✓ --
Burundi	French Kirundi	✓ --	✓ ✓	✓ ✓	✓ ✓	✓ ✓
Cameroon	French English	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
Canada	English French	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
Cyprus (Greek zone)	Greek Turkish	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ --
Comoro Islands	French Arabic	✓ ✓	✓ ✓	✓ ✓	✓ --	✓ ✓
Czechoslovakia	Czech Slovak	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
Djibouti	French Arabic	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ --

States	Official Languages	Stamps	Passports	Currency	Text of Laws	Parliamentary Debates
Finland	Finnish Swedish	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
India	English Hindi	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
Ireland	English Gaelic	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
Israel	Hebrew Arabic	✓ ✓	✓ -	✓ ✓	✓ ✓	✓ ✓
Kenya	English Swahili	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
Kiribati	English Kiribati	✓ -	✓ ✓	✓ ✓	✓ -	✓ ^a ✓
Lesotho	English Lesotho	✓ -	✓ ✓	✓ ✓	✓ ✓	- ✓ ^{aa}
Luxembourg	French Luxembourgian German	✓ - -	✓ ✓ -	✓ ✓ -	✓ - -	✓ ✓ -
Madagascar	French Malagasy	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
Malta	English Maltese	- ✓	✓ ✓	✓ ✓	✓ ✓	- ✓

States	Official Languages	Stamps	Passports	Currency	Text of Laws	Parliamentary Debates
Mauritania	French Arabic	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
Norway	Bokmal Nynorsk	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
Pakistan	English Urdu	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
Papua-New Guinea	English Motu Pidgin	✓	✓	✓	✓	✓ ✓ ✓
Philippines	English Pilipino	✓ ✓	✓ ✓	✓ ✓	✓ ..	✓ ..
Seychelles	English French	✓ ✓	✓ ✓	✓ ..	✓ ..	✓ ✓
Singapore	English Malay Mandarin Tamil	✓	✓	✓ ✓ ✓ ✓	✓	✓ ✓ ✓ ✓
South Africa	Afrikaans English	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
Sri Lanka ^a	Sinhalese Tamil English	✓ ✓ ✓	✓ ✓ ✓	✓ ✓ ✓	✓ ^a ✓ ✓	✓ ✓ ✓

States	Official Languages	Stamps	Passports	Currency	Text of Laws	Parliamentary Debates
Switzerland	German French Italian	✓ ^{vi} ✓ ✓	✓ ✓ ✓	✓ ✓ ✓	✓ ✓ ✓	✓ ✓ ✓
Swaziland	English Siswati	✓ ..	✓ ..	✓ ..	✓ ..	✓ ✓
Tanzania	(English) ^v Kiswahili	✓ ✓	✓ ✓	✓ ✓	✓ ✓	.. ✓
Vanuatu ^{iv}	English French	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
Western Samoa	English Samoan	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓
Ex-Yugoslavia	Serbian Croatian Slovene Macedonian	✓ ✓ (occ.) (occ.)	✓ ✓ ✓ ✓	✓ ✓ ✓ ✓	✓ ✓ ✓ ✓	✓ ✓ ✓ ✓

Source : Laporce, Jean A. (1987) *Languages and their Territories*. (Translated from French by Anthony Martin-Spery) Toronto: University of Toronto Press.

ⁱ Unverified, partial information.

ⁱⁱ Since 1984, Luxembourg is the only 'national' language. The function of the other two languages is specified by the law of 24 February 1984. It was expected, in 1985, that Luxembourg would be used on stamps.

ⁱⁱⁱ Sincily speaking, Sinhalese is the only official language. English was made a national language in 1983 with the intention of keeping it as a bridge between Sinhalese and Tamil.

^{iv} Partial, unverified information.

^v The text of the laws is written exclusively in English. The explanations are given in Kiswahili although, strictly speaking, Kiswahili is the only official language.

^{vi} Rarely English.

^{vii} The name of the country is in Latin.

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- vii. In the event of a conflict of interpretation, English is authoritative except for the constitution, the regency proclamation, and national legislation, where the Malay text prevails.
 - viii. The Sinhalese text is authoritative.
 - ix. Rarely English.
 - x. The discussions are usually in Sinhala.
 - xi. There is an English written translation of the proceedings.
 - xii. French is the language of debates used normally, in the absence of immediate translations. Circle has recently been given official status. It is widely used in parliamentary debates.

APPENDIX II.

LANGUAGE AS A SITE OF STRUGGLE IN QUEBEC
A CHRONOLOGY¹

- 1759 September 13, defeat of Montcalm's armies on the plains of Abraham.
- 1763 February 10, the Treaty of Paris is signed. France cedes Canada to England.
October 7, the Royal Proclamation is signed and common law is established in Canada.
- 1774 Quebec Act, French Civil Law is re-established.
- 1775 Canada is invaded by American troops. .
- 1793 January, debates on language in the Chamber.
- 1806 November 22. Foundation of the newspaper *Le Canadien* in Quebec.
- 1806-07 John Lambert travels to Canada and notes that French is not what it had been prior to 1760.
- 1812 War between the United States and Great Britain.
- 1822 Project uniting the two Canadas. The text proposes the proscription of French language-use.
- 1825 Judge Edward Bowen refuses to acknowledge an official status of French as a language of law. Augustin-Norbert Morin contests the decision.
- 1829 Foundation of McGill University.
- 1831 Alexis de Tocqueville travels to Canada and comments on the anglicisation of Montreal and Quebec City.
- 1834 Ludger Duvernay founds the *Société Saint-Jean-Baptiste*.
- 1839 Publication of the Durham Report.
- 1840 Article 41 of the Act of Union gives official status to English only.
- 1841 Abbot Thomas Maguire publishes a manual entitled: *Manuel des difficultés les plus communes de la langue française adapté au jeune âge, et suivi d'un recueil de locutions vicieuses*.
- 1842 September 13, Louis-Hippolyte La Fontaine reaffirms before the National Assembly the right of French as a language of Parliament.
- 1848 August 14, the British Parliament abolishes article 41 of the Act of Union which proscribed French language-use.
- 1852 Foundation of l'Université Laval de Québec.
- 1865 Arthur Buies publishes a series of articles in the journal *Le Pays* of Montreal on *Barbarismes canadiens*.
- 1866 Mgr. Louis-François Lafleche, in a speech written for the celebration of Saint-Jean-Baptiste in Ottawa, states: "La plus lourde taxe que la conquête nous ait imposée, c'est la nécessité de parler la langue anglaise."

¹ Adapted and expanded from Bouthillier and Meynaud, 1971: 57-63

- 1867 Adoption of British North America Act. Article 133 gives official status to French and English in the Parliaments of Ottawa and Quebec, and in federal and Quebec tribunals.
- 1870 Manitoba becomes the fifth province of Canada. Its linguistic status is the same as that of Quebec.
- 1871 Beginning of debates on linguistic education in New-Brunswick.
- 1879 Jules-Paul Tardivel gives a speech on the following theme: *L'anglicisme, voilà l'ennemi!*
- 1880 Oscar Dunn publishes a glossary entitled *Glossaire franco-canadien et vocabulaire de locutions vicieuses usitées au Canada*.
- 1885 November 16, Louis Riel is hanged. His execution provokes violent reactions in Quebec.
- 1890 Dalton McCarthy submits a proposition to the House of Commons, demanding the repeal of language guarantees for French in the Northwest Territories.
In the spring, the government of Manitoba repeals article 23 of the Manitoba Act, guaranteeing French language rights. Debates over linguistic schools.
April 26, William Chapman publishes the first version of his poem *Notre langue*.
- 1896 Wilfrid Laurier becomes Prime Minister of Canada. Henri Bourassa enters the House of Commons.
- 1897 The Laurier-Greenway agreement officially ends the debates on linguistic schools in Manitoba.
- 1902 February 18, the foundation of the *Société du Parler Français au Canada* at Laval University, in Quebec City. In September, the *Société* publishes its first *Bulletin du Parler français au Canada*, which is replaced by *Le Canada français* in 1902.
- 1903 Olivar Asselin founds the *Ligue nationaliste* in Montreal.
- 1904 Olivar Asselin founds *Le Nationaliste*, journal of the *Ligue nationaliste*. Jules Fournier collaborates and replaces Asselin as director of the journal.
Armand Lavergne is elected federal deputy of Montmagny.
- 1905 Debates in the House of Commons over the linguistic status of Alberta and Saskatchewan.
- 1907 Foundation of the *École des Hautes études commerciales*.
- 1908 Armand Lavergne and Henri Bourassa become members of the Legislative Assembly of Quebec.
- 1910 January 10, Henri Bourassa founds *Le Devoir*.
In July, the Parliament of Quebec adopts the Lavergne Law, making bilingualism obligatory in public service enterprises.
- 1912 The government of Ontario adopts regulation XVII, restricting the use of French in bilingual schools.
From June 24 to 30, the *Société du Parler Français au Canada* organises its first Congress of the French Language. The participants create the *Comité permanent du Congrès de la langue française au Canada*. The Committee is abolished in 1922.
- 1913 March 11, Father Joseph-Papin Archambault and some friends found the *Ligue des droits du français* to watch over the French language, especially in the domains of Commerce and Industry. In 1921, the organisation becomes the *Ligue d'Action française*.

- 1915 Regulation XVII becomes law. Henri Bourassa gives a speech on the school question in Ontario on May 19.
- 1917 Jules Fournier writes the first of two letters on *La langue française au Canada*, in response to a book published by Louvigny de Montigny a year earlier. Abbot Lionel Groulx joins the *Ligue d'Action française* and becomes Director of its revue at the end of 1920.
- 1918 November 20, Henri Bourassa gives a speech on *La langue, gardienne de la foi*.
- 1919 December 18, Léon Lorrain gives a conference on the economic value of French.
- 1923 Jules Masse founds the *Société du Bon Parler français* in Montreal.
- 1927 Repeal of Regulation XVII in Ontario.
For the 60th anniversary of Confederation, the federal government issues bilingual postal stamps.
- 1930 *La Société du parler français* publishes a glossary entitled *Glossaire du parler français au Canada*.
- 1933 The first issue of *l'Action nationale*, journal of the Ligue d'action nationale, is published.
- 1936 The federal parliament votes for bilingual bank bills.
The journal *Revue Dominicaine* publishes a survey of the americanisation of French Canada.
- 1937 The Duplessis government votes a law giving priority to the French version of legislative and regulatory texts. The law is repealed in 1938.
From June 27 to July 1, the *Société du Parler français* holds its second Congress on the French Language in Canada. The participants demand the foundation of a French Language Office and found the *Comité permanent de la Survivance française*.
- 1944 Victor Barbeau founds the *Académie canadienne française* in Montreal.
- 1947 Creation of the *Revue d'Histoire de l'Amérique française*, trimestrial journal of the *l'Institut d'histoire de l'Amérique française* founded in 1946 by Abbot Lionel Groulx.
- 1948 Foundation of the *Association canadienne des éducateurs de langue française* (A.C.E.E.F.).
- 1951 Publication of the Massey Commission report on the Arts, Letters and Sciences in Canada.
- 1952 Third Congress of the French Language in Canada, from June 18 to 26.
- 1953 Debate in the House of Commons over bilingual cheques.
- 1956 Publication of the Tremblay Commission on Constitutional problems.
Congrès de la refrencisation, from June 21 to 23.
- 1959 Death of Maurice Duplessis.
- 1961 Ministry of Cultural Affairs established. *Office de la langue française* created within Ministry, its function being to advise government on language questions.
- 1962 The *Rassemblement pour l'indépendance nationale* (RIN) distributes a pamphlet entitled "Le bilinguisme qui nous tue".
Catholic School Board implements programme of bilingual classes for immigrant children.
- 1963-65 The *Société Saint-Jean Baptiste de Montréal* organises a campaign called "Opération visage français".

- 1965 Lesage government brings out White Paper on Cultural Policy, its objective being to make French 'the priority language in Quebec'.
- 1966 Liberal campaign platform promotes *Le Québec français*.
Parent Commission presents report on reorganisation of public education.
- 1968 Saint-Léonard Catholic School Commissioners make proposition that French be the only language of education at primary levels of education.
- Union nationale* government introduces Bill 85, recognising French as the priority language of Quebec, but maintaining the principle of the freedom of choice in education. Bill withdrawn in March 1969.
- 1969 Mass demonstration organised under the name of "Opération McGill français" meant to pressure the government into making McGill a French university.
Royal Commission on Bilingualism and Biculturalism reports, concluding that Francophones are disadvantaged in all work-related domains of activity. Commission also draws attention to ignored 'third solitude': groups neither of French nor British origin.
Official Languages Act adopted.
Bill 63, "An Act to Promote the French Language in Quebec" adopted.
The *Front du Québec français* (FQF) proposes an alternative language policy, symbolically titled "Projet de loi numéro 1".
- 1972 Gendron Commission report on the language situation in Quebec tabled.
- 1974 Bill 22 makes French the official language of Quebec. Although it contained more measures for promoting the status of French than did Bill 63, it also included a number of compromises and exceptions maintaining the *de facto* status of English.
- 1977 PQ government tables a White Paper entitled "La politique québécoise de la langue française".
Bill 1 on language policy was introduced to the Assembly in April 1977. It was later withdrawn and replaced by Bill 101.
- 1979 *Attorney General for Quebec versus Blaikie*. English translations of all Quebec laws adopted since 1977 made obligatory.
- 1982 Creation of Alliance Québec, an Anglophone rights lobby group.
- 1983 Parliamentary Commission for discussion of Bill 57, "An Act Modifying Bill 101".
- 1986 Three Bills introduced to the National Assembly which had implications for language. Bill 58 gave amnesty to students illegally enrolled in English schools. Bill 140 was intended to reduce the number of administrative agencies mandated by the Charter. The bill was withdrawn. Bill 142 introduced the right to English-speaking individuals to receive health and social services in English.
- 1988 National Assembly invokes the notwithstanding clause, in order to maintain the exclusive use of French on exterior commercial signs.
- 1993 Bill 86 adopted after five year limit allowed by the notwithstanding clause. Legislates priority, rather than exclusive, use of French in public and commercial signs.