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Article abstract

Since the adoption of the *Official Languages Act* 50 years ago, Canada and the rest of the world have changed a lot. As we look back at the past half-century and imagine the next, it is important to take stock of both the successes obtained and the challenges that were faced since the Act came into effect.

The year 1969 was pivotal in our history. On the one hand, the Act was born out of a national unity crisis between Canada's English- and French-speaking communities. On the other hand, it belonged to a broader movement which was seeking to recognize Canadians' rights and to pursue the democratization of our society. It is in recognizing that the Act contributed to national cohesion, to the advancement of official languages and the vitality of the communities that speak them across the country that our successes and challenges need to be evaluated.

Learning from the Past, Shaping the Future: 50 Years of Official Languages in Canada

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Abstract¹

Since the adoption of the *Official Languages Act* 50 years ago, Canada and the rest of the world have changed a lot. As we look back at the past half-century and imagine the next, it is important to take stock of both the successes obtained and the challenges that were faced since the Act came into effect.

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Résumé

Depuis l'adoption de la *Loi sur les langues officielles* il y a 50 ans, le Canada et le reste du monde ont beaucoup changé. En analysant les 50 dernières années et en imaginant les 50 suivantes, il importe de faire le point sur les réussites obtenues et les défis qui ont été rencontrés depuis l'adoption de la Loi.

L'année 1969 a été une année charnière dans notre histoire. D'une part, la Loi est née dans une période de crise d'unité nationale entre les communautés anglophone et francophone du Canada. D'autre part, elle s'inscrit dans un mouvement plus vaste de reconnaissance des droits des Canadiens et de démocratisation de la société. C'est en reconnaissant que la Loi a contribué à la cohésion nationale, à la promotion des langues officielles et à la vitalité des communautés qui les parlent à travers le pays que nos réussites et nos défis doivent être évalués.

1. This article is an adaptation of a speech that was delivered at the 87th Congrès of the Association francophone pour le savoir, in Gatineau, au Québec, on May 29, 2019.

Montesquieu once said, “A thing is not just because it is law; it must be law because it is just. [translation]” It is perfectly reasonable for English-speaking Canadians and French-speaking Canadians to work in their own language and according to their cultural values, while understanding and appreciating the other’s language and values. These are the principles that inspired the 1969 *Official Languages Act*, which turns 50 this year.

Those who know me know that I grew up in a Francophone community on the Prairies and that I’ve worked and lived in Ontario, Quebec and New Brunswick. I therefore consider myself lucky to have been able to live the Canadian experience in a variety of ways, each with its own unique character and challenges.

Half a century ago this year, the passing of the first *Official Languages Act*, which stemmed from the recommendations of the 1963 Royal Commission on Bilingualism and Biculturalism (hereafter the B&B Commission), forever changed the face of Canada. The language rights framework established by the B&B Commission guided the development of the *Official Languages Act* and the *Canadian Charter of Rights and Freedoms* and created a constitutional language regime. The B&B Commission’s recommendations, including the *Official Languages Act* and the multiculturalism policy, strengthened the foundations of both linguistic duality and cultural diversity as Canadian values.

The decision to support two distinct language groups has also helped Canadians understand that it is actually possible—and beneficial—for different peoples to coexist within the same political community. In this way, linguistic duality has laid the foundation for greater respect for all cultures.

In the early 1960s, Prime Minister Lester B. Pearson stressed “the importance of the contribution to our national development made by Canadians other than the founding races,” and recognized that they, too, had “added strength, colour and vitality to the pattern of our national life” (Pearson, 1962, p. 2725). Pearson understood that Canada’s linguistic duality lay at the heart of a broader spirit of pluralism and inclusion. It was also one of the country’s most distinguishing features. By its very nature, linguistic duality rejects the American “melting pot” ideal. The concept of multiculturalism exists alongside linguistic duality, not in place of it. According to Pearson, the two ideals were to be mutually reinforcing. The notion that Canada’s linguistic duality and its broader cultural and ethnic diversity were complementary forces—“a benefit rather than otherwise” for the creation of a strong “political nationality”—was a philosophy that traced its origins back to George-Étienne Cartier’s famous Confederation speech of 1865 (Cartier, 1865, p. 60). Pearson and his successor, Pierre Elliott Trudeau, breathed life back into it. During the latter’s mandate, Secretary of State Gérard Pelletier was tasked with developing a bill on official languages in 1968. Half a century is a long time in the world of public policy. Canada and the world have changed a lot since then.

I'd like to take a look back on the past 50 years. It's important to think about how far we've come and about the successes we've achieved and the challenges we've faced since the Act was passed in 1969. To put things into perspective, the year the Act was passed—1969—was a year of historic achievements, both in Canada and abroad. Just days after the Act had made its way through the legislative process, Neil Armstrong set foot on the moon.

Now, although the Act did represent a giant leap for Canadian language policy in 1969, unlike the moon landing, it was rather more down to earth as a historic event. The Act was, and still is, part of a broader movement to recognize the rights of Canadians and work toward a more democratic society.

In 1969, the Royal Commission on the Status of Women in Canada was halfway through its mandate to report on gender equality issues such as pay equity and equal opportunity employment. At the same time, Canadians saw the *Criminal Code* amended to decriminalize homosexuality and contraception. Meanwhile, Indigenous Canadians were resolute in opposing the government's controversial White Paper on Indian policy, which would ultimately lead to Indigenous rights being enshrined in the Constitution 13 years later.

Looking back, we can see that the 1969 Act was born in a time of hope, a time when rights were being recognized. It was also born in a time of crisis. The B&B Commission was created in response to what was perhaps the greatest national unity crisis in Canada's history. As the late Gérard Pelletier said, "Our common goal, our common work, will be to connect all members of our official communities to the French-speaking world, on the one hand, and to ensure that we are, by doing so, reuniting Canada, on the other hand" (Pelletier, 1968, p. 10).

French-speaking Canadians from across the country, and particularly from Quebec, had grown understandably frustrated at the socio-economic inequality that separated them from English-speaking Canadians. They were also frustrated by the fact that they were still underrepresented within the federal administration and that they continued to have to deal with a government that did not serve them in their own language, as it did their Anglophone counterparts. Both literally and figuratively, their elected government did not speak to them. While some rather vocal English-speaking Canadians saw the B&B Commission as an attempt to impose French on a population that didn't want it, still many others supported equality for English and French at the federal level. Indeed, B&B commissioners, like co-chair Davidson Dunton, an Ontario-based educator, and Frank Scott, an Anglophone from Quebec City, were part of a broader movement in English-speaking Canada that saw equal recognition of English and French as being a core value of Canadian society (Igartua, 2006).

It is in this context that the successes and the ongoing challenges of the Act must be viewed. But what successes have we achieved? Our linguistic duality is the greatest and most obvious.

Linguistic duality is the recognition of two official languages, each of which is equal to the other in status and both of which belong to all Canadians, no matter what language they speak or where they come from. Linguistic duality is also a pledge that these languages, like their speakers, have their own spaces where they can thrive throughout the country. Canada has two official language majorities—French-speaking in Quebec and English-speaking in the rest of Canada—among which we find vibrant official language minority communities. Both the majority and minority linguistic populations give life to our linguistic duality, which is vital to the success of this political experiment we call Canada. The continuing existence and vitality of official language minority communities is the real proof that the Canadian project is even *possible*. As Gérard Pelletier told Franco-Manitobans during a December 1968 rally, “You confirmed to me, if need be, that in Canada two peoples need each other. If you didn’t exist, Canada would be different or would not even be [translation]” (Pelletier, 1968, p. 10).

Linguistic duality is our most successful experience in terms of national reconciliation, despite the fact that the process is continually evolving. It encourages Canadians to use the valuable lessons they’ve learned to help advance other reconciliation projects. Historically, it is often official language minority communities that have made the greatest effort to foster mutual understanding and intercultural cooperation between English-speaking and French-speaking Canadians and to encourage the two majority language communities to recognize the rights of the linguistic minorities within them. Franco-Ontarian politician and minority rights advocate Aurélien Bélanger put it well a century ago when he spoke about the role of official language minority communities: “[They] are, so to speak, the link, the missing link, in the evolution ... which must come if there is ever going to be a Canadian nationality worthy of the name” (Better Understanding Association, 1918, p. 120). It was in this spirit that Charles Howard, an English-speaking Quebecer and the Member of Parliament for Sherbrooke, stood up in the House of Commons in 1927 to support Henri Bourassa’s call for a bilingual federal public service. It was high time, argued the Townships, for the government to recognize what were, in his words, “the two official languages of Canada.”

Perceptions are influenced by history. But the reverse is also true. History—or rather, our understanding of the past—is influenced by perceptions.

Cases taken to court by official language minority communities play an essential role in defining and defending language rights in Canada. Over the years, court cases involving education rights—such as *Mahe*, *Arsenault-Cameron*, *Doucet-Boudreau*, *Solski* and *Rose-des-vents*²—have helped define the scope of the rights of the communities concerned.

2. *Mahe v Alberta*, [1990] 1 SCR 342; *Arsenault-Cameron v Prince Edward Island*, [2000] 1 SCR 3; *Doucet-Boudreau v Nova Scotia*, [2003] 3 SCR 3; *Solski v Quebec (Attorney General)*, [2005] 1 SCR 201; *Association des parents de l’école Rose-des-vents v British Columbia (Education)*, [2015] 2 SCR 139.

For example, in the Supreme Court of Canada's 1990 decision in the *Mahe* case, the Court recognized the right of parents belonging to the linguistic minority to manage their own educational institutions where numbers warrant. This decision was an important milestone in the development of French-language minority communities because it clarified the scope of their right to have their own schools and to manage them. Another example is the *Doucet-Boudreau* case, in which the Supreme Court of Canada ruled that the provincial court—and not the Supreme Court—retained its jurisdiction to monitor the Nova Scotia government's progress in building a French-language school.

More recently, in the case involving the French-language school in Saint-Paul-de-Kent, the Court of Queen's Bench of New Brunswick denied the decision of the former Minister of Education and Early Childhood Development to close the school, ruling that the right to do so rests with the school board (a ruling that was overturned on appeal). In the *Solski* case, the Supreme Court ruled on the issue of English-speaking Quebecers' right to education in their language.

And who can forget the battle to save Montfort Hospital, which has experienced several setbacks in its history. The greatest challenge that Montfort ever had to face happened in 1997, when the Ontario Health Services Restructuring Commission recommended its closure.

We all know how the story unfolded. Montfort won its case before the Ontario Divisional Court in December 1999 and again in December 2001 before the Court of Appeal for Ontario.

These events ended the greatest battle Montfort has known since it opened in 1953 and constituted one of the Franco-Ontarian community's greatest victories. The cause was truly national in scope: it rallied both Francophone and Anglophone communities across the country, including massive support in Quebec. A debate of this magnitude had not been seen since the battle to defeat Regulation 17, which banned teaching in French in Ontario schools in the early 1900s. SOS Montfort supporters firmly believed that the slightest concession to the Commission could eventually undermine the rights of Franco-Ontarians and result in Montfort's demise. The Montfort court case helped to clarify the intentions of the Fathers of Confederation regarding minority rights at the time of Canada's creation in 1867—minorities in and outside of Quebec were to be treated equally, regardless of their numbers. The judgments in favour of Montfort were based on an acknowledgement of the principle of protecting and respecting linguistic minorities. The two provincial courts of law understood that Montfort's victory was vital to show that Francophone minority communities have a legitimate place in this country.

And so, Canada is still a unified country, no matter what some people say. The Act is not the only reason that the country continues to exist, but without it, Canada as we know it could not exist. How could Francophones outside Quebec continue to support a country that refused to recognize their existence? And how could English-speaking Quebecers accept the legitimate claims of Francophones when their fundamental rights were not even guaranteed?

Let's move on to the great strides we've made in terms of the equitable participation of English- and French-speaking Canadians in the federal public service. As good Canadians, we are often too modest about our successes. In 1969, Francophones were grossly underrepresented in the public service, including in senior management. Today, the federal public service reflects the proportion of both official language groups in Canada—a concept that is now written into the Act itself. There are still some challenges to overcome, of course, but overall, the Act has done much to reduce the gap in the equitable participation of Anglophones and Francophones within the federal public service.

And let's not forget the progress we've achieved in serving the public in English and French. Although there are still improvements to be made, the federal government is delivering a much higher level of service to Canadians in both official languages than it did before the Act was passed.

When it comes to bilingualism and Canadians' attitudes toward official languages, we need to remember that the Act was never intended to force anyone to be bilingual. Rather, it was an invitation, for those who wanted, to learn their second official language. Don't forget—you don't have to be bilingual to support official bilingualism. Just look at the ever-increasing popularity of French immersion programs in school. Although public opinion is always liable or even likely to change, our most recent statistics, from a 2016 telephone survey conducted by Nielsen for the Office of the Commissioner of Official Languages, showed that 88% of Canadians support the objectives of the *Official Languages Act* (Office of the Commissioner of Official Languages, 2016).

We have achieved many milestones since the Act was passed in 1969. English and French continue to be fundamental elements of Canadian identity. However, many changes have shaped Canadian society since the last major review of the Act in 1988—changes such as demographic and identity shifts and the growing importance of new technologies.

So, yes, we've made progress, but there is still a long way to go. There are still issues, such as the challenges in recruiting and retaining teachers of French as both a first and second language. And setbacks in language rights are still happening, even this close to 50th anniversary of the *Official Languages Act*.

In 2019, Canadians' basic language rights are still not being respected consistently. Unfortunately, Canadians can't always get service from federal institutions in the official language of their choice, even when they have that right. Federal employees can't always work in the official language of their choice in designated bilingual areas, even though the federal public service is generally composed of a proportional number of both official language groups. Official language minority communities are not always consulted or heard when the government implements new policies or makes changes to programs. Canadians don't always get important safety information in the official language of their choice. Canadian voters can't always vote in the official language of their choice, even though it's a fundamental right.

Regrettably, some provincial leaders appear to have lost sight of the constitutional principles that underlie language rights.

In order for linguistic duality to be something that brings us together, Canada's official languages must claim their rightful place throughout the country. Without strong support for official language minority communities across Canada, our linguistic duality—and, by extension, our country—cannot succeed. Without these communities, Canadian linguistic duality simply doesn't exist.

What we need are a modernized Act and updated regulations that do not measure the vitality of minority communities based on their size in relation to the majority communities. We need a federal language policy that does not change with the constant ebb and flow of the population. In short, we need an Act that is relevant, dynamic and strong.

The task before us may seem gargantuan at times, but to ensure consistent service delivery in both official languages, federal institutions need to progress to a point where compliance with the Act is the result of an organizational culture and processes that take English and French fully into account. Unfortunately, it seems that we don't always leverage the benefits of linguistic duality.

My team has been working tirelessly on a new tool to mark the 50th anniversary of the Act in 2019. The Official Languages Maturity Model will help federal institutions conduct organizational diagnostic assessments and make continuous improvements in terms of official languages. Designed especially for the federal public service, this is the very first maturity model that focuses on the ability of federal institutions to review the processes and systems in place.

However, we can't resolve everything through legislation and mechanisms. Rather, I believe that it's a question of leadership, respect and recognition. We've been given an invaluable legacy. We should avoid seeing official languages objectives as an arduous obstacle course.

The Act is a federal statute. But the way Canadians live their lives in their own official language is very dependent on the provincial and private sectors—in school, at work, at play, online, or even simply when ordering a coffee. How, then, do we ensure that our two languages have their own place in these public spaces, where the power of federal law is limited? I've said it before and I'll say it again: official languages are everyone's business.

New Brunswick's *Official Languages Act* was passed in the same year as the federal language legislation. Several provinces have adopted either legislation or at least a policy on minority language services. The Northwest Territories has nine official languages in addition to English and French.

Most people in Nunavut speak Inuit languages, which have equal status with English and French. And soon, I hope, Indigenous languages will have special status at the federal level that meets the needs of Canada's Indigenous peoples. I am one of five language commissioners in Canada, and soon I will no longer be the only one at the federal level. Each of my predecessors has worked in a unique political and social context, and all of them deserve appreciation for the extraordinary work they have done.

In this golden anniversary year (2019), it's time for the government to review the Act in its entirety in order to make it relevant, dynamic and strong. Without specific and detailed attention, we risk losing the opportunity to make the Act more consistent with current and future realities. A more coherent Act would make it possible for federal institutions to better meet their obligations to official language minority communities and to promote official languages in Canadian society. That is why I've recommended that regulations be developed for Part VII of the Act in order to clarify certain concepts and set parameters to guide federal institutions in taking positive measures.

The Act has reached a plateau in terms of its implementation. Federal institutions have become complacent and do not always ensure that their designated bilingual offices automatically offer or provide services to the public in both official languages. This has resulted in serious consequences, particularly for the development of official language minority communities and for the promotion of the equality and use of both official languages in Canada. Our country needs an updated Act that reflects the reality of current and future generations. This can only be addressed through legislation and with the support and willingness of the government to ensure that the Act is applied at all levels.

It's important to build on a solid foundation and to continue the work of my predecessors, but there are still many things that need to be improved. Canada has changed a lot in the past 50 years—demographically, socially and technologically.

In 2019, the Act must be looking toward the future, and it's clear that the future belongs to our youth. The last major overhaul of the Act took place long before the Internet, social

media and the birth of today's younger generations—the famous millennials and the new Gen Z. Now more than ever, young people are demanding respect for Canada's linguistic duality. They imagine a country where it will be normal to live in English and French; they believe that the federal government needs to lead the way in making this idea a reality; and they have a genuine desire to learn about each other's cultures.

Our unity is fragile, however. A lack of vigilance has led to complacency, which in turn has led to the erosion of language rights. And the less we talk about it, the more erosion will occur. But Canada needs to work on its own advancement as a nation. The recent actions of some governments are alarming, yet the greatest threat to Canada's linguistic duality is indifference.

Linguistic duality is not just for Francophones, nor is it just for Anglophones in Quebec. It's a valuable asset that belongs to all Canadians.

Both official languages, English and French, are at the heart of our Canadian identity. They are at the core of our history. Together with Indigenous languages, Canada's true first languages, they are the foundation of the values of diversity and inclusion in our society. Indigenous languages are an important part of Canada's cultural landscape. In the spirit of reconciliation and in accordance with the fundamental values that unite us, all Canadians can support their country's first languages and their country's official languages.

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