


The Canadian and European experiences with entrenched language rights

by

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pluralism integration assimilation segregation

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- *Pluralism*
 - the preservation of the identity of the language group.
 - *Integration,*
 - aims to unify the different linguistic groups that make up the population of a State by the adoption of special measures.
 - *Assimilation*
 - aims to create an homogeneous society in terms of language
 - *segregation*
 - designed to marginalize and maintain in a state of inferiority the minority language group

Factors that may influence a State to take action on matters relating to language

- the demographic weight of the minority community;
- the geographical concentration of the minority community;
- history;
- the political weight of the minority group and its economic strength;
- the minority group must also be animated by a desire to preserve its language.

Territorial vs Personal Approach

- “**territorial approach**” assumes that the use of a language is closely linked to the concentration of the users of this language in a given geographical territory. According to this approach, services in the language of the citizen will be available only in a region or in a few areas that will be defined geographically and nowhere else.
- “**personality**” based approach is concerned rather with the possibility to use two or more languages on the same territory. The individual is not limited in the use of his or her language by a geographical territory, but can, in theory, exercise his or her right throughout the State’s territory

The Canadian and New Brunswick approach to linguistic planning

- Canada
 - 10 provinces and 3 territories
 - About a quarter of the population (24%), over 7 million people, speak French as their first language and about three quarters (75%), speak English as their first language
 - About 6 millions of the francophones population live in the province of Québec where they form 80% of the population.
 - English is the majority language in 9 provinces and 2 territories. Inuktitut is the majority language in Nunavut.

(New Brunswick)

- Historically forming part of a French territory known as Acadie, New Brunswick was, with Ontario, Quebec and Nova Scotia, one of the four founding provinces of Canada.
- Located on the Atlantic coast, its population is 33% francophone and 66% anglophone.
- The francophone population is largely concentrated in the northern region of the province, which gives it a non-negligible political mass.


Constitutionnel and legislative guarantees

- Canadian Constitution
 - *Charter of Rights and Freedom (The Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK), 1982, c 11.)*, sections 16 to 20 and 23
- Federal Legislation:
 - *Official Languages Act*, RSC 1985, c 31 (4th Supp)
- New Brunswick:
 - *Official Languages Act*, SNB 2002, c O-0.5
 - *Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick*, SNB 1981, c O-1.1

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- Section 16 of the Canadian *Charter* provides:

16 (1) English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada.

(2) English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick.

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- Section 16.1, for its part, is unique to the province of New Brunswick and provides:

16.1(1) The English linguistic community and the French linguistic community in New Brunswick have equality of status and equal rights and privileges, including the right to distinct educational institutions and such distinct cultural institutions as are necessary for the preservation and promotion of those communities.

(2) The role of the legislature and government of New Brunswick to preserve and promote the status, rights and privileges referred to in subsection (1) is affirmed.



- Section 17 of the *Charter* provides:

17 (1) Everyone has the right to use English or French in any debates and other proceedings of Parliament.

17(2) Everyone has the right to use English or French in any debates and other proceedings of the legislature of New Brunswick.

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- Section 18, for its part, imposes bilingualism in the legislative process:

18(1) The statutes, records and journals of Parliament shall be printed and published in English and French and both language versions are equally authoritative.

18(2) The statutes, records and journals of the legislature of New Brunswick shall be printed and published in English and French and both language versions are equally authoritative.

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- Section 19 of the *Charter* provides that :

19(1) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by Parliament

19(2) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court of New Brunswick.



- Section 20 of the *Charter* provides:

20 (1) Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or government of Canada in English or French, and has the same right with respect to any other office of any such institution where

- ✎ there is a significant demand for communications with and services from that office in such language; or
- ✎ due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French.

(2) Any member of the public in New Brunswick has the right to communicate with, and to receive available services from, any office of an institution of the legislature or government of New Brunswick in English or French.

- Section 23 of the *Charter* :

- 23(1) Citizens of Canada

- ☞ whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or
 - ☞ who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province,

have the right to have their children receive primary and secondary school instruction in that language in that province

(2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province

- ☞ applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and
 - ☞ includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.