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Canada's language policy-choices and the modernization of the Official Languages Act

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Abstract

The article discusses some of the key amendments to Canada's Official Languages Act, to be adopted in 2023. It argues that they rest on the view that French is vulnerable in the North American context, an understanding which found confirmation in the publication of the 2021 Census results on English and French in Canada. These amendments are also guided by the principle of substantive equality which justifies the adoption of specific measures for the promotion of French in sectors such as immigration, international affairs, postsecondary education, the economy, and research. However, the article shows that these amendments do not depart completely from the more conventional approach to official languages in Canada informed by political compromise and federalism for reasons of national unity. The principle of substantive equality remains subordinated to the view that English and French need to be treated in a symmetrical fashion. In the end, the article shows that the amendments manage to combine both the principles of formal and substantive equality. It also suggests that the recognition of substantive equality will test the limits of Canada's more conventional approach to official languages. In conclusion, the article calls for more research to monitor the implementation of these amendments.

Keywords: Canada, language policy, official languages, census data, Bill C-13

1. Introduction

Following years of debates on the state of languages in Canada, the federal government promulgated its first Indigenous Languages Act in 2019 (Canada 2019). In 2023, it is about to amend its Official Languages Act (Bill C-13). This article discusses key aspects of the proposed amendments to the Official Languages Act.¹ It contains three sections. The first provides a brief account of the 2021 census data on languages in Canada. The second section provides an overview of the evolution of Canada's official languages policy. The third section focuses on the proposed changes in Bill C-13.

The article shows that the new Official Languages Act builds on a new understanding of French and Indigenous languages as both being vulnerable in the North American context. In Canada, Indigenous languages have a long history of discrimination and colonialism that explains their vulnerable status, as well as the impact of English on their capacity to flourish. For French, the vulnerability is also due to the menace posed by the English language as the new lingua franca which threatens Canada's linguistic equilibrium.

The article also suggests that despite the representation of the French language as being vulnerable, a situation confirmed by the 2021 census data on languages, the new legislation rests on the more conventional understanding of language in Canada as a political compromise. It shows that while the proposed amendments to the Official Languages Act aim to reinforce the French language, they remain informed by other issues such as national unity or state stability. The article concludes that the new legislation is characterized by both patterns of continuity and change, while wanting to guarantee the survival of the French language across the country.

¹ For a comparative discussion of the Indigenous Languages Act and the Official Languages Act in Canada, see Cardinal and Huron (2022).

2. Data on languages in Canada

Every ten years, Statistics Canada, the main agency for data in the country, publishes results from the national census which includes important information on the state of languages in the country.² This data is useful for both the development and the implementation of the country's language legislation, such as the Official Languages Act, including legislation adopted by the provincial governments.

The most recent census data on languages in Canada was published in August 2022. Statistics Canada collected data for eleven variables:

- Knowledge of official languages, "whether the person can conduct a conversation in English only, French only, in both or in neither language" (SC 2022c).
- All languages spoken at home, meaning "all languages that the person speaks at home on a regular basis at the time of data collection" (SC 2021a).
- Language spoken most often at home, "the language the person speaks most often at home at the time of data collection" (SC 2022d).
- Other language(s) spoken regularly at home, "the language(s), if any, that the person speaks at home on a regular basis at the time of data collection, other than the language(s) they speak most often at home" (SC 2021d).
- Mother tongue, "the first language learned at home in childhood and still understood by the person at the time the data was collected. If the person no longer understands the first language learned, the mother tongue is the second language learned. For a person who learned more

² Statistics Canada is a governmental agency. It provides Canadians with data on all aspects of life including languages. It helps decision-makers in their work as well as citizens who need information on the state of the country. Every ten years Statistics Canada conducts the Canadian Census. The last Census was held in 2021. The data collected provides information on Canada as well as on the provinces and territories, census metropolitan areas, communities, and census tracts (SC 2023).

than one language at the same time in early childhood, the mother tongue is the language this person spoke most often at home before starting school" (SC 2021c).

- First official language spoken, either English or French (SC 2021b).
- Potential demand for federal communications and services in the minority official language (SC 2022h).
- Knowledge of non-official languages, which includes all languages except English and French (SC 2022b).
- All languages used at work or on the job on a regular basis (SC 2022a).
- Language used most often at work (SC 2022e).
- Other language(s) used regularly at work, "other than the language or languages they use most often at work" (SC 2022g).

Data from the Canadian census is used to describe the state of the French language in Canada. It emphasizes variables such as mother tongue, first official language spoken (English or French), knowledge of official languages (English and French), and language spoken most often at home. The focus is on the relationship between English and French, but the question on language spoken most often at home also helps understand the situation of all languages spoken in the country. These figures provide valuable information on the pull of English and French on speakers of other languages. More specifically, the category of "first official language spoken" helps capture the official language that Canadians are most likely to use in the public domain irrespective of mother tongue.

In 2021, Canada had a total of 36,620,955 people, of which the large majority spoke English (see Table 1). According to Statistics Canada, English is the first official language spoken for 3 out of 4 Canadians. The proportion of speakers of English has increased since 2016, from 74.8% to 75.5% in 2021. In contrast, while French is the first official language of a growing number of Canadians, the proportion of the population declaring French as its first official language is down from 22.2% in 2016 to 21.4% in 2021 (SC 2022i). Despite Canada's rich linguistic diversity, the prominence of English is obvious. The French language is more vulnerable, partly because of the growing attraction of English.

Table 1. Mother tongue, language most often spoken at home and first official language spoken, Canada, 2021

Languages	Mother tongue	Language most often spoken at home	First official language spoken
English	21,372,885	23,376,200	27,643,140
French	7,651,360	7,044,855	7,828,545
Non-official languages	8,844,470	4,636,560	--
Indigenous languages	188,900	85,835	--

Source: SC 2022f

Table 2 shows that most speakers for whom English is the first official language spoken are in Ontario (13,179,535), followed by British Columbia (4,718,195) and Alberta (4,078,135). In most of the provinces, the English language attracts most Canadians declaring a non-official language. It is no surprise that most speakers of French are in Québec (6,909,570) followed by Ontario (484,425) and New Brunswick (229,330). Outside these regions, French-speaking communities are much smaller. Already, in 2017, Statistics Canada (2017, 56) was predicting that the proportion of English as the first official language spoken was expected to increase while French would decline by 2036 falling from 22.9% in 2011 to 20.3% to 20.9%. When examined in relation to criteria of mother tongue and home language, these projections confirm the pull of English in Canada.

Table 2. Mother tongue, language most often spoken at home, and first official language spoken, provinces, 2021

Provinces	Mother tongue	Language most often spoken at home	First official language spoken
	English: 486,560	English: 494,120	English: 501,645
Newfoundland and Labrador	French: 2,215	French: 880	French: 2,110
	Other: 12,655	Other: 7,230	

Prince Edward Island	English: 132,425 French: 4,560 Other: 12,965	English: 139,195 French: 2,085 Other: 9,080	English: 146,265 French: 4,350
Nova Scotia	English: 851,545 French: 27,340 Other: 62,220	English: 896,020 French: 12,680 Other: 36,450	English: 926,860 French: 26,775
New Brunswick	English: 487,010 French: 225,560 Other: 33,115	English: 528,115 French: 201,560 Other: 19,265	English: 528,550 French: 229,330
Québec	English: 639,365 French: 6,291,440 Other: 1,167,550	English: 874,185 French: 6,512,870 Other: 662,615	English: 1,088,820 French: 6,909,570
Ontario	English: 9,179,655 French: 463,120 Other: 3,787,835	English: 10,910,560 French: 254,870 Other: 2,219,265	English: 13,179,535 French: 484,425
Manitoba	English: 935,110 French: 36,740 Other: 296,745	English: 1,084,900 French: 14,715 Other: 172,570	English: 1,269,710 French: 36,195
Saskatchewan	English: 911,765 French: 12,565 Other: 158,135	English: 996,645 French: 3,215 Other: 90,820	English: 1,094,690 French: 11,335
Alberta	English: 3,083,840 French: 64,855 Other: 906,680	English: 3,481,545 French: 22,755 Other: 550,665	English: 4,078,135 French: 64,440
British Columbia	English: 4,718,195 French: 54,420 Other: 1,379,145	English: 3,888,825 French: 17,245 Other: 847,550	English: 4,718,195 French: 56,495
Yukon	English: 31,995 French: 1,785 Other: 4,705	English: 35,684 French: 1,035 Other: 2,235	English: 37,720 French: 1,810
Northwest Territories	English: 30,795 French: 1,130 Other: 6,925	English: 35,345 French: 615 Other: 3,345	English: 39,055 French: 1,135
Nunavut	English: 12,100 French: 520 Other: 20,130	English: 17,060 French: 340 Other: 15,475	English: 33,955 French: 575

Source: SC 2022f

The data on the English language in Québec also deserves some attention, with 13% of the population declaring English as its first official language, an increase from 1% since the 2016 Census. Most English speakers are found on and around the island of Montreal. According to Statistics Canada, English–French bilingualism has also increased in Québec (especially amongst the French-speaking population), from 44.5% to 46.4%, while it has remained stable in Canada as a whole with 18% in 2021 in comparison to 17.9% in the 2016 Census. More specifically, bilingualism amongst the English-speaking population outside of Québec is much lower than in Québec. According to Statistics Canada, although there has been an increase in the bilingualism rate in Québec (as noted above, from 44.5% to 46.4%), the situation is reversed outside of Québec where it is decreasing (from 9.8% to 9.5%) (SC 2022j).

Data show that the English language is not under threat in Québec. The Anglo-Québec community also has a solid set of historical institutions, including hospitals, universities, and community-based organizations (Cardinal & Léger 2019). Even though English and French have equal status and rights in Canada, the tendency to compare the situation of Francophone minority communities with that of the English population in Québec is flawed. Outside of Québec, the need for the federal government—and for the provinces—to improve their funding programs to promote and protect Francophone communities is pressing.

In sum, the 2021 census reveals different patterns of growth for the English and French languages. In Québec, the competition between English and French is important while in the rest of the country, English is dominant. Moreover, resistance to official bilingualism is growing in some parts of the country, based on the view that requirements to speak French, in the civil federal public service, would be a form of discrimination (Martin 2021; Wernick 2021).

3. Three generations of language policies in Canada

Language policies are the result of complex interactions between state traditions, interest-group politics, and language ideologies within a particular

language regime.³ Canada is no exception with its tapestry of nations and peoples, including its Indigenous population, Québec and Acadia, and its various immigrant groups which comprise its ethnocultural diversity (Taylor 1995; Tully 1995; Kymlicka 1998; Gagnon & Iacovino 2007; Gagnon 2021). Throughout its history, the country has had to face important language issues with regards to the status provided to French (Martel & Pâquet 2010). Before the 19th century, language choices were made through some form of brokerage politics between Anglophones and Francophones (Cardinal 2016), but those were meant to accommodate, not to regulate.

With the creation of the Canadian federation in 1867, Canada witnessed its first generation⁴ of language policy regarding the French language. Article 133 of the 1867 Constitution gave the French and English languages the same status in the federal parliament and the Québec legislature, as well as in the federal and Québec courts. This was probably the first time that the status of French was formalized in an official constitutional text. Put differently, Article 133 determines how, when, and where the language can be used.

³ A “language regime” comprises a State’s practices and representations related to language and language use as projected through State policies and as acted upon by language users (Sonntag & Cardinal 2015, 6).

⁴ The concept of generation is a descriptive tool which helps address how language policies or State practices are transformed or shaped within a particular language regime. In the social sciences it usually points to the role of young people in social change. Simply put, it involves a particular population born during the same period (Nemčok & Wass 2021). In the same manner, scholars in public policy discuss generations of research in periods of ten years (Ferretti, Pluchinotta & Tsoukiàs 2019). We use the concept of generation in language policies as a tool to describe patterns of change in the development of language policy-choices. However, it is not possible to define the generations of language policies so neatly in periods of 15 years. The first generation lasted for 100 years, from 1867 to 1963, while the second generation went for 20 years from 1963 to 1982, and the third generation has been going on for over 30 years. Those patterns are not consistent with the literature in public policy because the official language policy is not reviewed unless the government chooses to do so. The new proposed Official Languages Act will contain a provision that requires such revision once adopted. See Article 42(1): “On the 10th anniversary of the day on which this section comes into force and every 10 years after that anniversary, the Minister must undertake a review of the provisions and operation of this Act” (Canada 2022).

At the time, the status granted to the French language in the Constitution was viewed as a major compromise to insure support from Québec for the newly proposed federal arrangement. As suggested by Harrington (2017) for Gochnauer (1991, 66), language rights “are born in the attempt to create stable national systems of multilingual populations.” They do not have a universal character “because they are the result of political compromises unique to each particular national situation” (Harrington 2017, 2018). As such they pursued brokerage politics as witnessed throughout Canadian history. Article 133 does not call for State intervention; it is thus a form of negative right. No measures were taken to implement the new status of French under Article 133. It was only in 1959 that translation services were provided to parliamentarians who wanted to speak French in the debates in Canadian Parliament. English also remained the dominant language of the courts, to say nothing of the civil service.

A federal rather than unitary political regime was the other major concession to Québec at the time. However, the Canadian Constitution did not specify which order of government was responsible for language. The latter was defined as ancillary, which meant that all governments (federal and provincial) could adopt language policies in their own jurisdictions. In Québec, this meant that the government could adopt its own language laws, including legislation to protect the French language. In the other provinces, however, it justified the prohibition of French (and other languages) in the legislatures and, more importantly, in schools. Francophones were left with no guarantees (Aunger 2005; Cardinal 2015). They were subject to the majoritarian political process.

The second generation of language policies results from the Royal Commission of Bilingualism and Biculturalism in Canada. The Commission was created in 1963, to study the relationship between the “two founding peoples” (English and French) and make recommendations to improve the situation of French Canadians, while taking account of the contributions from other ethnocultural groups in the country (Laing & Cooper 2019). Following the Commission, in 1969, French and English were declared official languages of the Canadian federation. The Official Languages Act, 1969, gave official

language rights to all Canadians: the right to federal services in the official language of their choice; the right of Francophones and Anglophones to equitable representation in the public service; and the appointment of the first official languages commissioner.

However, the new policy was informed by an understanding of language rights as political rights in keeping with Canada's tradition of granting negative rights (MacMillan 1998). The new language policy pursued the State tradition of compromise between Francophones and Anglophones in order to keep the country united (Cardinal 2015). Political reasons, that is, the growing independentist movement in Québec, prompted political action, but there was no substantial commitment to transforming the relative status of the two official languages. The implementation of the new policy was thus limited. It led to some change, such as the hiring of more Francophones in the federal civil service, but it did not provide the necessary means to promote French as an official language within the government, in particular the civil service where English remained the dominant language (Turgeon & Gagnon 2015; Gaspard 2019). The implementation of language rights hence remained restrictive.

In 1971, the Canadian government adopted the concept of "designated bilingual regions," such that civil servants working in those regions were granted the possibility of using the official language of their choice (Robichaud 1983). The regions selected as "designated bilingual regions" were the northern part of New-Brunswick, where there is a majority of Francophones, parts of Québec and Montreal where the Anglophone minority was concentrated, and the eastern part of Ontario, as well as the Ottawa region, as the federation's capital. Furthermore, in order to make the learning of French more attractive, in 1977, the Canadian government created a bilingual bonus.⁵

⁵ The bilingual bonus is a taxable benefit of \$800 given annually to all civil servants who have positions requiring both official languages, English and French (Canada 2012; Lecomte 2017).

In 1971, the Canadian government also adopted a policy on multiculturalism, meaning that immigrants would be encouraged to maintain and promote their culture and languages. This policy was subordinated to the Official Languages Act in order for Canada to develop as a multicultural country within a bilingual context. Provinces could also adopt their own language policies, including for the promotion of the French language.⁶ Outside of Québec, Francophone minority communities were struggling with rates of assimilation as high as 70% in some areas—a situation which was considerably different from that of English-speaking communities in Québec. Only New Brunswick adopted its own Official Languages Act in 1968. No other provinces would follow suit. English would be the *de facto* official language of most provinces.

A third generation of language policies emerged in 1982, when French and English were incorporated into the new Canadian Charter of Rights and Freedoms. The Charter recognized that French and English have equal power, status, and privileges. It confirmed the government's will to move beyond the view that language rights are political in order to embrace a more universal and positive understanding of those rights. The approach is particularly apparent in two areas. First, the new Charter includes a provision which recognizes the right of members of official language communities to receive instruction in their mother tongue (Article 23).⁷ This approach is informed by the view that language and culture are essential to an individual's identity. As suggested by Réaume and Green (1984, 777), the Charter therefore provides individuals with the "linguistic security" needed "to live a full life in a community of people who share one's language."

⁶ For a discussion of how bilingualism and multiculturalism interact within Canadian federalism, see Laforest (1992) and Kymlicka (1998). Canada's multicultural policy does not prevent the promotion of multilingualism at a federal level. However, it is provinces and territories that promote multilingualism in the context of schooling programs, which is an area of intervention that falls under their jurisdiction (Cardinal & Léger 2019).

⁷ The new Article 23 was particularly controversial because it led the federal government to intervene in an area which was not under its jurisdiction. Education is a competency which belongs to the provinces. For that reason, Canada's language regime became court driven since the implementation of Article 23 depended mostly on the result of court cases. For a detailed analysis of the different court cases, see Cardinal and Foucher (2017).

Secondly, the Charter led to the adoption of a new Official Languages Act in 1988 to replace the 1969 Act. The new legislation was also guided by a more positive understanding of language rights, specifically that language rights may require positive state action. This was particularly evident with regards to two sections of the new legislation, sections V and VII. Section V recognized the right of civil servants to work in the official language of their choice, which would require major State intervention to promote the use of French within the federal civil service. Section VII imposed an obligation on the federal government to work towards the enhancement and development of its official language minority communities, that is, Francophones living outside of Québec and Anglophones living in Québec.⁸ Finally, in 2003, the Canadian government adopted its first plan for the promotion of its official languages, to contribute to the enhancement and development of its official language minorities.⁹

In 2005, the Canadian government adopted an amendment to the Act to require that the adoption of “positive measures” for the enhancement and development of its official language minority communities. However, it never provided a proper definition of what could be considered a “positive measure.” Therefore, the means to promote official language minorities were never really defined. The Canadian government made investments in different programs, such as supporting official language groups and projects to promote official languages, but with no real monitoring of its actions to see if the means were reflective of its goals.

Furthermore, most of the government’s action around official languages requires interventions in areas such as health, education, social services, and immigration, which also fall entirely or partly under the jurisdiction of the provinces. Because of federalism, official language minorities, in particular

⁸ While Canada’s policy on multiculturalism was adopted in 1971, with the 1988 Official Languages Act, the federal government also adopted its first piece of legislation on multiculturalism which recognized the right of all Canadians to their own cultural and linguistic heritage. Importantly, it reaffirmed multiculturalism within a bilingual context.

⁹ Canada has had four language plans—at the time of writing a fifth one is in preparation.

members of Francophone communities in the Anglophone provinces, have been caught in the intricacies of federal-provincial relations, where every project needs to be approved by both governments without their participation of official languages minority groups at the negotiating table. Further, because of Canada's original political compromise, provinces have no obligation to follow the federal government's action. In 1989, Ontario adopted its own language policy, which offered services in French where reasonable and practical. Other provinces followed much later. In 2022, British Columbia is the only province that does not have a French language policy. The provinces recognize their role in the enhancement and development of their official language minority, but they are under no obligation to collaborate with the federal government to that end.

Finally, within the federal government services, which include criminal justice, employment, foreign affairs, research, transportation, and many more, should be actively offered in both official languages, but in its yearly reports the Official Language Commissioner shows that offering services in French remains an issue¹⁰ (Normand 2019). Federal civil servants have the right to work in the official language of their choice, but the dominant language of the public service remains English. The Department of Foreign Affairs is a good example of a sector where there are no Francophone civil servants in positions of authority except for political appointments. Requirements for the French language in this Department are questioned regularly, as frequently reported in the French-language media (Caillou 2020; Proulx 2020, 2022).

In the end, despite the government's adoption of a more ambitious piece of legislation, which clearly moves the language of rights from political to more universal rights, the implementation of the new Act remained problematic. Rayner and Howlett (2009) claim that incoherence and inconsistencies in a policy can eventually produce "policy drift." We suggest that the past 60 years of layering in language policies in Canada have produced inefficiencies created

¹⁰ For details, see the annual reports of the Official Languages Commissioner (OCOL 2023).

by years of unfinished reforms, or to use these authors' formulation (2009, 323), "a palimpsest-like mixture of inconsistent and incoherent policy elements." Bill C-13 is a response to the shortcomings in the 1988 language legislation.

4. Bill C-13's proposed changes to the Official Languages Act

Bill C-13 is the result of more than five years of effort by Francophone minority groups in Canada to put the modernization of the Official Languages Act on the political agenda. For the main organization representing these groups, the Fédération des communautés francophones et acadienne du Canada (FCFA), a more robust piece of legislation which would guarantee the vitality of the French language was needed (Dubé 2018). In 2018, the Prime Minister of Canada, Justin Trudeau, announced that his government would modernize the Act (Dubé 2018). In 2019, then Minister of Official Languages, Mélanie Joly, conducted extensive consultations to identify key issues that would need to be addressed in order to ensure the continuity of official-language minority communities (Canadian Heritage 2019). In 2020, the Throne Speech¹¹ contained a special mention calling on the government to protect the French language in Canada, including in Québec, and to reinforce the Official Languages Act (Cournoyer-Paquin 2020). In June 2021, the Official Languages Minister published the white paper French and English: Towards Real Equality of Official Languages in Canada (Canadian Heritage 2021), which led to the introduction of Bill C-32. That bill "died" shortly after on the Order Paper because of the dissolution of Parliament which led to the September 2021 federal elections. However, the return of the Liberal Party to the government provided the necessary continuity in the area of official languages.

¹¹In Canada, at the opening of a session of Parliament, the Governor General reads the Speech from the Throne in the Senate Chamber. The Speech usually contains the government priorities for the new parliamentary session (Senate of Canada 2021).

In March 2022, the new Minister for Official Languages, Ginette Petitpas-Taylor, tabled Bill C-13, *An Act to amend the Official Languages Act, to enact the Act respecting the use of French within private enterprises under federal jurisdiction and to make amendments related to other laws*. While this bill maintains the structure and the different sections of the existing Official Languages Act, it introduces important new features, which can be grouped into three categories.

First, Bill C-13 incorporates in the preamble of the Official Languages Act the observation that French is a vulnerable language, notably because of the predominance of English in the North American context. Bill C-13 further recognizes the historic role the French language has played in the development of the country. It also states that language rights are to be interpreted in light of their remedial character in order to guarantee the continuity of French in Canada. The preamble also specifies that “the Government of Canada is committed to cooperating with provincial and territorial governments¹² and their institutions to support the development of English and French linguistic minority communities, to provide services in both English and French, to respect the constitutional guarantees of minority language educational rights and to enhance opportunities for all to learn both English and French” (Canada 2022). The reference to the federal character of Canada is incorporated in the Act “to guarantee that all agreements between the federal government and the provinces are made in both official languages and that both versions are equally authoritative” (Canada 2022).

Secondly, Bill C-13 innovates in incorporating the principle of “substantive equality” into the Official Languages Act in particular to introduce measures to guarantee the promotion of French. It requires that the government “takes into account, where necessary, the differences in characteristics and

¹² In Canada, provincial governments have legislative authority in comparison with territories who have delegated authority. There are three territories in Canada: Northwest Territories, Nunavut, and Yukon (Graham & Yarhi 2006).

circumstances of minority communities and provides services with distinct content or using a different method of delivery to ensure that the minority receives services of the same quality as the majority” (Canada 2011). In other words, the reference to the principle of substantive equality in Bill C-13 confirms that advancing the equality of English and French in Canada includes the use of differentiated means, in particular to meet the needs of Francophone minorities. The principle of substantive equality should also guide the adoption of “positive measures” by the government to ensure the enhancement and development of official language minorities.¹³ In this context, the provisions of Bill C-13 on Francophone immigration have significant structuring potential. The adoption of a Francophone immigration policy is one of the new positive measures that the federal government will have to adopt in order to contribute to the sustainability of the Francophonie in the country. Other areas of State intervention will include the development of measures to promote French as a scientific language, and in Canadian diplomatic relations. Bill C-13 also extends the

¹³ Bill C-13 defines the concept of “positive measures” in Article 6. Subsections (1) to (3) in the article refer to definitions and interpretations. These measures “(a) shall be concrete and taken with the intention of having a beneficial effect on the implementation of the commitments under subsections (1) to (3); (b) shall respect (i) the necessity of protecting and promoting the French language in each province and territory, taking into account that French is in a minority situation in Canada and North America due to the predominant use of English, and (ii) the necessity of considering the specific needs of each of the two official language communities of Canada, taking into account the equal importance of the two communities; and (c) may include measures, among others, to (i) promote and support the learning of English and French in Canada, (ii) foster an acceptance and appreciation of both English and French by members of the public, (iii) induce and assist organizations and institutions to project and promote the bilingual character of Canada in their activities in Canada or elsewhere, (iv) support the creation and dissemination of information in French that contributes to the advancement of scientific knowledge in any discipline, and (v) support sectors that are essential to enhancing the vitality of English and French linguistic minority communities, including the culture, education—from early childhood to post-secondary education—health, justice, employment and immigration sectors, and protect and promote the presence of strong institutions serving those communities” (Canada 2022).

areas within which the Canadian government is required to take positive action to enhance and develop its official linguistic minorities, to include areas such as early education, postsecondary education, and employment. Steps to be taken in these areas will also be guided by the principle of ensuring substantive equality for Francophone minorities.

In keeping with the principle of substantive equality, Bill C-13 includes the enactment of a separate, new Act, the Use of French in Federally Regulated Private Businesses Act. This Act imposes responsibilities on the Canadian government to encourage the use of French (as a language of service and language of work) in private businesses under federal jurisdiction located in Québec, and in regions with a strong French presence in the rest of the country.

Third, Bill C-13 reinforces the responsibilities and powers of key stakeholders in the implementation of the legislation. For example, it confers a coordination and leadership role on the Department of Heritage Canada for the implementation of the amended Act. It also reinforces the responsibilities of Treasury Board in matters of monitoring and coordination of particular sections of the Official Languages Act—such as Parts IV (Communications with and Services to the Public), V (Language of Work), and VI (Participation of English-speaking and French-speaking Canadians), and Subsection 41(2) of Part VII (Advancement of English and French)—within federal institutions. The bill grants new powers to the Commissioner of Official Languages to ensure greater compliance with the Official Languages Act, including the power to enter into compliance agreements with federal institutions and to issue orders against them in certain instances. This is particularly relevant in relation to the transportation sector, including the regulation of Air Canada, a corporation subject to the Act.¹⁴ The bill also requires that judges of the Supreme Court of Canada be bilingual (in English and French), as judges in all other federal courts are already required to be. Finally, Bill C-13 creates the obligation to conduct a periodic review of the Official Languages Act.

¹⁴ For example, see Global News (2019).

These new developments pave the way for a fourth generation of language policy in Canada that requires differentiated measures in order to address inequalities and promote the French language. This fourth generation of language policy also reaffirms the positive role of the State in developing those measures. However, Bill C-13 contains important limits. It is premised on the concept of substantive equality but only in a limited way. A closer look at Bill C-13 shows that it reaffirms the equality between English and French in a systematic fashion, in order to keep a certain symmetry between Anglophones in Québec and Francophones in the rest of Canada. This symmetry is understood as an important compromise for national unity reasons. The principle of symmetry with Francophones living outside of Québec is associated with peace and harmony between linguistic communities in the country (Jennings 2023). Commenting Bill C-13, the Quebec Community Groups Network (QCGN), the main lobby group in Québec for Anglophones, fears that promoting the French language will be done at the expense of the English language in Québec. It believes, as suggested by its president, that giving rights to one group can only be done at the expense of another group.¹⁵ In other words, the recognition of specific measures to promote the French language including in Québec could represent a threat to the future of English speaking communities in Québec. Any breach of the principle of symmetry is viewed as a threat to the viability of Anglophones in Québec.

Bill C-13's strength may be its commitment to substantive equality with regards to the enhancement and development of Francophone communities outside of Québec. However, while it proposes new rights for Francophones, such as the right to receive services in French in federally regulated private businesses, these rights exist only where numbers warrant. The bill also calls for constructive relations between the federal and provincial governments but does not provide any guidelines for how

¹⁵ "It's not by giving new rights to one group and by taking it away from another is the way to accomplish this," says QCGN President Eva Ludvig (QCGN 2022).

this should occur. Finally, the bill contains few measures to implement the right of civil servants to work in French in the federal public service.

We argue that Bill C-13's incoherence may be the result of Canada's tradition of political compromise, that is, moving incrementally, not rushing the English-speaking majority into change. As stated by Rayner and Howlett (2009, 99), policies must be regarded as "always embedded in pre-existing contexts where the relics of earlier policy initiatives are found in paradigms, institutions, practices and established actor networks." For example, imposing too many constraints on provinces would lead to a major crisis of federalism. Imposing specific measures for the promotion of French in the civil service could raise concerns that affirmative action in favour of Francophones could be contrary to the merit principle.

Finally, Rayner and Howlett (2009) use the concept of policy exhaustion to suggest that when a policy regime is undermined, it calls for radical solutions. The principle of substantive equality is the potential "radical response" to a policy whose objectives have been undermined because of a flawed process of implementation. Bill C-13 will be an important test of the capacity of Canada's language regime to adapt to demands for substantive change.

5. Conclusion

Language policy-choices are made through complex processes. The transition from one generation of language policy is not easy. In Canada, with each transition, new goals were added to Canada's language policies; new promises were made but not always kept. Even during those moments of change, the policy choices made seem to continue to embody past norms and practices. New policies can also be the result of policy drifts.

The French language in Canada may be viewed as a vulnerable language, but our article shows that the Official Languages Act is defined within the limits of existing State traditions, such as political compromise and federalism. The goals of Bill C-13 are more ambitious, but their implementation will certainly confront the limits of Canada's approach

of political compromise. More research will be needed to monitor the implementation of the new policy until it is revised.

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