

**SÉRIE ANTROPOLOGIA**

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**INDIVIDUALISM, COLLECTIVE IDENTITIES  
AND CITIZENSHIP: THE UNITED STATES  
AND QUEBEC SEEN FROM BRAZIL  
Luís R. Cardoso de Oliveira**

**Brasília  
2000**

**Individualism, Collective Identities and Citizenship:  
The United States and Quebec Seen from Brazil<sup>1</sup>**

Luís R. Cardoso de Oliveira

For a long time now the USA has been a stimulating counter-point, or comparative reference, for Brazilian Social Scientists when thinking about democracy and citizenship in Brazil. From Sérgio Buarque de Holanda (1936/1963) through Oracy Nogueira (1954/1985), to the more recent work of Roberto DaMatta (1979). In this regard, American individualism has been at the center of the concern of these authors, and has been a major source of insight in their analysis of Brazil, where notions like personalism, complementarity, hierarchy and tradition have come out of the comparison as characterizing the Brazilian context, in contradistinction to the ideals of individuality, autonomy, equality and modernity which one finds in the USA. Drawing on this framework I want to add Quebec to my inquiry and reverse the focus of the analysis to look at individual rights, collective identities and citizenship in the USA and Quebec from a Brazilian viewpoint.

Focusing on the demands for recognition of Québécois identity in Canada, and on the articulation between the notions of individual and legal rights in the USA I will examine a certain type of citizenship rights which are not adequately dealt with in the two contexts. While in Quebec's case the mediation between collective identities and citizenship rights has become the core of the Canadian constitutional crisis, in the USA the force of individualist ideology and an emphasis on individual rights has been a significant hindrance to dealing with what I would like to call moral insults, and a major difficulty to protect the respective rights thus injured.

Once, in a comparison between the conditions for the exercise of citizenship rights in Brazil and the USA, I have argued that no matter how broad and diverse the meaning of these rights may be in different democracies, they have to aim at achieving a reasonable balance between the principles of justice and solidarity. That is, a balance between respecting the (universal) rights of the individual and expressing *considerateness* to the personhood or identity of the respective citizens. Whenever such a balance is wanting, one may speak of deficits of citizenship (Cardoso de Oliveira 1997).

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<sup>1</sup> A preliminary version of this paper was presented in the *Primer Congreso Internacional de Especialistas Latinoamericanos en Estudios sobre Estados Unidos y Canadá*, which took place on November 25 & 26, 1999, in Mexico City. I would like to thank the *Centro de Investigaciones Sobre América del Norte* of UNAM and

In this connection, I have also argued that Brazil and the USA hold deficits of citizenship in opposite directions, and emphasized that the Brazilian deficit should be perceived as much greater and more serious than the USA's, given that here an inordinate and selective concern with *considerateness* has given rise to a difficulty to respect the basic rights of citizenship of people who are not seen as deserving special attention. The contrasting scenario in the USA was characterized by the difficulty to recognize the singularity of personal identities in relationships or social interactions, even when such recognition could be construed as a condition to a proper and considerate (or respectful) treatment of one's interlocutor. Now I would like to submit, inspired by Berger (1983:172-181), that the latter imbalance has been responsible for the invisibility of insults to the honor (or dignity) of individual citizens in societies like the USA. The consequence being that these societies do not provide proper institutions or mechanisms to repair the rights injured in such situations. As we will see, the constitutional crisis in Canada, or its difficulty in recognizing the *distinctness* of Québécois identity has some interesting connections with the USA's imbalance, which are particularly instigating when looked at from a Brazilian viewpoint. In one word, the emphasis on *considerateness* and *worthiness* that accounts for (or stimulates) *acts of civil discrimination*<sup>2</sup> in Brazil can be interpreted, in the case of Quebec, as a legitimate demand for recognition, whose denial is experienced as an *act of inconsiderateness* or moral insult.

I will now make a brief statement about the invisibility of moral insults in the USA, through a discussion of the problem in the context on Small Claims Courts, to turn myself to Quebec's demand for recognition in the remainder of the paper. As it will be seen, in the case of the Canada/Quebec dispute it is not so much a matter of making visible insults that, in spite of being painfully felt, are culturally hidden, but a matter of dealing with the difficulty of grounding such insults as unlawful aggressions.

### **Moral Insults and the Invisibility of Rights in Small Claims**

One of the main characteristics of Small Claims Courts (SCCs) in the USA is that in a significant portion of the claims the core of the dispute is not centered on legal issues, but is focused on questions of an ethical-moral nature. Despite the fact that the claims are worded in legal terms, where the demand is always expressed in a monetary value, characterizing a

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FLACSO/Mexico for the invitation. I am also grateful to Stephen Baines for revising the text.

<sup>2</sup> That is, the denial of basic civil rights in everyday life or in public services to people who are not seen as worthy of special attention or *considerateness*.

financial compensation for the loss allegedly suffered by the plaintiff, the main motivation to file the claim is often somewhere else. That is, on the perception of an *act of inconsiderateness* that is not easily translated into a monetary value, or on what I have called a moral insult.

In every civil claim the demand for reparation is grounded on a loss, which is associated to a right that has been allegedly disrespected. In the Common Law tradition, prevailing in the USA, the actual disrespect of such rights is classified as either a breach of contract or a tort. But, in neither situation disrespecting the respective rights is perceived as an intentional aggression to the person of the citizen, or to the party that has suffered the alleged loss. Otherwise, the event would characterize a criminal act.<sup>3</sup> If, from the point of view of the parties, the frontier between disrespecting rights and intentional injuries is not always too clear in civil cases, the relationship between the ideas of disrespect and an intentional injury or moral aggression is particularly meaningful in small claims.

In fact, the money amount involved in many disputes should not encourage, by itself, the filing of the claim. This is particularly clear in cases where the value of the claim is under 40 or 50 dollars. Given the filing fees, between 5 and 10 dollars (in 1985/1986), added to the cost of transportation in at least two visits to the court, and the loss of probably more than three working hours without remuneration on the day of the court hearing,<sup>4</sup> one realizes that in claims under 50 dollars a winning plaintiff will, at best, recover only the money invested in the processing of the claim.<sup>5</sup>

It seems to me that the motivation of the parties in cases like these is not only a matter of standing for what is right, in the sense of demanding an upright and law abiding behavior from one's interlocutor, or a compulsion to defend one's rights and interests, but a feeling of redress against an act or attitude perceived as a gratuitous aggression to one's standing as a moral person. That is, an *act of inconsiderateness* to one's dignity as an individual with an identity, and as someone deserving the attention that any citizen is due as a person. This feeling of redress or outrageousness was apparent in the calls that I used to get at the Small

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<sup>3</sup> When the material loss can be associated to an intended aggression aimed at the person of the plaintiff he may also file a criminal claim against the defendant, in which case the latter would stand as an accused. When a driver loses control of his car and destroys the entrance of a house he may be liable not only for the material losses (civil claim), but also for an attempt of murder (criminal claim) if there is suspicion that the incident has happened when the driver was trying to run over the owner of the house.

<sup>4</sup> The minimum wage at the time (1985/1986) was about 5 dollars per hour.

<sup>5</sup> In 47.3% of the claims filed by individuals during my research at the court (September/85 through February/86), and in which the plaintiffs got a favorable judgment, the judge established damages in a smaller amount than the one demanded by the litigants (Cardoso de Oliveira 1989:88).

Claims Advisory Service,<sup>6</sup> where I worked as a volunteer. The callers would often show their dissatisfaction with the attentive but businesslike instructions that we were trained to give out, demanding an attitude of sympathy or solidarity in view of the injuries that they had allegedly suffered from their would be court opponents. The same type of indignant reactions would take place during the court hearings or mediation sessions, whenever the litigants recalled or identified at the moment an attitude of deception or *inconsiderateness* on the part of their opponents. Let me make a short digression in order to illustrate my point.

The case of “The Suspicious Refrigerator” is a good example. This is a case in which the plaintiffs, two roommates, were suing the owner of a store specialized in selling used refrigerators, for 40 dollars, in a business transaction in which the defendant had allegedly misrepresented the refrigerator bought by the plaintiffs. When the latter installed the refrigerator at home they got suspicious about the noise the machine was making, and called up the maker, GE, who told them this machine was 13 years old, and not 6 to 8 years old as the defendant had estimated. After many unsuccessful attempts to return the refrigerator and undo the deal, the plaintiffs filed a claim that breaks down as follows: “25 dollars which they had initially paid for the delivery of the refrigerator, 10 dollars for the stop order on the check, and 5 dollars that the plaintiffs spent sending certified receipt requested letters to the Better Business Bureau.” Besides this amount in cash, the plaintiffs were also demanding that the defendant pick up his refrigerator at their place. In his turn, the defendant denied the charges of misrepresentation, but was willing to undo the deal as long as the plaintiffs paid him another 25 dollars to cover his costs to bring back his refrigerator from the plaintiffs place. The parties ended up reaching an agreement in a mediation session, and settled the claim for 20 dollars, with the commitment of the defendant to pick up the unwanted refrigerator at the residence of the plaintiffs.

I cannot go into the details of the dispute here,<sup>7</sup> but would like to call attention to three aspects that come out of the negotiations. First, from the perspective of the economic interests of the parties, it was more expensive for both of them to have spent the 3 1/2 hours in court, which they have actually spent, than to have waved their claims and counterclaims. Second, as the actual terms of the agreement had been refused by the defendant before, the conviction and the confidence with which he accepted the final settlement suggests that the same wording carried a different meaning now. This shows that in order to assess the fairness or the normative adequacy of settlements one has to look at the built-in degree of responsiveness to the parties demands (and concerns) that a mediated agreement or a judge’s

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<sup>6</sup> This is a call-in service structured to inform would-be or actual litigants about the rules for filing a claim, and/or the court procedures in a hearing.

decision is able to express. Third, the agreement was made possible because, when its terms were articulated the second time around, the parties had already acknowledged the lack of bad faith in each other's actions, and came to an understanding that splitting the total money amount of the claim in equal parts meant that they were equally responsible for the misunderstandings during the negotiations/dispute. From the point of view of the defendant, once the two plaintiffs had acknowledged the defendant's honesty and good faith throughout the transaction he could accept his responsibility for part of the plaintiffs' loss, and was now willing to pick up the unwanted refrigerator without charge. The point here is that the parties were able to argue and come to a reasonable agreement about the liabilities in the case. Even if bad faith on the part of the defendant had been proved, or acknowledged, the litigants could have still reached a fair agreement. That is, as long as the defendant had taken responsibility and shown repent for the perceived insult.

Elsewhere, I have classified this type of settlement as an equitable agreement, given the high degree of responsiveness to the parties demands built into the final wording of the settlement. However, I have also indicated that such a happy ending happened a great deal less often than one would desire (Cardoso de Oliveira 1989: 399-440). Bargained compromises, which focus on the economic interests of the parties — instead of aiming at the elucidation of their responsibilities for the onset of the dispute —, constitute the usual outcome of successful mediation sessions. On the one hand, the judicial mode of assessing liability imposes a process of narrowing down the disputes, that excludes from consideration any argument or information that cannot be immediately translated into evidence through the eyes of contract or tort law. On the other hand, if the mediators allow for a much larger universe of argumentation and conduct negotiations in a much less formal manner, they place a much-too-strong emphasis on a prospective outlook that often draws a hard line between rights and interests, not giving much room for discussions about liability and avoiding the parties to do any further inquiry about what ignited the dispute. The idea is to focus on the litigants prospective interests and help them into devising better forms of reparation. Be it as it may, the fact is that moral insults are largely excluded from small claims courts as a whole. Before turning myself to the Canada/Quebec scenario I would like to quote Strawson, whose phenomenological description of resentment defines it as a feeling that is prompted by our perception of other people's intentions towards us. This may help our understanding of moral insults as an actual injury that may damage citizenship rights and, therefore, are deserving of reparation.

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For a thorough analysis of the case see Cardoso de Oliveira (1989: 425-440).

“...If someone treads on my hand accidentally, while trying to help me, the pain may be no less acute than if he treads on it in contemptuous disregard of my existence or with a malevolent wish to injure me. But I shall generally feel in the second case a kind and degree of resentment that I shall not feel in the first...” (Strawson, 1974:5)

Taking the feeling of resentment as a reaction to an attitude or intention of aggression towards us, Strawson suggests an interesting difference between two dimensions of social actions (the act, proper, and the attitude that it conveys), which illuminates the difficulty to give visibility to moral insults. That is, he is pointing out the experience of an actual aggression that does not translate itself into material evidence. But, let us move on to the demands for recognition of Quebec.

### **Citizenship, *Inconsiderateness* and Moral Insults in Quebec**

Drawing on Strawson’s insight into the connection between the perception of a malevolent intent and the feeling of resentment, one could say that a major difficulty to give a satisfactory response to demands for recognition is that these cannot be fulfilled exclusively at a formal level or in the language of legal rights. In addition, they require a substantive acknowledgment of worth. That is, an act of recognition cannot be upheld as such only at the level of behavior or law enforcement, but it has to convey or express an attitude of *considerateness*. By the same token, if it is difficult to demand such an attitude as a legal right, it may not be as difficult to construe it as a moral obligation. It is in this sense that I understand Taylor’s point that demands for recognition require the existence of a dialogical relationship between the parties (Taylor 1994), who take each other seriously and whose equal standing is mutually acknowledged as a deserving condition. Like the practices of gift exchange analyzed by Godbout in modern societies (1992: 135-142 & 1994: 297-302), legitimate acts of recognition have to be seen as obligatory and gratuitous (free or spontaneous) at the same time. Here, to give the impression that one is just following a rule or acknowledging a legitimate norm defeats the purpose. Actors must see in their interlocutors’ expressions of recognition an acknowledgment of merit.

In fact, Taylor calls attention to the specificity of the demand for recognition in spite of looking at it as a second wave within the same movement, which got started with the transformation of honor into dignity in the passage from the *ancien régime* to modern society. While the first wave has given rise to the universalization of rights that should be uniformly applied to all citizens, sharing equal rights before the state (and among themselves), the second wave — being itself a product of the development of the individualist ideology — stressed a concern with the recognition of authentic identities at the

individual and the collective levels. In other words, whereas the first wave sanctioned uniformities, the second wave emphasizes singularities and specificities that are seen as deserving social recognition; legal and otherwise.

One of the difficulties of sanctioning demands for recognition at the legal level is the connection between such demands and the idea of collective rights, which are seen as a threat to the individual in modern democracies. That is, once a collective identity that is not shared by all members of society becomes the source of specific rights, not meant to be uniformly applied, these rights may be seen as ungrounded privileges to the members of the group holding the respective identity. Such rights may be also seen as going against the sacrosanct principle of equal treatment to all and, therefore, as being discriminating against the citizens holding a different identity. Even if citizenship rights are exercised (and formally circumscribed) within Nation States, being intrinsically related to a collective identity — which is often (but not always) a nationality —, only encompassing collective identities embracing each and every citizen of a polity may be legitimated as a reference for citizenship rights.

In this regard, Kymlicka (1995: 34-48) makes a good point suggesting that the notion of collective rights should be put aside, because it places together demands and situations that are quite different in themselves, and have diverse moral implications. Among other things, such a wording gives the impression that claims put forward by groups or collectivities are always made in opposition to individual rights, which is not true. Kymlicka argues that it is better to talk about *group differentiated rights* (or citizenship), a notion that allows one to distinguish between those rights that pose a threat to the individual and the ones that do not. The latter being entirely compatible with liberal perspectives. According to him there are two types of demands for group differentiated rights: (1) demands for internal restrictions, and (2) demands for external protections. While the second type can be legitimized from a liberal point of view, the first cannot. Because, whereas external protections are meant to avoid overpowering decisions from the majority, which disregard legitimate interests of minorities, internal restrictions are made to forbid internal dissent and are seen by liberals as an attack on the individual's freedom and autonomy.

Although Kymlicka's perspective does give some room to support minority rights, it does not properly address the internal dimension of the perception of injury that I pointed out above. In other words, without giving full attention to the group's rationale in support of their demands, it is difficult to sort out one type of demand from the other and to understand their political-moral meaning. This seems to be particularly true in complex cases like Quebec's where, according to Kymlicka, the two types of demands are unavoidably mixed



together (1995:44 & 205). The point being that within Kymlicka's analytical framework it is difficult to examine the full trust of demands for recognition, specially regarding the importance of the impact of resentment as defined by Strawson. Such importance, which I am attributing to resentment, does not rely so much on what it tells us about people's emotional reaction when they take offence for what others have done or meant, but it relies on what this feeling of resentment discloses in terms of injuries that have actually happened, or insults that might have been inflicted regardless of the intentions of their perpetrators.

What I am arguing is that, if Kymlicka's classification of minorities' demands for rights can be achieved from the external perspective of an observer — as long as one can tell whether the demands are primarily aimed at members of the minority group or at what may come from the society at large —, the understanding of moral insults or *acts of inconsiderateness*, like the resentment which they provoke, require the attitude of a *virtual participant* (Habermas 1984: introduction), who is willing to delve into the actors' worldviews and make a connection with the ensemble of ideas and values that give support to the demands being put forward by the respective groups. As we will see, such a focus allows one to achieve, at the same time, a revealing interpretation of an important dimension of Quebec's demand, and a good perspective over the difficulties one finds in the rest-of-Canada to understand the rationale behind Quebec's demand. That is, one can make a better sense of the unwillingness shown by most Anglophones to accept the reasonableness of Quebec's demand as a right.

Perhaps one could say that the problems between Quebec and what would become later the rest-of-Canada date from the British conquest of New France in 1759. However, after the British formally allowed Quebec to keep its main cultural traditions and institutions (the French language, the Catholic Church, and the French civil code) through the enactment of the "Act of Quebec" in 1774, Quebec's demand started to take the shape that it has today when the province had to deal with the "Act of the Union Regime," which was imposed on it in 1840. At this point Quebecers had the above mentioned cultural traditions forbidden by law, in accordance with the recommendations of the "Lord Durham's Report". The Union Regime lasted until 1867, and during this period the British Crown developed a policy of assimilation towards the population of French origin. Such situation meant not only the loss of rights that French Canadians had always cultivated, and which had been formally respected by the British for almost 70 years, but it also meant a denial of their worthiness as a people. It seems to me that, ever since, rights and identities, interests and values, as well as respect and recognition are blend together at the core of the relationship between Quebec and the rest-of-Canada.

The negotiations that put an end to the Union Regime and that led to the celebration of the British North America Act, creating the Dominion of Canada in 1867 and re-establishing the cultural rights that Quebecers previously held,<sup>8</sup> also involved an overall agreement about the nature of the relationship between the parties and their respective standing within the Federation. In other words, the agreement did not only translate itself into rights that were spelled out in the Constitution of 1867, but it also implied a certain recognition of the parties' statuses in the Federation, which found quite different interpretations between Anglophones and Francophones. These differences of interpretation have persisted through time and are in the background of today's constitutional crisis. To put it in a nutshell, while Quebecers read the agreement of 1867 as portraying the view of a country formed by two peoples and two nations with equal standing,<sup>9</sup> in the rest-of-Canada the prevailing interpretation is that of a country comprising a number of provinces whose ethnic/national composition does not give grounds for special rights of any kind, and whose citizens share the same rights in civil society or in the public sphere.

That explains, on the one hand, the support found in the rest-of-Canada to the policy of multiculturalism implemented during Trudeau's government, as well as to the Canadian Charter of Rights and Freedoms that was amended to the Constitution in 1982 and became a symbol of Canadian citizenship, as a guarantee to equal treatment before the State irrespective of cultural, ethnic or religious background of the citizens. On the other hand, Quebec's interpretation of the agreement makes intelligible the antagonism of the province to that very same policy of multiculturalism, which does not recognize the specific contribution of Francophones in the history of the country and, therefore, is taken as a denial of their worthiness: that is, as a moral insult. Quebecers argue that a policy of biculturalism would be more in keeping with their understanding of the equal standing held by English and French cultures or traditions, which have given a special contribution in the process of country-building in Canada (see Laurendeau 1990). From that perspective, this lack of recognition means, in fact, the hegemony of English language and culture in Canada. The view that preaches the separation between language and culture, dominant in the rest-of-Canada, does not make sense in Quebec where the influence of Anglo-American culture cannot be dissociated from the growing pervasiveness of the English language. Here, the idea of English as merely a language or instrument for public communication does not hold.

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<sup>8</sup> Besides the provinces of Quebec and Ontario, the Dominion of Canada also included the provinces of Nova Scotia and New Brunswick.

<sup>9</sup> Nowadays the First Nations (the Indians, the Inuit, and the Metis) have been incorporated in the discourse as a third group that has equally contributed to the formation of the country.

This is why, despite the fact that the constitutional debate takes the form of a dispute over the legitimacy of certain (legal) rights demanded by Quebec, and which are important in themselves, the motivation of their supporters lies deeper and could be cast in terms of an affirmation of dignity whose recognition is perceived as being systematically denied by the rest-of-Canada. The perception of *inconsiderateness* can be seen in recurrent political slogans, like *Maîtres chez nous* (“Masters of Ourselves”) or *On est capable* (“We can do it”), which emphasize the need for Quebecers to take hold of themselves. On the one hand, they both signal a refusal to accept a situation of political subordination, as it is seen by Quebecers. On the other hand, they demand the equal treatment of full citizens, who are able to take responsibility for themselves and who can contribute in equal terms for the welfare of society in or out of Canada.<sup>10</sup>

However, my mentioning above of the Canadian Charter of Rights and Freedoms brings us to the current debate, ignited by the *patriation* of the Constitution in 1982. Until then, the Canadian Constitution was kept in the British Parliament, from where it was *patriated* by Trudeau and had the Charter amended to it. The Charter was seen in Quebec as a major threat to its autonomy to enact legislation to protect its cultural traditions, and has actually been used against certain provisions of the provinces’ language law, which is cherished by Quebecers, for whom it has become a symbol of identity. The *patriated* Constitution and its Charter have never been subscribed to by Quebec, and the two major attempts to satisfy Quebec’s demands have failed badly. The first and most promising one, known as the Meech Lake Accord, recognized Quebec as a *distinct society* within the Federation and found ample support in the province — giving it constitutional guarantees to protect its language and culture —, but was turned down by two provinces at the last minute causing great distress in Quebec.<sup>11</sup> The second attempt, the Charlottetown Accord, named after the city where negotiations were held, did not provide Quebec with the same constitutional guarantees and was much less appealing to Quebecers, who joined most Canadians in other provinces to turn it down in a referendum held in 1992. Only in Ontario

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<sup>10</sup> In an analysis of the campaign for the last referendum on the sovereignty of Quebec, which took place in October 1995, I pointed out how a rhetoric of resentment was successfully used in political speeches in order to amass support for the YES vote. These speeches used strong images that touched the pride of Quebecers as a people who have always been treated with *inconsiderateness* by Ottawa, despite its alleged best efforts to listen to the point of view of the rest-of-Canada and to negotiate an equitable agreement with the latter (Cardoso de Oliveira 1999).

<sup>11</sup> The Lake Meech Accord was signed by the Prime Minister of Canada and the 10 First Ministers of the provinces on April 30, 1987. However its terms had to be ratified, within a period of three years, by the legislative bodies of the provinces. Just a few days before the time was up the Accord was turned down by the provinces of Manitoba and Newfoundland.

the Accord was approved by the population, and it is interesting to note that in the rest of the country it was refused for meaning either too little recognition in light of what was demanded, from Quebec's point of view, or too many privileges to Quebecers, in the perspective of the other provinces. That gives an idea of the differences in outlook, as well as of the difficulties to overcome the impasse in the negotiations.

As I have just observed, on the legal or constitutional side strictly speaking, the Charter has already imposed certain limits to Quebec's language law, and may inflict further constraints to similar legislation in the future. The language law, or law 101, was enacted in 1977 during the first government of the Party Québécois, and has been the foremost instrument in the revitalization of the French language and culture in Quebec. However, it restrains the usage of English within the province, and certain aspects of it have been questioned by Anglophones as ungrounded limitations on their rights of citizenship as individuals, in a country that is officially bilingual. The law 101 places three main restrictions in the usage of English (and other languages): (1) the children of immigrants, or the kids whose parents have not attended English schools in Canada, must go to French schools;<sup>12</sup> (2) all businesses with more than 50 employees were required to function in French, and were given some time to adjust themselves to the new condition; and, (3) all commercial signage in other languages was initially forbidden, and later limited to take, at most, half of the space given to the information in French on the same sign.

In fact, these provisions of the law 101 may sound a bit too strong at first sight. Specially when one notes that even the Francophones are obliged to send their kids to French schools, not being allowed to make a "free" choice on that matter. Here is a good example of the mixture between the dimensions of external protections and internal restrictions, which characterizes certain demands for group differentiated rights according to Kymlicka. That is, in order to protect Quebecers from the (external) influence/imposition of the English language, French Quebecers themselves are prohibited to send their kids to English schools. However, before the law 101 came into being, not only the immigrants were stimulated to send their children to English schools, but even francophones were tempted to do it. Often, not because of a choice of values or way of life, but because (regrettably) there were no job opportunities in French, and an education in English was, by and large, a condition of access to middle class jobs or to most reasonably paid positions in all sorts of businesses. Prior to the enactment of the language law Francophone workers with little command of English used to complain against having to work in a "foreign" language in their own hometown, which

significantly limited their chances of promotion in the job.

It is true that, given the sociological constraints and the empirical contingencies of the situation, one may find good reasons from a liberal viewpoint, as suggested by Kymlicka, to support Quebec's language law. That is, even if in order to protect Quebec's language and culture one has to impose *internal restrictions* to the choice of Quebecers in that area. To a certain extent, it is as though the provisions of law 101 were there to allow Quebecers to be able to keep on choosing to live in French and cultivate its *distinct* culture if they so wish. Nevertheless, this framing of the problem does not explain the strong feelings that Quebecers still hold about the language issue nowadays, when the situation of the French language has significantly improved — even in Montreal where it has been really threatened and is always more exposed — and the flexibilization imposed by the Supreme Court, after the Charter was amended to the Constitution, is not likely to change the current linguistic conditions in Quebec.

I submit that, beyond the legitimate concerns with the linguistic rights of Francophones, Quebecers are mobilized and taken to task around the language issue to express their dissatisfaction with the insulting lack of *considerateness* that they see in the positions taken by the rest-of-Canada regarding Quebec's demands for recognition. I have already indicated how the different interpretations of Anglophones and Francophones about the meaning of the agreement leading to the creation of the Dominion of Canada, in 1867, is perceived by Quebecers as a denial of their special contribution to the formation of the country. Besides, there are many instances in the recent history of Canada that were experienced by Quebecers as an offensive denial of their worthiness as a people: from the conscription debates during the two Great Wars (when Quebec's critical stance was not given proper attention) to the unilateral (without Quebec's consent) *patriation* of the Constitution in 1982. In the same vain, Quebecers resent the lack of reciprocity in the rest-of-Canada to the facilities offered to Anglophones in Montreal, where the latter have access to good educational and health services in English, while Francophones in the rest-of-Canada have to get by in English and are pressed to assimilate. However, perhaps the most offensive and striking example of this lack of recognition experienced by Quebecers in everyday life is the outrageous expression *speak white!* (that is, English) — that not too long ago was addressed to Francophones by salespeople at department stores downtown in Montreal.

Such a perception of *inconsiderateness* cannot be thoroughly dissociated from the language debate for at least two reasons: (1) the lack of sensibility in the rest-of-Canada to

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<sup>12</sup> In the first wording of the law only the children whose parents had attended English schools in Quebec could be registered in English schools too, but such limitation was

Quebec's concern with the protection of the French language and culture is perceived as a denial of its equal standing with English which, given the history of the country, is interpreted as discarding its original contribution and sounds offensive; (2) specially for Francophones the language is a very important index of social identity and, therefore, closely connected to conceptions of citizenship. As I have tried to convey, the situation is all the more dramatic because the differences of perspective between Anglophones and Francophones cannot be dissociated from a great deal of mutual misunderstanding either. This has been often expressed by Canadians themselves through the idea of the *two solitudes* that they have not been able to bridge yet. The distance implied here is particularly great when one compares the viewpoint of Quebec with the one shared by the provinces in the West. Whereas the former sees its claims as a demand for legitimate rights the latter perceive them as an attempt to obtain further ungrounded privileges, and the ballots in the referendum on the Charlottetown Accord, mentioned above, constitute a good example of this misunderstanding.

If, on the one hand, it seems to me that Quebec's demand for recognition — or its resentment from alleged *acts of inconsiderateness* — can be argumentatively grounded, on the other hand, the perception of the Western provinces makes some sense when looked at from within their immediate experience or from their self-contained historical horizon. The fact is that, beyond the conflict of interests at stake in the debate, the two sides do have a difficulty to put themselves in each other's shoes and iron out their differences. Not necessarily to eliminate divergences, but to better understand them. Or, not to exterminate dissent, but to build a satisfactory *overlapping consensus*, even if the best way to achieve that is through a negotiated partnership as Gibbins and Laforest have suggested (1998). The negotiated agreement or compromise over the new terms of the relationship should find support not only on logical grounds, and be adequately articulated with the perspectives of both parties, but should also leave room for the development of emotional attachment, allowing some sense of belonging to Quebecers and (other) Canadians alike. That is, if the parties are to keep a close relationship — whether within a federal or a partnership model — it is not enough to agree upon specific rights and general procedures, but it is important to cultivate a mutual acknowledgement of *worthiness*.

Be it as it may, the Anglophones are not the only ones who have a difficulty to articulate a coherent discourse in support of demands for recognition, and to make adequate connections between such demands and the respect for individual rights, universally shared by all citizens. It is not only true that, most of the time, the moral dimension at the core of the

claim is left out of the political debate by French Quebecers themselves, but the argument for recognition is often framed within the logic of individual/universal rights that require uniform treatment. I am not just making reference to the focus on the legal aspects of the demand, whose significance should not be underestimated, but on the lack of articulation between legal claims and the moral values intrinsically associated to the identity whose worthiness is to be recognized. This shows itself, for instance, when linguistic rights are grounded on the definition of a circumscribed territory (Quebec) that takes precedence over the ethnic/national group that initially colonized it (French Quebecers), and which is regarded as the source of the encompassing identity for citizenship purposes.<sup>13</sup> That is, without a concern to articulate this framing with the moral nature of the insult that motivates the legal demand. Perhaps one could say that the legitimacy of linguistic rights and its connection to Québécois identity is seen as dependent on the universalization of that identity within the province, which is taken as the significant polity.<sup>14</sup>

By the same token, the commitment of Quebecers to support individual rights and the difficulty to articulate such rights with demands for recognition, grounded on singular collective identities, makes it hard on Quebecers to refuse claims for equal treatment when these are phrased in the proper form, but do not find an adequate context of application. The *partition* debate is a case in point. The possibility of a sovereigntist victory in the last referendum — held in October 30, 1995 — raised a debate about the eventual partition of Quebec if the province became separate from Canada. The idea being that the municipalities of Quebec that wished to remain part of Canada should have the right to hold their own referenda and make an autonomous decision.

First of all, irrespective of the dangers of a policy of partition (as in the recent ethnic wars in Eastern Europe), it must be pointed out that besides the formal similarity between Quebec's referendum and the municipalities', none of the historical arguments rehearsed above in support of Quebec's demand apply to the municipalities. That is, their demands are grounded exclusively in terms of a (merely) formal conception of uniform treatment: if Quebec as a sub-unit of Canada can choose to leave the Federation, the municipalities as sub-units of Quebec may have the same right to choose to leave the province too. Nevertheless, despite the fact that Quebec's territory is taken as a sacrosanct (indivisible) unity by

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<sup>13</sup> I do not think that Quebec could legitimize its demands in ethnic terms, nor am I criticizing the recent move from ethnic to territorial nationalism. However, I would like to emphasize the difficulty to ground demands for recognition as legal rights without transforming the singular identity, which gives it meaning, into a universal one that may be uniformly shared by all.

<sup>14</sup> It is significant that Quebec is the only province whose legislative body is known as a National Assembly.

Quebecers, on September 13, 1997 *the Gazette* published the results of a poll made by SOM to *l'Actualité* in which 60% of Quebec's population claims to be in favor of the right to partition to the municipalities that so wish, in the case that Quebec separates from Canada. In other words, despite grounding their demands for recognition on the legitimacy of the *distinct* character of a specific identity, Quebecers are at pains to deny rights that rely on a formal claim to equal or uniform treatment, but which cannot find adequate translation into substantive content or meaningful connections on the empirical level.

Like the imbalance between justice and solidarity (or rights and identities) in the USA, which makes moral insults invisible, *acts of inconsiderateness* are easy to see and are effective for political mobilization in Quebec, but are not easily conceived as unlawful aggressions. In both cases, however, the emphasis on individual (legal) rights imposes deficits of citizenship that are difficult to overcome within a liberal perspective that avoids connecting rights and identities, norms (or principles) and values, or legal respect and moral recognition. From a Brazilian viewpoint, where the imbalance just mentioned goes in the opposite direction, it is interesting to note that, on the one hand, lack of *considerateness* and no acknowledgement of worth may lead to the disrespect of citizenship rights too. On the other hand, as the improvement of citizenship rights in Brazil, or their actual expansion in everyday life, does not depend on the enactment of appropriate legislation, but on a change of the attitude of actors (in public services and civil society alike), the eventual satisfaction of Quebecs' demands (within or outside Canada) does not require only legal or constitutional changes but a change of attitudes too.

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Two final comments by way of conclusion:

(1) The invisibility of moral insults in the USA does not avoid their occurrence or keep them away. Much to the contrary, it only increases the chances of their happening and make their experience more dramatic, given the lack of appropriate institutional or discursive means to deal with them.

(2) The difficulty to ground the unlawfulness of moral insults in the Canadian/Quebec context is a significant hindrance to a satisfactory negotiation of the constitutional crisis. First, because it reduces the universe of legitimate alternatives to the impasse. Second, because the maintenance of the status quo with a few legal patches or a radical separation without negotiation are only partial solutions, given that they do not tackle the core of the problem and impose high and undesirable costs from the perspective of both parties.



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