

## SIX NATIONS REPORT

### PART ONE

#### CONTEXTS AND CONDITIONS FOR LANGUAGE MINORITY EDUCATION

##### Language Diversity in the United States

The following five generalizations can be made about language diversity in the U.S., based on a review of the census data.<sup>7</sup> They are intended as characterizations of language groups in reference to this set of data and are not intended to essentialize or stigmatize any particular group.<sup>8</sup> Each generalization will be discussed in more detail in the following paragraphs:

- (1) After English, Spanish is the language spoken by the most people in the U.S.. Significant numbers of speakers of other Indo-European, Native North American, Asian and Pacific Islander, and Arabic languages are also represented.
- (2) Non-English language speakers are broadly, but unevenly, distributed throughout the 50 states and the District of Columbia. In 1980-1990, California had the highest number and New Mexico had the highest percentage of non-English speakers.
- (3) Overall, the home use of non-English languages has steadily increased since 1980. Immigration from Asia, Mexico, South/Central America, and the Caribbean explains some, but not all, of the increase.

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<sup>7</sup>The 1990 U.S. Census included language questions only on the sample component, known as the Long Form, which was sent to one in six houses. This mail-in questionnaire asked for self-reported, written responses to the following questions: (15a) "Does this person speak a language other than English at home?" If yes, (15b) "What is this language?" and (15c) "How well does this person speak English?"

Controversy surrounded the 1990 Census, in particular the language data, concerning the undercount of minorities and illegal immigrants (*Numbers and Needs*, May 1993, Vol. 3, no.3). The census language data has several other limitations: Respondents' answers may be influenced by their perception of the status of their language or ethnic group, by the sense of privacy of the information, or by the sense that it would be "somehow un-American" not to speak English (Waggoner, 1988, p. 71). Also, census data is not tied to an objective measure of speaking proficiency, and it does not ask about literacy, so census data must be combined with other data in order to identify a need for special language education services. Without a question about mother tongue accompanying the question about current spoken language use (15b), the census data cannot be reliably used to estimate language maintenance and shift (Lopez, 1982; Veltman, 1983).

The census data in this report is derived from Bureau of the Census (1992), *Census of Population and Housing*; Bureau of the Census (1997), "Language Use Data" [online]; *The American Almanac* (1993); and secondary analyses of language data published bimonthly in Waggoner (1991-98), *Numbers and Needs: Ethnic and Linguistic Minorities in the United States*.

<sup>8</sup> See Spack (1997) and Wiley (1996) on the problems of essentialization in collecting and analyzing data according to language, ethnic, and racial categories.

- (4) Most U.S. non-English speakers can be broadly defined as English bilinguals. The majority of those who do not speak English at all are Spanish speakers and/or recent immigrants. Speakers of Asian languages have the most difficulty with English.
- (5) In general, speakers of non-English languages appear to be shifting to English but at varying rates. Spanish and Navajo speakers appear to be more language retentive.

(1) Home speakers of languages other than English comprise 14 percent of the total U.S. population. Three hundred and eighty non-English languages spoken at home were identified on the 1990 U.S. Census, grouped into 25 language families as shown on Table 1. The Spanish-speaking population is the largest single-language group, representing approximately 8 percent of the total U.S. population and 54 percent of the non-English language population. The 17.3 million home speakers of Spanish include those of Mexican, Cuban, Puerto Rican, and South/Central American descent. Another 19 percent of the population of home speakers of languages other than English consists of French, German, Chinese, and Italian speakers, each with one million or more. Tagalog, Polish, Korean, other Indo-European language (Armenian, Gaelic, Lithuanian, etc.), Indic languages (Hindi, Bengali, Gujarathi, etc.), and Vietnamese are each spoken by a half million or more. A wide variety of Indo-European, Asian and Pacific Islander, and Native North American languages, Hungarian, Arabic, and other languages of Central and South America and Africa are spoken at home as well.

(2) Non-English speakers are broadly but unevenly dispersed throughout the United States. The Spanish-speaking population, for example, is represented in every state but is concentrated in California, Texas, Florida, and New York. Likewise, speakers of French are widespread but live in greater numbers in historically French areas in Louisiana and the northeastern U.S. as well as in California and Florida. German speakers are relatively evenly distributed among the northeastern, north central, east and west coast states and Texas. The largest of the Asian-language communities—including speakers of Chinese, Tagalog, Korean, Vietnamese, Japanese, and Mon Khmer (Cambodian)—are located in California. Speakers of Native North American languages are concentrated in Arizona and New Mexico (Bureau of the Census, 1997, Table 4; *Numbers and Needs*, March 1993, Vol. 3, no. 2. Data from the 1990 Census of Population and Housing.).

In 1990, six states had more than one million home speakers of non-English languages, together representing 68 percent of the total number of home speakers of languages other than English. These states tended to be, but were not always, those with the highest total populations (see Table 2 and Figure 1). California, New York, and Texas are the most populous states and also those with the largest populations of speakers of languages other

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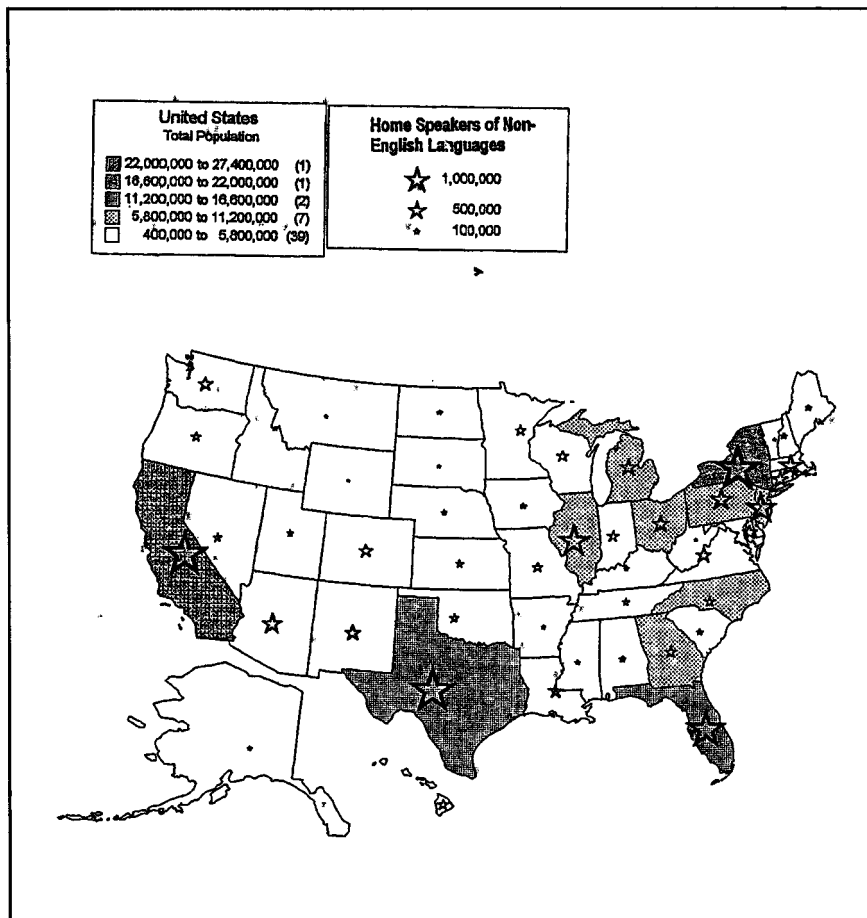


Figure 1. U.S. states with the highest total populations and highest populations of home speakers of non-English languages: 1990.

than English. Since state population determines representation in Congress, a large number of non-English speakers in a given state could become political leverage on a national level. Other relatively populous states, which also have significant representation in Congress, such as North Carolina and Georgia, have only 4 percent and 5 percent home speakers of non-English languages respectively. On the state level, the presence of a relatively large concentration of multilingual speakers tends to stimulate political debate on language issues, as in New Mexico, with 36 percent, the highest percentage of any state. It is also true that English-only resolutions have been passed in states with low percentages of non-English speakers, such as Nebraska and Wyoming. States with the lowest overall percentages of speakers of languages other than English were located in the southern U.S.—for example, Kentucky and West Virginia, each with 2 - 3 per-

cent.

(3) The number of home speakers of non-English languages increased by 38 percent (8.8 million) from 1980-1990. As can be concluded from Table 3, the home use of selected Asian languages—Vietnamese, Korean, and Chinese—each increased more than 100 percent, and the home use of Spanish increased by 56 percent. Of the Indo-European languages, home use of Portuguese and French increased while that of other European languages—such as Hungarian, Italian, and Polish—decreased.

According to Waggoner, approximately two thirds of the increase in home speakers of languages other than English can be explained by increased immigration (*Numbers and Needs*, November 1993, Vol. 3, no. 6). As might be expected, foreign-born populations are more likely to use non-English languages at home: 79 percent (15.4 million) of all foreign-born U.S. residents did so in 1990. Immigration to the U.S. has been increasing since 1970, up 40 percent between 1980-1990 (*Numbers and Needs*, July 1992, Vol. 2, no. 4. Data from the 1990 Census of Population and Housing.). As shown in Table 4, both the Spanish-speaking and Asian-speaking foreign-born populations have almost doubled, with a large influx of refugees from El Salvador, Guatemala, Nicaragua and Honduras as well as from Laos, Cambodia, and Vietnam. The increase in Portuguese can be partially accounted for by the doubling of the number of incoming Brazilians, and the increase in French can be explained in part by a 144 percent increase in the number of Haitians.

From 1990-1996, the total foreign-born population increased by 14 percent, equivalent to 24.6 million or about 9 percent of the total U.S. population. In 1996, one quarter of the total foreign born population (8 million) lived in California (*Numbers and Needs*, July 1997, Vol. 7, no. 4. Data from the March 1996 Current Population Survey). Immigrants are both more likely to be highly educated and more likely to have limited schooling than non-English speakers born in the U.S.. In California, the development of new approaches to language education for a growing refugee population, many of whom lack literacy in their first language, has become a pressing policy issue (Spener, 1994, pp. 4-7).<sup>9</sup>

High fertility rates and language maintenance efforts among speakers of languages other than English who are born in the U.S. account for the remainder of the increase in home speakers of non-English languages. The native-born comprise one half of the total population of speakers of languages other than English. As Waggoner points out, the language needs of

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<sup>9</sup>Statistics on foreign-born populations are summarized from *Numbers and Needs*, March 1992, Vol. 2, no. 4; *Numbers and Needs*, May 1993, Vol. 3, no. 3; and *Numbers and Needs*, November 1993, Vol. 3, no. 6. Data from the 1990 Census of Population and Housing.

non-English speaking groups "will not go away with the absorption of current immigrants" (*Numbers and Needs*, November 1993, Vol. 3, no. 6).

(4) We could say that 25.2 million or 79 percent of home speakers of languages other than English are bilingual if we define bilingualism as those who speak English well or very well and who also speak a language other than English at home (Macías, 1994, p. 17). This large group, containing within it a smaller but undetermined number of balanced bilinguals, does not include those who speak English at home and also use another language at home or at work. See Table 5.

Of home speakers of non-English languages who are not considered bilingual, an estimated 1.8 million do not speak any English at all, and the majority of them (1.5 million) are Spanish speakers. Speakers of Chinese languages were the next largest group, with 111,800 (see Table 6). The number of *non-English speakers* has increased by 51 percent from 1980-90.

It should be noted that an estimated four out of five people in the U.S. who speak non-English languages at home rated themselves as speaking English at least *well* or *very well* (*Numbers and Needs*, September 1993, Vol. 3, no. 5. Data from the 1990 Census of Population and Housing.). The term *English-speaking difficulty* is used to define the number of home speakers of non-English languages who speak English less than *very well*.<sup>10</sup> In 1990, there were 13.9 million, or 44 percent of the total home speakers of languages other than English, who fit into this category. The foreign born, especially the recently immigrated, comprise approximately two thirds of this group. The largest foreign-born group—approximately 7 million—is of Mexican nativity; this is also the group with the largest number of people who have English speaking difficulty. More than 70 percent of immigrants from Laos, Cambodia, as well as El Salvador, the Dominican Republic and Guatemala have English speaking difficulty.

The English ability rating is assigned a value that enables us to describe the degree of difficulty, known as the *index of relative English speaking ability*, or IRESA. The average IRESA of all home speakers of non-English languages was 4.587 out of 6, or slightly higher than *well*.<sup>11</sup> According to IRESA scores, speakers of Hmong and Mon-Khmer (Cambodian) have the most difficulty with English. Average IRESAs of speakers of Chinese languages, Korean, Vietnamese, Thai and Laotian, Russian and Armenian languages indicate that speakers in all of these groups have more difficulty with En-

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<sup>10</sup> Those who responded *well*, *not well* or *not at all* to the English ability question (15c) are included in the group who have English-speaking difficulty (*Numbers and Needs*, November 1993, Vol. 3, no. 6).

<sup>11</sup> The index of relative English speaking ability (IRESA), assigns graduated values in response to the question asked of non-English speakers only, "How well does this person speak English?" Zero is assigned for *not at all*, 2 for *not well*, 4 for *well*, and 6 for *very well*.

lish than Spanish speakers (*Numbers and Needs*, September 1993, Vol. 3, no. 5. Data from the 1990 Census of Population and Housing.).<sup>12</sup>

(5) A body of work by authors too numerous to mention exists on language maintenance and shift in the U.S.<sup>13</sup> Statistical analyses of U.S. language shift and maintenance have been carried out by Lopez (1982), Veltman (1983) and others based on the 1976 Survey of Income and Education (SIE). Unlike the 1980-1990 Census, the SIE collected data on both mother tongue and current language use, from which Lopez developed rates of mother tongue maintenance and Veltman calculated Anglicization rates (Veltman, 1983, pp. 11-37). The authors agree that Navajo, the largest of the native North American Indian language groups, seems to be intergenerationally stable, and Spanish speakers in general appear more language retentive than other language groups (Lopez, 1982, p. viii; Veltman, 1983, p. 90).

Based on the language questions in the 1980-1990 Census, we cannot estimate rates of language maintenance directly, but it is useful to note some general trends in inter- and intragroup comparisons. As stated previously, in 1990, native-born home speakers of languages other than English comprised one half of the total non-English speaking population (16.4 million); the other half was about evenly divided between pre-1980 immigrants (8 million) and 1980-1990 immigrants (7.4 million). Table 7 shows that the percentage of people with English-speaking difficulty appears to decrease with length of stay in the U.S..

Another source of information about language maintenance is the pattern of age distribution of non-English language groups, though immigration and fertility patterns also influence these distributions. Table 8 shows, by age group, the estimated numbers of English and non-English language speakers who live in households where non-English languages are spoken.<sup>14</sup> Comparing the language groups, we see that those which lack substantial new immigrating populations, such as Norwegian and Polish speakers, tend to be dominated by non-English speaking adults (aged 18 and

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<sup>12</sup>It is important to recognize relative English speaking ability does not necessarily represent any individual speaker's experience of linguistic distance. Size and recency of immigration also contribute to lower IRESA scores for a given group, i.e. groups with higher numbers of more recent immigrants tend to, but do not always, have fewer speakers who would rate themselves higher than speaking well.

<sup>13</sup>See Haugen (1978) for an overview of early analyses of language contact. See also Fishman et al. (1985) and Fishman et al. (1966/1978). For studies of code switching, bilingualism, and diglossia, see Gumperz (1972); McLaughlin (1989); Valdes (1982); Zentella (1997) and many others. Conklin & Lourie (1983, pp. 174-75) provide a useful table of factors encouraging language retention and language loss.

<sup>14</sup>This table depicts language minority speakers, a broader category than home speakers of non-English languages. Language minority speakers include those who speak English in households where other household members speak a non-English language.

older), while most Norwegian and Polish school-age children (aged 5-17) are more likely to speak English at home. In contrast, the Vietnamese language group has 372,000 (90 percent) non-English speaking adults as well as a greater percentage of children (135,000 or 85 percent) who speak Vietnamese at home. The Spanish language group follows the latter pattern, with 13.2 million (80 percent) non-English speaking adults and a majority (4.2 million or 70 percent) of children who speak Spanish at home. Home language use varies according to state, with the 75 to 87 percent of Spanish youth retaining their native language in areas of Spanish concentration—California, Texas, New York and Florida—while in Colorado, Indiana, Utah, and Oklahoma, only 31 to 40 percent of the youth retain Spanish.<sup>15</sup> The strength and nature of language retention also varies among the Spanish subgroups, related to length of stay in the U.S., geographical concentration, proximity to Spanish-speaking countries, status and other demographic and social factors (Bean & Tienda, 1987, pp. 43-44).

### Language Policy in the United States

The United States has no explicit language policy. Early national leaders recognized that decisions on language choice would, and should, be made at local and regional levels by citizens responding to communicative needs and goals they themselves identify; consequently, the Constitution contains no reference to a choice of a national or preferred language (Heath, 1977a, 1977b).

Since the Constitution's ratification in 1790, only a few federal statutes have been enacted concerning language.<sup>16</sup> At the turn of the 20th century, English language and literacy requirements for becoming a naturalized citizen were passed in reaction to the ethnic (eastern and southern European) and cultural/religious (Catholic and Jewish) make-up of many im-

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<sup>15</sup> Percentages of youth who retain Spanish are derived by dividing the total number of non-English-speaking Hispanic youth, aged 14-19, by the total number of Spanish-background youth who live in linguistic minority households (*Numbers and Needs*, March, 1994, Vol. 4, no. 2, Table 1. Data are from the 1990 U.S. Census 5 % Public Use Microdata Sample.).

<sup>16</sup> One piece of Federal legislation that was not directed at non-English language speakers but that indirectly impacted language use was the Voting Rights Act of 1965 outlawing literacy tests for voting. When slavery was outlawed by the Thirteenth Amendment and the right to vote was guaranteed by the Fifteenth Amendment, many states had used various means to prevent African Americans from voting. One of these was the literacy test.

<sup>17</sup> In 1906, language qualifications were added to the conditions for becoming a citizen, and the language qualification continued to be more stringently revised during the first half of this century. Specifically, the *Naturalization Act of 1906* was enacted requiring immigrants to have knowledge of English to be granted citizenship (Curran, 1975, p. 127). In 1917 the requirement that naturalized citizens be literate in one language was added. The *Internal Security Act of 1950* required that naturalized citizens be able to read, write and speak English, prompted at least partially by fear of the spread of Communism (Briggs, 1996, p. 39).

migrants.<sup>17</sup> In the late 1960s, the Bilingual Education Act (to be discussed) was enacted as an extension of the civil rights movement and America's war on poverty, and it provided federal support for bilingual instruction in public schools.

Most of the explicit language policies that do exist are at the state and local level. These, however, must conform to the U.S. Constitution and other federal laws and regulations as interpreted by the courts. When state and local laws concerning language use are in question, they are often considered against the Fourteenth Amendment, which essentially requires state and local governments to abide by the U.S. Constitution and guarantees and protects individuals' constitutional rights and freedoms.

There have been numerous cases in which the courts have struck down legislation enacted by states and local governments to regulate language use or favor one language over others. In the 1890s, for example, the state legislatures of Illinois and Wisconsin passed laws banning teaching of non-English languages until the eighth grade. These were struck down by state courts (Schiffman, 1996, p. 233). The U.S. Supreme Court struck down laws in Iowa, Nebraska and Ohio that prohibited the in-school teaching of any subject in a foreign language or the teaching of any modern foreign language to children who had not yet completed the eighth grade (Schiffman, 1996, p. 237). Recently (April 28, 1998), the Arizona Supreme Court struck down an *English Only* amendment to the state constitution that would have required state and local governments to conduct business only in English, on the grounds that Arizona's *English Only Amendment* violated the First and Fourteenth Amendments to the United States Constitution.<sup>18</sup>

When it comes to language in privately owned workplaces, however, the courts have been willing to consider language restrictions. For example, in *Dimaranan v. Pomona Valley Hospital* (1991), the nurse supervisor requested that Tagalog not be spoken due to dissension between Filipina and non-Filipina nurses. The determination was that the rule was a justified management response to employee conflict (McKay, 1997, p. 252).<sup>19</sup>

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<sup>18</sup> In presenting the court's decision, Justice James Moeller stated, "We hold that the amendment violates the First Amendment to the United States Constitution because it adversely impacts the constitutional rights of non-English-speaking persons with regard to their obtaining access to their government and limits the political speech of elected officials and public employees. We also hold that the amendment violates the equal protection clause of the 14th Amendment to the United States Constitution because it unduly burdens core First Amendment rights of a special class without materially advancing a legitimate state interest" ("Excerpts of Court's Opinion," 1998).

<sup>19</sup> The following are two more examples of cases in which the court found that language restrictions in the workplace did not violate the plaintiff's (claimant) civil rights. In *Jurado v. Eleven-Fifty Corp* (1987), the court concluded that the English Only rule limited to on-air time



### *Present Trends in Language Policy*

Though English has become the dominant language in the United States without benefit of (or need for) an explicit language policy, there has recently been a trend towards officializing English. Over the last two decades, a number of states have enacted *English Only* laws or have such legislation pending. Twenty states have adopted various forms of English Only legislation, and English Only bills are pending in fourteen states (Crawford, 1998a). None of the state laws officializing English—or in the case of Hawaii, English and Hawaiian—has been contested before the U.S. Supreme Court.<sup>20</sup>

Since the mid-1980s there has been an increasing backlash against immigration, especially illegal immigration. Voters in California enacted laws restricting social services to illegal immigrants in 1994 (Proposition 187) and recently (June 1998) passed legislation intended to eliminate bilingual education in the states' public schools (Proposition 227). Historically, there has often been a nativistic response when English speaking members of a community become anxious about a large non-English language presence. As discussed earlier, non-English speakers make up a significant proportion of the population in several states. It might be expected, then, that states with large non-English speaking populations might officialize English. However, of the twenty states that have adopted English Only laws, only four have sizable non-English speaking populations: Arizona, California, Colorado and Florida. It is notable that Texas and New York have not officialized English, given that 25 percent of the total population of Texas and just over 23 percent of the total New York population are home speakers of languages other than English. New York has a reputation for cultural and linguistic tolerance, which may explain its lack of such legislation; however, there is popular support in New York for an English Only law.

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was related to the radio station's programming decisions and therefore did not violate the Title VII Equal Employment Opportunity Act, which makes it unlawful for an employer to discriminate on the basis of race or national origin. In *Garcia v. Spun Steak Co.* (1993), the company, after permitting workers to speak Spanish for more than thirty years, imposed a policy requiring workers to speak only English. The court rejected the plaintiffs' claims of being adversely affected, maintaining that the policy was only an inconvenience on bilingual employees.

<sup>20</sup>The Arizona English Only constitutional amendment was contested by a state employee on the grounds that it infringed upon her right to speak Spanish with Spanish-speaking customers. A federal judge ruled the amendment unconstitutional, and the decision was upheld by a federal court of appeals. The State of Arizona appealed the latter decision to the Supreme Court, but the Court sent the issue back to the state courts on a technicality: The plaintiff no longer worked for the state when the case reached the Supreme Court. Based on the Arizona Supreme Court decision, we may see challenges to English Only legislation in other states ("English-only debate," 1996). See Appendix A for more information about state and federal court jurisdiction in language-related cases.

What distinguishes Texas from the other states with significant non-English speaking populations is that Arizona, California, Colorado, and Florida allow laws to be enacted by means of referendum. In these states, proponents of English Only introduced legislation into the state assemblies to make English the official state language. In Arizona, California, and Florida, there was not enough support in the state assemblies, so the bills died. In Colorado, where there was sufficient support within the state assembly, the threat of a veto by the governor killed the legislation. After first failing to get an English Only law passed, proponents in these four states bypassed the legislative process and got an English Only measure on the ballot by collecting a number of signatures on a petition as determined by law. In all four cases, the ballot measure passed. Similarly, in Texas there had been popular support for an English Only amendment, but there was little support in the state legislature for such a measure. Texas, however, has no referendum system; consequently, an English Only amendment was not put to the voters (Tatalovich, 1995, p. 164).<sup>21</sup>

Not all measures at the state level have been to officialize English. Some states have taken steps to recognize the linguistic and cultural diversity of their residents. The State of Hawaii, as mentioned previously, has made both English and Hawaiian official languages. Four States (New Mexico, Oregon, Rhode Island and Washington) have passed English Plus resolutions. *English Plus* advocates the acquisition of English by all residents as well as the development and preservation of language resources in other languages. Oregon's English Plus Resolution, for example, states that

The use of diverse languages in business, government and private affairs, and the presence of diverse cultures is welcomed, encouraged and protected in Oregon. (Oregon English Plus Resolution, Senate Joint Resolution 16, 1989)

At the national level, a number of bills making English the official language of the United States have been introduced in Congress since the early 1980s. The first such bill was introduced as a constitutional amendment in 1981, by S.I. Hiyakawa, senator from California. If it had been approved, this amendment would have banned virtually all uses of languages other than English by federal, state and local governments. In 1991, "Language of Government" legislation, a statutory form of Official English, was introduced which would have applied to the federal government alone if it had passed. In the most recent session of Congress (105th Congress), several bills were introduced making English the official language of the

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<sup>21</sup> See Appendix A for additional information about the referendum system.

country and restricting the use of other languages for government business.

The current political environment is highly partisan, with the party controlling Congress generally in favor of making English the official language of the nation and possibly passing English Only legislation, while the President and his party are generally opposed to such legislation. In this atmosphere we can expect to see language as an issue in many of the upcoming political campaigns. Ultimately, any such legislation will be challenged in the courts with the final outcome in the hands of the judicial branch of the government.

In summation, language policy in the United States can be viewed as the outcome of local measures regarding the use of language in the public sphere tempered or moderated by judicial oversight, ultimately guided by the U.S. Constitution and Amendments to the Constitution with particular focus on the Fourteenth Amendment *due process* clause. There is currently a trend toward officializing English at the state and national level, but with the state Supreme Court overturning Arizona's law, the constitutionality of such laws may be in doubt. The issue of language use and language rights has come to be seen as "wedge issue" that may place a strain on traditional political alliances and that will most likely be in the forefront of upcoming political campaigns.<sup>22</sup>

### Language Policy and Education

In no other area does language policy formation and implementation come closer to the average American than it does in the choice of languages to be taught and in the selection of the language of instruction in schools. Given the close association of language with identity (personal, cultural and national), the topic of language in schools has often been emotive and controversial, with pendulum swings of concern and support.

Historically, in localities where immigrant groups had influence, bilingual education was likely to be accepted, while it was likely to be rejected where immigrants had little influence. By the mid-1800s, public and church-sponsored German-English schools were operating in numerous cities, especially in the Midwest. Ohio passed a law authorizing instruction in English and German in 1839. Elsewhere, laws were passed authorizing in-

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<sup>22</sup> An example of this can be seen in California. The state Democratic Party opposed the recently passed Proposition 227 to eliminate bilingual education in California public schools while the state Republican Party, led by the governor, supported the measure. Traditionally, working class voters in California have been aligned with the Democratic Party, but as they have tended to perceive immigrants as a threat, they generally voted for the Republican-backed proposition. In this case, Republicans saw language as a wedge issue that would pull traditionally Democratic constituents away from their usual party allegiance.

struction in languages other than English: French in Louisiana, Spanish in New Mexico, and unspecified languages in nine other states (Crawford 1991, p. 20).

At the end of the nineteenth century, there was a backlash against the waves of immigrants then arriving who were ethnically and culturally different from the general populace and previous immigrants. Laws were passed in several states making it illegal to teach a language other than English or use English as a medium of instruction in the first eight years of school. Public concern was not over which language best enabled children to learn math and other subjects; rather, the central issue was assimilation (Crawford, 1991, p. 21). During World War I, anti-German sentiments peaked, and several states passed laws and decrees "banning German speech in the classrooms, on the street, in church, in public meetings and even on the telephone" (Crawford, 1991, p. 23). Following World War I, speaking languages other than English came to be associated with disloyalty to the United States, and 34 states adopted laws banning instruction in languages other than English, and in some cases, foreign language teaching in the early grades. By 1930, people were less concerned about maintaining linguistic and cultural traditions and less accepting of teaching and learning in languages other than English. As a result, bilingual education largely disappeared (Schiffman, 1996, p. 233; Crawford, 1991, p. 24).

Certain groups have historically experienced repression of their native languages and literacies. For example, at the beginning of the 1800s, the Cherokee developed a syllabary and established a 21-school education system. By the 1850s, bilingual education enabled the Cherokee to achieve 90 percent literacy in their native language and a higher level of English literacy than native English speaking populations in the neighboring states of Arkansas and Texas (Crawford, 1991, p. 25; Wiley, 1996, pp. 20-22). However, in 1879, the U.S. government began forcing indigenous children to attend "off-reservation boarding schools," where they were punished for using their native language. The government policy of repressing indigenous languages was rescinded in 1934, but unofficial punishment for native language use continued in reservation schools into the 1950s (Crawford, 1991, pp. 25-26). The Mexican Americans of the Southwest experienced language repression similar to that of Native Americans. For example, in Texas children served detention after school for speaking Spanish into the 1960s, and teaching in a language other than English remained a crime in Texas until 1969 (Crawford, 1991, p. 26). A consequence of educational repression has been underachievement for the groups involved (Wiley, 1996, pp. 45-46).

In 1958, Sputnik was launched, causing great concern that the United States was falling behind the Soviet Union in the arms race. The result was passage of the National Defense Education Act, which placed an emphasis on foreign language education and area studies, in addition to loans to college students, improvement in math and science education in elemen-

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tary and secondary schools, graduate fellowships, and vocational-technical training. ESL instruction began to be provided to language minority students, mostly in the form of pull-out classes.<sup>23</sup> The emphasis was on replacing the child's native language with English, which resulted in producing children neither literate in English nor the child's native language (Crawford, 1991, p. 27).

In the 1960s, there was a surge of concern for the rights of under-represented groups and an increased interest in ethnicity and language. Accompanying the Civil Rights movement and the War on Poverty in the 1960s was a growing awareness of the needs of Americans living in poverty whose native language was not English. Also, with the revolution in Cuba in 1959, there was a wave of Cuban immigration to the U.S., especially Florida. Whereas previous immigrants tended to be poor and many attempted to quickly assimilate as "Americans," many of these Cuban refugees were middle and upper-middle class and had a more positive attitude toward maintaining their native language and culture. By the late 1960s, "there was a new attitude about second languages, and the stage was set for some different approaches" (Schiffman, 1996, p. 240). In 1968, the Bilingual Education Act was enacted.

Attitudes that have emerged in U.S. history towards language and languages can be framed in terms of Ruiz's (1984) "orientations in language planning." *Language-as-problem* focuses on the social liabilities of non-majority languages. *Language-as-right* emphasizes the question of social equality for members of groups for whom English is not the native language. *Language-as-resource* stresses the value of developing language skills. The reaction to the languages of immigrants at the turn of the century and to speakers of non-English languages—especially German speakers—during and after W.W.I. can be viewed as reflective of a language-as-problem orientation. The response by those who wished to maintain their language and culture during the 1960s might be viewed as a language-as-right orientation. The interest in non-English languages in response to the launching of Sputnik might be viewed as a language-as-resource orientation. It must be noted, however, that this particular expression of a language-as-resource orientation was toward English speakers learning other languages rather than seeing the language of non-English speakers as a resource.

Recently, the development of bilingual education policy has proceeded along two parallel tracks: civil rights enforcement by the executive branch and federal financial and programmatic assistance by Congress through the Bilingual Education Act to schools serving language minority students

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<sup>23</sup>In pull-out programs, language minority students, individually or in groups, are taken out of some mainstream courses for ESL instruction. See discussion under *Teacher Training and Supply* in Part 2.

(Lyons, 1990, p. 70). The following is an account of how the two tracks have led to the current bilingual education policy in the United States.

### *Bilingual Education and Civil Rights*

Civil Rights enforcement of language related rights grew out of Title VI of the 1964 Civil Rights Act, which prohibits discrimination on the basis of race, color or national origin in federally assisted programs and activities. In 1968, the Office of Civil Rights in the Department of Health, Education and Welfare issued general guidelines holding school systems responsible for assuring that students of a particular race, color, or national origin are not denied the opportunity to obtain the education generally obtained by other students in the system (Lyons, 1990, p. 70; Crawford, 1998c, para. 6).<sup>24</sup>

In *Lau v. Nichols* (1974) the San Francisco School District was successfully sued in the U.S. Supreme Court for failing to provide non-English speaking children with *equal* education. In addition, the Lau decision fueled the issue of native language use in education and prompted California and several other states to enact bilingual education statutes. In 1975, in response to the Lau decision, the Office for Civil Rights in the federal Office of Education<sup>25</sup> issued what have been referred to as the *Lau Remedies*, requiring that bilingual education of some form be provided at the elementary school level in cases where injustice was found. In lieu of bilingual instruction, ESL was deemed acceptable at the middle school level. Although these remedies did not have the status of federal regulations, they were effectively used as such in disputes in school districts. For the first time, large numbers of school districts were induced to pay attention to the language needs of limited English proficient students and to serve them through bilingual education (Crawford, 1996; 1998b, paras. 25-31).

It should be noted that, within the realm of civil rights, language rights in the United States exist only as a component of other rights. Significantly, these rights are endowed to individuals and not groups (Crawford, 1998b, para. 46; Schiffman, 1996, p. 237).

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<sup>24</sup> In 1970 the Office of Civil Rights in the Department of Health, Education and Welfare issued information on responsibilities of school districts whose national-origin minority-group enrollments exceeded 5 percent and noted a number of common educational practices which had the effect of denying equality of educational opportunity to Spanish-surnamed pupils. Under the Civil Rights Act of 1964, it warned "sink or swim" was no longer permissible. Public schools would have to take "affirmative steps" to help students overcome language barriers (Lyons, 1990, p. 70).

<sup>25</sup> The current Department of Education was established in 1980 as a Cabinet-level agency on a par with the Departments of State and Defense. Previously, it was part of the Department of Health, Education and Welfare.

### *The Bilingual Education Act*

In its original form, Title VII of the Elementary and Secondary Education Act, commonly known as the *Bilingual Education Act* (BEA), provided grants for the training of teachers and aides to work with students with limited English skills. It also provided for the development of materials and activities to involve parents in the schools. Initially, it was limited to children from poor backgrounds and did not prescribe use of the native language or culture in instruction. The Bilingual Education Act of 1968 was introduced as an antipoverty program to serve Hispanic Americans, whose needs had thus far received little attention from Great Society programs<sup>26</sup> (Crawford, 1998b, para. 15). It was conceived of as an experiment not in language policy but in education policy, designed to tackle a problem of underachievement in which language happened to play a role.

As policy, the Bilingual Education Act left many issues unresolved, especially with regard to goals. Various parties had their own interpretations. The Federal Office of Education held the goal of bilingual education to be to produce a student who could function well in two languages in a variety of situations. In contrast, the stated goal of the congressional committee members who wrote the final version of the act was to overcome students' "bilingual problem." Educators, for their part, saw the two goals as compatible (Crawford, 1998b, paras. 16-18).

The Bilingual Education Act required that funds and their uses be reauthorized on a regular basis. Through its five reauthorizations, the Bilingual Education Act (BEA) has grown in scope and size. The first two authorizations, in 1974 and 1978, resulted in an increase in the types of educational activities covered by the act, the removal of the economic qualification, and the provision for instruction in children's native language under specific circumstances. The reauthorizations created five programs eligible for funding: Transitional Bilingual Education (TBE), Developmental Bilingual Education (DBE), Special Alternative [English-only] Instructional Programs (SAIP), Family English Literacy Programs (FELP) and Special Populations Programs (SPP). The number of types of students to be included in these programs also increased (Lyons, 1990). The most recent reauthorization, 1994, created education grants for schools and districts to establish bilingual education programs, training grants for bilingual education teachers, administrators and school employees, and graduate fellowships for studies in teacher training, administration and research (Elementary & Secondary Education Provisions, 1994). The five BEA program

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<sup>26</sup>The Great Society was a collection of social programs intended to break the cycle of poverty then affecting 35 million Americans. Great Society programs included Medicare, the Head Start education program, federal aid to education, and the Job Corps.

types introduced above will be described in greater detail in Part 2 of this report.

### *Current Policies and Programs*

The Bilingual Education Act currently includes three different types of grants. *Instructional Services* grants provide direct assistance to school districts to implement comprehensive instructional programs for limited English proficient students and to integrate these programs within the overall school program. *Support Services* grants go to state educational agencies to provide assistance to school districts seeking to improve the quality of instruction for limited English proficient students. They also provide for a National Clearinghouse for Bilingual Education (NCBE), and fund Academic Excellence dissemination grants and grants for research. *Professional Development* grants provide funding to colleges and universities to train instructional staff for bilingual programs.

Presently, the Bilingual Education Act is under attack at all levels. Following the success of the proposition abolishing bilingual education in California (June 1998), a bill has been introduced in Congress to eliminate the Bilingual Education Act, though it does not yet seem to have enough support to pass. Other proposals would make grants to states in the form of generally unspecified block grants that states may use as they determine, thus eliminating earmarking the money for bilingual education.

In summation, there has been a carrot-and-stick approach to bilingual education policy in the United States over the past thirty years. Congress enacted the Bilingual Education Act, a "carrot," that provides money for schools and school districts to develop and maintain bilingual education, train teachers and support other programs focused on bilingual education. The Civil Rights Act of 1964 and subsequent rulings related to it have been used as a "stick" to assure that schools, school districts and those involved in educating limited English proficient children guarantee and protect their rights and assure their equal opportunities to an education. Current enforcement of the Civil Rights Act requires that school districts give language minority students full access to the learning environment, the curriculum, special services and assessment in a meaningful way. To assist districts to comply, Congress has authorized the Bilingual Education Act (Title VII of the Elementary and Secondary Education Act) to provide financial resources, training, information and guidance.